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May 11, 2015

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

**RE: Castaneira v. PPL Electric Utilities Corporation**  
**Docket No. F-2014-2404158**

Dear Ms. Chiavetta:

Enclosed for eFiling in the above-captioned matter is the Reply Brief on behalf of Respondent, PPL Electric Utilities Corporation.

Please note that this filing was eFiled with the Commission on the date indicated above.

Very truly yours,



KIMBERLY G. KRUPKA

KGK:cl  
Enclosure  
00728641.DOCX

cc: Edward Lanza, Esquire (w/encl.) via email only  
Administrative Law Judge Susan Colwell (w/encl.) via email only  
Amy M. Bellizia (w/encl.) via email only  
Kim Safford (w/encl.) via email only

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ANN CASTANEIRA,  
Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,  
Respondent.

COMPLAINT DOCKET  
NO. F-2014-2404158

**REPLY BRIEF OF PPL ELECTRIC UTILITIES CORPORATION,  
TO THE MAIN BRIEF OF COMPLAINANT**

Pursuant to the Briefing Order of the Administrative Law Judge, Complainant, Ann Castaneira, and Respondent, PPL Electric, both filed Main Briefs on April 21, 2015. In accordance with the same Briefing Order, Respondent PPL Electric offers this instant Brief in Response to the arguments set forth in the Main Brief of Complainant.

**I. INTRODUCTION**

Complainant contends in her Brief that PPL Electric has breached the Pennsylvania Public Utility Code by providing 1) inaccurate metering; 2) over-billing; 3) permitting power surges and spikes; and 4) repeated transformer malfunctions. (Complainants Brief at pg. 5.) However, it is clear from the testimony that Complainant's husband, Ian Castaneira, conceded that Complainant is raising no issue with regard to the meter, and in fact concedes that the meter is accurately recording electric consumption. (N.T. 233) Accordingly, to the extent that Complainant is now arguing within her Brief that PPL Electric has engaged in inaccurate metering, such allegation should be dismissed. Moreover, as addressed below, there is simply no evidence of over-billing, power surges and spikes, or repeated transformer malfunctions.

## II. ALLEGATIONS OF OVER-BILLING

Complainant, Ann Castaneira, attempts to assert a claim for over-billing against PPL Electric that appears to go back to 2009, when Complainant first began occupying the residence. Complainant contends she has satisfied the burden of proof requirements set forth in Waldron v. Philadelphia Electric Company, 54 Pa. PUC 98, 1980 Pa. PUC LEXIS 90 (1980). However, the facts do not support this claim.

According to the Waldron rule, a rate-payer must establish certain specific elements in order to make out a *prima facie* case of over-billing by a utility company. The controlling principle of Waldron is that even where a utility company proves that a customer's meter is working accurately, a customer may nonetheless prove his case of over-billing by circumstantial evidence which would support a finding that the metered use has exceeded the actual usage. This rule operates as a device which the Complainant is protected from dismissal of his case simply because of an inability to marshal direct proof that a meter malfunctioned. According to the Waldron rule, the mere proof by the utility that its power-measuring devices were accurate is no longer the sole determinant in deciding whether there is a basis to a complaint for over-billing. Milkie v. Pennsylvania Public Utility Commission, 768 A.2d 1217 (Pa. Commw. 2001). A Complainant may establish a *prima facie* case of over-billing by showing (1) the number of occupants in a household has not changed; (2) the potential for energy utilization is low; and (3) the Complainant's power usage for the billing periods in question was unchanged from earlier periods and his bill for the same period was higher than previous bills. See Dziadas v. Pennsylvania Public Utility Commission, 2012 (Westlaw 8699988). While Complainant can show an unchanged number of occupants, she cannot show a low potential for usage or that recent bills are higher than historical bills.

When PPL Electric conducted an in-home field investigation, it became quite evident that Complainant has a potential for high electric consumption. The Castaneira home contains a pool and hot tub (N.T. 10), two (2) hot water heaters (N.T. 13), a heat pump (N.T. 153), four (4) space heaters (N.T. 154), and a dehumidifier (N.T. 156). With these devices within the home, it is clear that Complainant does not have a low potential for electric consumption.

Moreover, Complainant cannot show that historically she has utilized the same amount of electricity but has now experienced higher meter recordings. PPL Hearing Exhibit No. 1 is a listing of the kilowatt hours used per month from 2011 through 2014. Attached to this Reply Brief as Exhibit "A" is a chart comparing by month the usage over the past approximately four (4) years at the Castaneira household. What is evident is that the usage has been fairly consistent up until December 2013. The months of December 2013, January and February of 2014 show higher than average usage. However, beginning with the bill issued April 2004, the Castaneira usage dropped by approximately fifty (50%) