

March 24, 2015

Via Electronic Filing

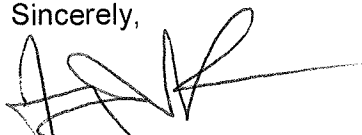
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Wayne Williams v. Duquesne Light Company
Docket No. C-2014-2435842

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Response to Secretarial Letter. A copy of this document has been served upon Complainant in accordance with Commission regulations.

Sincerely,



Jeremy V. Farrell
Attorney for Duquesne Light Company

Enclosure

cc: Wayne Williams (with enclosure)
Jennifer Petrisek, Esq. - People Gas (with enclosure)

LIT:584393-1 014657-158498

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

WAYNE WILLIAMS,	:	
	:	
Complainant,	:	
	:	
vs.	:	No: C-2014-2435842
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

RESPONSE TO MARCH 17, 2015 SECRETARIAL LETTER

TO THE HONORABLE COMMISSION:

AND NOW comes Respondent, Duquesne Light Company (“Duquesne Light”), by and through its attorneys, Tucker Arensberg, P.C., hereby files the within Response to March 17, 2015 Secretarial Letter, stating as follows:

1. Duquesne Light is in receipt of a letter from the Secretary’s Office dated March 17, 2015, that enclosed documentation that Administrative Law Judge Cheskis received from Complainant relating to a Department of Public Welfare appeal that purportedly involves a LIHEAP application. A copy of the March 17, 2015 Secretarial Letter and its enclosures are attached as Exhibit A.

2. On January 27, 2015, Administrative Law Judge Joel Cheskis issued the Initial Decision in this action. A copy of the Initial Decision is attached as Exhibit B. The Initial Decision dismissed the Complaint against Duquesne Light because “the property where the Complainant seeks to have service restored has been condemned by the City of Pittsburgh and

it would be unsafe to restore utility service before the property is no longer condemned.” Id. at p. 1.

3. As stated in the Secretarial Letter attached as Exhibit A, Complainant did not file exceptions to the Initial Decision.

4. The Commission thereafter issued a Final Order dismissing the Complaint on March 10, 2015. A copy of the Final Order is attached as Exhibit C.

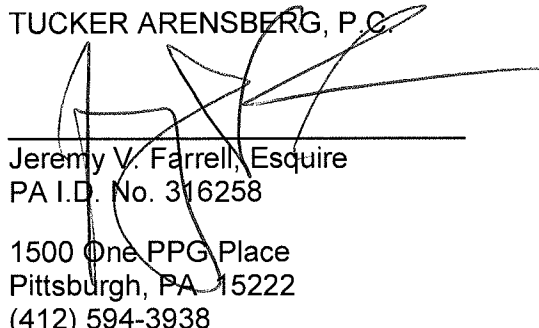
5. Duquesne Light has received no notification from the City of Pittsburgh or Complainant indicating that the condemnation has been lifted from the property at 678 Lenora Street, Pittsburgh, PA.

6. The documents Complainant submitted to Judge Cheskis, which are attached to the Secretarial Letter, do not indicate that the condemnation has been lifted and, therefore, Duquesne Light cannot restore service to the property at this time.

WHEREFORE, Duquesne Light respectfully requests that the Final Order of the Commission dismissing the Complaint be affirmed.

Respectfully submitted,

TUCKER ARENSBERG, P.C.



Jeremy V. Farrell, Esquire
PA I.D. No. 316258

1500 One PPG Place
Pittsburgh, PA 15222
(412) 594-3938

Counsel for Respondent



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE
F-2014-2436364
C-2014-2435842

March 17, 2015

Re: Wayne T. Williams v. Peoples Natural Gas Company, LLC – Equitable Division
Docket No. F-2014-2436364

and

Wayne T. Williams v. Duquesne Light Company
Docket No. C-2014-2435842

To All Parties of Record:

On January 27, 2015, the Commission issued the Initial Decision of Administrative Law Judge Joel H. Cheskis in the above-referenced matters. The Parties were advised that Exceptions were due within twenty (20) days (i.e., by February 17, 2015), and Replies to Exceptions were due within ten (10) days thereafter (i.e., by February 27, 2015). No Exceptions were filed, and the Commission issued a Final Order on March 10, 2015.

On March 16, 2014, Administrative Law Judge Cheskis received the attached document from Mr. Williams and forwarded it to my office. Our review of the filing revealed no certificate of service or other indication that the other parties of record to the case were served with the Complainant's filing. Therefore, we have enclosed a copy to constitute service.

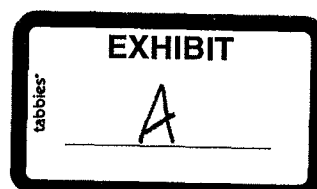
Due to the failure of the Complainant to provide service on all the parties of record to the case, and in order to avoid prejudice to any party, the Respondent shall have until March 27, 2015, to file a response.

Sincerely,

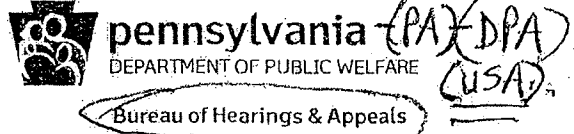
Rosemary Chiavetta
Secretary

Enclosure

cc: All Parties of Record
Office of Special Assistants



Bureau of Hearings & Appeals
2 Gateway Ctr Ste 1125
603 Stanwix St
Pittsburgh, PA 15222-9801 (USA)



Notice of Hearing Date and Time

(PA-DPA-CASE # 02-1088925)

Wayne T. Williams, Wayne T. Williams
Po Box 5482
Pittsburgh, PA 15206-0482 (USA)

Phone: (412) 565-5213
Fax: (412) 565-5514
Date: February 26, 2015

Appellant Name and Address
Wayne T. Williams
Po Box 5482
Pittsburgh, PA 15206-0482 (USA)

Case No: 021088925-010

RE: pa/fs 162f 01/22/15 9035293074

MON., MARCH 9, 2015

Dear Mr. Williams:

(SEE ALL ENCLOSED SUPPORTIVE ATTACHMENTS.)

This letter acknowledges your request for a fair hearing from a decision by the Allegheny CAO, Alle-Kiski DO concerning LIHEAP - Denial, All Actions. A hearing has been scheduled in accordance with section 55 Pa. Code 275.4(e)(1).

The judge will call you between the times given below. Please make yourself available during those times. If you are not present, your case may be dismissed.

Hearing Date: March 17, 2015 Time: 08:30AM - 12:00PM
You will be called at: (412) 390-7249
Name of Administrative Law Judge (ALJ): Terry A. Schuchert

PA PUC
MARCH 16 AM 9:05

Important: If you, or a representative for you, is not available for the hearing, you will lose the case. If, before the hearing, you give me a reason for your unavailability and the Bureau of Hearing and Appeals deems the reason to be acceptable, the hearing will be postponed. If the Bureau of Hearings and Appeals deems your reason to be unacceptable and you are not available for the hearing, your appeal will be dismissed.

CONTINUED

Please complete and sign the "REPLY TO BUREAU OF HEARINGS AND APPEALS" form below, cut on the dotted line and return as soon as possible in the postage-paid envelope to the Bureau of Hearings and Appeals.

APPELLANT'S REPLY TO THE BUREAU OF HEARINGS AND APPEALS

Check all that apply:

(SEE ALL ENCLOSED SUPPORTIVE ATTACHMENTS.)

I will be available for the hearing on March 17, 2015 at 08:30AM - 12:00PM with ALJ Terry A. Schuchert

My correct telephone number is: (412) 390-7249

I need an interpreter. Language needed:

I am a person with a disability and I need an accommodation to participate in the hearing. The accommodation I need is:

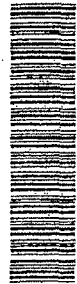
I will not be available for the hearing because:

I wish to withdraw my appeal at this time (Only the person who filed the appeal or her/his authorized representative can withdraw the appeal).

Wayne T. Williams
021088925-010

Wayne T. Williams
Signature Date

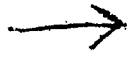
(MON., MARCH 9, 2015)



PW 1765 7/13

90008440101

JAN, 2015.



(PA-DPA-CASE #02-1088925)

Commonwealth of Pennsylvania
Department of Public Welfare

(PA(USA))

(My OTHER MAILING ADDRESS IS:
P.O. Box - 5482, PITTSBURGH, PA 15206(USA))

APPEAL OF:
WAYNE WILLIAMS,
678 LENORA STREET,
PITTSBURGH, PA 15206-2653 (USA)

CASE No. 021088925-009

① (412) 361-6832

② (412) 390-7249

ORDER

It is hereby ORDERED and DECREED that the appeal of the Appellant is sustained.

The Allegheny County Assistance Office (CAO) Low Income Home Energy Assistance Program (LIHEAP) District Office (DO) is ordered to determine the Appellant's eligibility for LIHEAP benefits using the November 26, 2013, application.

Andrew Druzisky
Andrew Druzisky
Administrative Law Judge

October 8, 2014

JAN, 2015.

* I CONTINUE TO AWAIT THE FUNDS AWARDED FROM THIS HEARING AND DECISION, CONCERNING THE 2013-2014-PA-DPA-LIHEAP-ASSISTANCE PROGRAM, AS I ALSO APPLY FOR ASSISTANCE CONCERNING THE 2014-2015-PA-DPA-LIHEAP-ASSISTANCE PROGRAM.

WAYNE T. WILLIAMS, - Wayne T. Williams.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

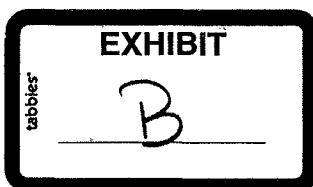
Wayne T. Williams	:	
	:	
v.	:	F-2014-2436364
	:	
Peoples Natural Gas Company, LLC --	:	
Equitable Division	:	
	:	
Wayne T. Williams	:	
	:	
v.	:	C-2014-2435842
	:	
Duquesne Light Company	:	

INITIAL DECISION

Before
Joel H. Cheskis
Administrative Law Judge

INTRODUCTION

This decision denies two formal Complaints filed separately by a Complainant against his electric and gas utility companies. The formal Complaints were consolidated because they have common issues of law and fact. In both Complaints, the Complainant seeks to have service restored and to have the outstanding balances paid via payment agreements. Both Complaints are denied because the property where the Complainant seeks to have service restored has been condemned by the City of Pittsburgh and it would be unsafe to restore utility service before the property is no longer condemned. The Complainant has otherwise not demonstrated that either utility has violated the Public Utility Code, a Commission Order or regulation or a Commission-approved Company tariff.



HISTORY OF THE PROCEEDING

On July 21, 2014, Wayne T. Williams filed with the Pennsylvania Public Utility Commission a formal Complaint against Peoples Natural Gas Company, LLC – Equitable Division (Peoples), Docket Number F-2014-2436364. The Complaint is a timely appeal of a decision of the Commission’s Bureau of Consumer Services (BCS), case number 3190288. In his Complaint, Mr. Williams averred that Peoples is threatening to cut off his service or has already cut off his service, he would like a payment agreement, there are incorrect charges on his bill and he is having a reliability, safety or quality problem with his utility service. Mr. Williams attached a 6-page addendum to his Complaint wherein he provided additional information, including a copy of one of his bills.

Also on July 21, 2014, Mr. Williams filed a formal Complaint with the Commission against Duquesne Light Company (Duquesne), Docket Number C-2014-2435842. In his Complaint, Mr. Williams averred that Duquesne is threatening to cut off his service or has already cut off his service, he would like a payment agreement, there are incorrect charges on his bill and he is having a reliability, safety or quality problem with his utility service. Mr. Williams again attached a 6-page addendum to his Complaint wherein he provided additional information regarding his Complaint.

On August 25, 2014, Duquesne filed an Answer to Mr. Williams’ Complaint generally admitting and denying the various averments made by Mr. Williams in his Complaint. Duquesne concluded its Answer by requesting that the Commission deny Mr. Williams’ Complaint with prejudice.

On August 28, 2014, Peoples filed an Answer to Mr. Williams’ Complaint arguing that the Complaint does not contain specific allegations against Peoples that the Company violated any Commission rule or procedure or has acted in a wrongful manner whatsoever. Peoples further noted, among other things, that Mr. Williams did not state specific relief sought. Peoples concluded its Answer by requesting that Mr. Williams’ Complaint be dismissed.

On October 2, 2014, the Commission issued a Call-In Telephone Hearing Notice establishing an Initial Call-In Telephonic Hearing for this matter for Wednesday, November 19, 2014 and assigning me as the Presiding Officer.

By Order dated October 8, 2014, the Complaint filed by Mr. Williams against Peoples was formally consolidated with the Complaint filed by Mr. Williams against Duquesne because of the common issues of fact and the avoidance of unnecessary costs or delay. Also on October 8, 2014, a Prehearing Order was issued setting forth various procedural issues that would govern the Hearing.

The Hearing convened on November 19, 2014 as scheduled. Mr. Williams appeared *pro se* and provided oral testimony. Jeremy Farrell, Esquire appeared on behalf of Duquesne and presented one witness who sponsored six exhibits that were admitted into the record. Jennifer Petrisek, Esquire appeared on behalf of Peoples and presented one witness who sponsored five exhibits that were admitted into the record. A transcript of 54 pages was created. The record in this case closed on December 8, 2014 when the transcript was submitted to the Commission.

Mr. Williams' Complaints are now ready for disposition. For the reasons discussed below, Mr. Williams' Complaints will be denied.

FINDINGS OF FACT

1. The Complainant in this case is Wayne T. Williams.
2. The Respondents in this case are Duquesne Light Company and Peoples Natural Gas Company—Equitable Division.
3. The Service Address is 678 Lenora Street, Pittsburgh, PA.

4. Mr. Williams lived in a rehabilitation center from August 1, 2013 to February 1, 2014 during which time his house at the Service Address was vandalized. Tr. 7-8, 10.

5. Mr. Williams receives Public Assistance including LIHEAP and the Respondents' Customer Assistance Programs (CAP). Tr. 7.

6. Mr. Williams' home was condemned while he was in rehab. Tr. 8.

7. Mr. Williams rented the home but fell behind on his rent. Tr. 8.

8. The home previously belonged to Mr. Williams' parents who are both deceased. Tr. 8.

9. The house next to Mr. Williams' house was torn down. Tr. 9.

10. Mr. Williams is still an outpatient for monthly therapy sessions. Tr. 11.

11. Mr. Williams is in the process of making repairs to the home while living there. Tr. 13.

12. Mr. Williams' home was "red-tagged" because it is unsafe to live in. Tr. 14.

13. Lyn Petri is an account representative for Peoples and investigates customer complaints, disputes and inquiries. Tr. 20.

14. The gas service at Mr. Williams' home is currently off. Tr. 21.

15. Peoples Exhibit A is a record of a request by a 911 operator to send a service technician to the Service Address on February 4, 2014 because emergency services were at the Service Address to respond to an odor of gas. Peoples Exh. A; Tr. 21-22.

16. Peoples Exhibit B is a Work Order of services completed at the Service Address on February 4, 2014 showing that the fire department had turned the gas service off and a Peoples investigator found a leak on the house line and red-tagged the line and the appliances. Peoples Exh. B; Tr. 22-24.

17. Peoples Exhibit C is a photocopy of the four red tags left on the appliances at Mr. Williams' home indicating that there is a safety concern with the appliance or the line and the line should not be used until repairs are made. Peoples Exh. C; Tr. 24-25.

18. The Peoples' service technician left a red tag on the furnace because the furnace was not venting properly, had defective wiring and needed to be cleaned and serviced. Peoples Exh. C; Tr. 25.

19. The Peoples' service technician left a red tag on the water tank because there was no water in the tank to test the tank. Peoples Exh. C; Tr. 25.

20. The Peoples' service technician left a red tag on the house line because of leaks. Peoples Exh. C; Tr. 25.

21. As a result of the red tags, the service at Mr. Williams' home was disconnected for safety reasons. Tr. 25.

22. In order for gas service to be restored at Mr. Williams' home, repairs need to be made to the appliances and the house line and a service technician must visit the site again to determine if the problems have been corrected. Tr. 26.

23. Mr. Williams has provided Peoples with medical certificates. Tr. 26-27.

24. Peoples cannot provide gas service to a condemned location. Tr. 27.
25. Notice from the City of Pittsburgh is required before restoring gas service to a property that has been condemned. Tr. 28.
26. Peoples Exhibit D is the Account Statement for Mr. Williams' Account. Peoples Exh. D; Tr. 31-32.
27. Peoples Exhibit E is a report of the decision of the Commission's Bureau of Consumer Services in response to an informal complaint filed by Mr. Williams. Peoples Exh. E; Tr. 31-32.
28. Margaret Mueller is a regulatory consumer relations specialist with Duquesne and has been employed by Duquesne for 41 years. Tr. 33.
29. Duquesne Exhibit Number 10 is a summary of payment agreements provided by Duquesne to Mr. Williams. Duquesne Exh. No. 10; Tr. 34-35.
30. Mr. Williams was enrolled in Duquesne's Customer Assistance Program (CAP) on November 17, 2011 wherein Mr. Williams was required to pay \$6 per month. Duquesne Exh. No. 10; Tr. 35.
31. Mr. Williams did not comply with the terms of the CAP Payment Agreement because he failed to verify his household income annually. Duquesne Exh. No. 10; Tr. 35.
32. Duquesne Exhibit Number 6 is information regarding Mr. Williams' CAP accounts and payment agreements with Duquesne and identifies that Mr. Williams did not respond to Duquesne's request to verify his income. Duquesne Exh. No. 6; Tr. 36.

33. Mr. Williams defaulted on Duquesne's CAP program on January 7, 2014 and has \$116.00 in CAP arrears. Tr. 37.

34. Duquesne gave Mr. Williams a second payment agreement of budget amount plus \$20 beginning in May, 2014. Duquesne Exh. No. 10; Tr. 37.

35. Mr. Williams defaulted on the second payment agreement from Duquesne because he made no payments. Tr. 37.

36. Duquesne Exhibit Number 1 is the Account Statement for Mr. Williams' account from November 11, 2011 until service was terminated on August 31, 2014. Duquesne Exh. No. 1; Tr. 38.

37. Mr. Williams last made a payment on his account on May 29, 2013 and has an outstanding balance of \$596.75. Duquesne Exh. No. 1; Tr. 39.

38. Duquesne Exhibit Number 3 is a screen print of company records indicating that a 10-day termination notice was sent to Mr. Williams on May 27, 2014. Duquesne Exh. No. 3; Tr. 40-41.

39. The 10-day termination notice expired in sixty days so Duquesne attempted to contact Mr. Williams by phone but was unsuccessful and then visited the premises to provide a 72-hour notice. Duquesne Exh. No. 3; Tr. 41.

40. Duquesne Exhibit Number 9 is a screen shot of company records indicating the date Duquesne visited the Service Address to provide 72-hour notice. Duquesne Exh. No. 9; Tr. 42.

41. At the time Duquesne terminated service to Mr. Williams' residence there was no valid medical hold on his account because the certification Mr. Williams provided was not valid. Tr. 43.

42. In order for Duquesne to restore service to a property that has been condemned, the property needs to be investigated to ensure the wiring is satisfactory and there is no danger in restoring the service and the full balance on the account needs to be paid, plus a security deposit and a reconnection fee. Tr. 44-45.

43. Duquesne has indicated to Mr. Williams that he qualifies for LIHEAP and has sent him an application form. Tr. 45.

44. Duquesne Exhibit Number 2 is a letter sent from Duquesne to Mr. Williams explaining how to apply for LIHEAP and Dollar Energy funding. Duquesne Exh. No. 2; Tr. 46.

DISCUSSION

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. Se-Ling Hosiery v. Margulies, 364 Pa. 54, 70 A.2d 854 (1950). In this proceeding, Mr. Williams seeks to have his gas and electric service restored and to be placed on payment agreements for any outstanding balance owed to either company. Mr. Williams also seeks to have corrected charges on his bills he believes are incorrect and to have safety problems at his home resolved. Mr. Williams, therefore, has the burden of proof in this proceeding.

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the

evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. Replogle v. Pennsylvania Electric Company, 54 Pa. PUC 528 (1980), and Waldron v. Philadelphia Electric Company, 54 Pa. PUC 98 (1980).

The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n, 489 Pa. 109, 413 A.2d 1037 (1980); Erie Resistor Corp. v. Unemployment Comp. Bd. of Review, 194 Pa. Superior Ct. 278, 166 A.2d 96 (1961); and Murphy v. Comm., Dept. of Public Welfare, White Haven Center, 85 Pa. Cmwlth Ct. 23, 480 A.2d 382 (1984).

In this case, Mr. Williams testified that he had medical issues that required him to be in a rehabilitation center for six months and that, during that time, his home was vandalized. Tr. 7. Mr. Williams testified that prior to going to rehab, he was paying his monthly bills and had been receiving Public Assistance and was enrolled in other discounts programs such as LIHEAP. Tr. 7. Mr. Williams testified that while he was in rehab, the home was condemned. Tr. 8. Mr. Williams noted that his parents had owned the home for many years but that now he was paying rent to the current owner. Tr. 8. Mr. Williams noted that most of the problems with the home were as a result of the landlord not being able to make repairs because the landlord was elderly. Tr. 8. Mr. Williams provided additional detail concerning the problems with the home and his many efforts to have those problems fixed. Tr. 8-10. Mr. Williams testified that he would "like for my services to be restored and everything to go back to the way it was where I was struggling before I even went to rehab." Tr. 14.

In response to Mr. Williams' testimony, Peoples presented the testimony of Lynn Petri, an account representative who investigates and responds to customer complaints, disputes and inquiries. Tr. 20. Ms. Petri testified that she is familiar with Mr. Williams' situation and that his gas service was disconnected due to safety concerns. Tr. 21. Ms. Petri testified that the

Company was contacted by the fire department who had disconnected the gas service. Tr. 23. Peoples' technician investigated and found a leak resulting in the house line and several appliances being "red-tagged." Tr. 23-24. Ms. Petri added that the furnace was red-tagged because it was not vented properly and there was defective wiring. Tr. 25. Ms. Petri testified regarding problems with the appliances and noted what needs to happen before gas service can be restored. Tr. 25-26. In general, Ms. Petri testified regarding Peoples' position that Mr. Williams' Complaint should be dismissed and presented several documents in support of her testimony, including the work orders disconnecting Mr. Williams' gas service.

Similarly, in response to Mr. Williams' testimony, Duquesne presented the testimony of Margaret Mueller, a regulatory consumer relations specialist who investigates and answers consumer complaints filed against the Company with the Commission. Tr. 33. Ms. Mueller testified regarding Mr. Williams' account history with Duquesne, including his enrollment in low-income programs. Tr. 34-40. Ms. Mueller also testified regarding the steps Duquesne undertook prior to terminating Mr. Williams' electric service. Tr. 40-44. Ms. Mueller concluded that Mr. Williams would need to have the property investigated and wiring approval received to make sure the wiring of the home is satisfactory in order for electric service to be restored to ensure that there is no danger in restoring the service. Tr. 44. Ms. Mueller also testified regarding Duquesne's position that Mr. Williams' Complaint should be dismissed and sponsored several exhibits in support of her position.

As discussed below, both of Mr. Williams' Complaints will be denied. Mr. Williams has failed to demonstrate that either Peoples or Duquesne violated the Public Utility Code, a Commission regulation or Order, or any Commission-approved Company tariff with regard to the electric or gas service provided at the Service Address.

To begin, the provision of safe utility service is a fundamental responsibility of all utility companies. Section 1501 of the Public Utility Code provides:

Every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions and

improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees and the public.

66 Pa.C.S. § 1501. Similarly, Section 59.26 of the Commission's regulations provides that "a public utility may decline to serve an existing customer if, in the judgment of the utility, a hazardous condition exists regarding the piping or gas equipment of the customer." 52 Pa.Code § 59.26(b); *see also*, Frank Veasey v. Philadelphia Gas Works, Docket No. C-2013-2356586, Opinion and Order (entered February 6, 2014) (Veasey). Section 59.33 of the Commission's regulations provides that "each public utility shall at all times use every reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers and others may be subjected to by reason of its equipment and facilities." 52 Pa.Code § 59.33(a); *see also*, Deonne New v. Philadelphia Gas Works, Docket No. F-2008-2019374, Initial Decision (Final Order entered June 11, 2009).

In Veasey, the Commission adopted the Initial Decision of the Administrative Law Judge who found that the gas utility acted consistently with Section 1501 and Section 59.26 by not restoring gas service until hazardous conditions were remedied. In that case, the Commission noted that several employees of the utility determined that the chimney and the flue pipe needed to be repaired before service could be restored. The Commission stated: "We will not order PGW to provide natural gas service if doing so would create a dangerous situation." Id. at 9. The Commission added that "because a hazardous condition exists at the service address, the repairs required by PGW will have to be made before PGW can restore the Complainant's service." Id.

In this case, substantial record evidence demonstrates that Mr. Williams' home has been condemned. Most notably, Mr. Williams did not contest that the home has been condemned. Mr. Williams testified:

As far as being in the rehabilitation center, that's when a lot of this stuff really had happened where the house had been – it had been okay at first, but then it was vandalized and then it was inspected, and I'm also in contact with various other offices. It was inspected but then a condemned label was placed on it, which I'm in the process of getting unplaced.

Tr. 8; *see also*, Tr. 13. As a result, Peoples and Duquesne acted consistently with Section 1501 and Sections 59.26 and 59.33 by declining to provide utility service to a condemned home because doing so would be unsafe or hazardous.

Mr. Williams further argued that “those responsibilities [to make repairs] aren’t mine because I pay rent.” Tr. 8. Whose responsibility it is to make the repairs necessary to remove the condemnation, however, is irrelevant. The Commission recognized this situation and found the issue of responsibility for the repairs insufficient to negate a utility’s obligation to provide safe service. The Commission stated: “We recognize that the Complainant is in a difficult position because he does not own the property or the equipment which needs the repairs, does not have access to them, and has experienced difficulty coordinating access for PGW with his landlord.” *Veasey, supra*, at 9. Nonetheless, the Commission determined that the utility was correct in declining to restore service where doing so would be unsafe or hazardous. The same situation is present in this case. What is relevant is that the home is condemned and utility service cannot be restored until the home is no longer condemned. Although Mr. Williams is in the unfortunate situation where the landlord has not made the necessary repairs, that fact does not alleviate the utilities’ responsibility to provide service only where it is safe to do so.

Mr. Williams also argued that some of the problems with the home are due to the conditions of the home connected to his home which was subsequently torn down. Tr. 9. This fact also does not alleviate the utilities’ responsibility to provide service only where it is safe to do so. Again, Peoples’ and Duquesne’s decision to decline to provide utility service to the Service Address is consistent with the Public Utility Code and Commission regulations because an unsafe condition exists. It is irrelevant why the unsafe condition exists.

Peoples witness Petri testified that the Company cannot provide gas service to a condemned location, noting “the City of Pittsburgh, in fact, sends us condemnation notices on a regular basis to inform us in case we would like to cut the main line and discontinue service permanently.” Tr. 27. Ms. Petri added that the City of Pittsburgh would have to provide the Company with notice that the condemnation has been resolved before gas service was restored to the property. Tr. 28. Such notification has not yet been provided. Similarly, Duquesne witness

Mueller testified that, in order to have electric service restored to the property, the Company “would also need to have the property investigated and a wiring approval received to make sure that the wiring of the home was satisfactory so there is no danger in restoring the service.” Tr. 44. No such notification has been provided of that either. Mr. Williams should be commended for his attempts to make the necessary repairs to improve his home. Tr. 8-10, 13. However, those repairs must be made first, and the condemnation lifted from his home, before utility service can be reconnected to the Service Address.

As such, Mr. Williams’ Complaints will be denied. By Mr. Williams’ own admission, his neighborhood is unsafe. Tr. 47. Peoples and Duquesne cannot take any actions that will make the neighborhood even more unsafe by connecting utility service to a home that has been condemned. It is not reasonable to provide utility service when doing so would create an unsafe condition. Regrettably, Mr. Williams is without gas or electric service during the winter. Mr. Williams was encouraged during the hearing in November, and is again encouraged now, to ensure that he obtains a safe, warm place to live this winter. Hopefully, this matter will be resolved, and utility service will be safely reconnected, by next winter.

Both Peoples and Duquesne correctly refused to reconnect utility service until the property is no longer condemned. Doing so is consistent with the Public Utility Code, the Commission’s regulations and the Commission’s recent decisions. Until the property at the service address is no longer condemned, issues regarding any outstanding amount owed by Mr. Williams to either Peoples or Duquesne are moot. Mr. Williams’ Complaints are denied.

CONCLUSIONS OF LAW

1. Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).

2. "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. Se-Ling Hosiery v. Margulies, 364 Pa. 54, 70 A.2d 854 (1950). If a complainant establishes a *prima facie* case, the burden of going forward with the evidence

shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. Replogle v. Pennsylvania Electric Company, 54 Pa. PUC 528 (1980), and Waldron v. Philadelphia Electric Company, 54 Pa. PUC 98 (1980).

3. The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

4. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n, 489 Pa. 109, 413 A.2d 1037 (1980); Erie Resistor Corp. v. Unemployment Comp. Bd. of Review, 194 Pa. Superior Ct. 278, 166 A.2d 96 (1961); and Murphy v. Comm., Dept. of Public Welfare, White Haven Center, 85 Pa. Cmwlth Ct. 23, 480 A.2d 382 (1984).

5. Every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. 66 Pa.C.S. § 1501.

6. A public utility may decline to serve an existing customer if, in the judgment of the utility, a hazardous condition exists regarding the piping or gas equipment of the customer. 52 Pa.Code § 59.26(b).

7. The Commission will not order a utility to provide natural gas service if doing so would create a dangerous situation. Frank Veasey v. Philadelphia Gas Works, Docket No. C-2013-2356586, Opinion and Order (entered February 6, 2014).

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Wayne T. Williams	:	
	:	
v.	:	F-2014-2436364
	:	
Peoples Natural Gas Company, LLC -- Equitable Division	:	
	:	
Wayne T. Williams	:	
	:	
v.	:	C-2014-2435842
	:	
Duquesne Light Company	:	

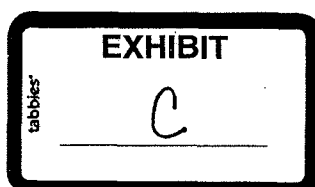
FINAL ORDER

In accordance with the provisions of Section 332(h) of the Public Utility Code, 66 Pa. C.S. §332(h), the decision of Administrative Law Judge Joel H. Cheskis dated January 14, 2015, has become final without further Commission action;

THEREFORE,

IT IS ORDERED:

1. That the formal Complaint filed by Wayne T. Williams against Duquesne Light Company at Docket Number C-2014-2435842 dated July 21, 2014 is hereby denied.
2. That the formal Complaint filed by Wayne T. Williams against Peoples Natural Gas Company—Equitable Division at Docket Number F-2014-2436364 dated July 21, 2014 is hereby denied.



3. That these consolidated matters be marked closed.

BY THE COMMISSION,


Rosemary Chiavetta
Secretary

(SEAL)

ORDER ENTERED: March 10, 2015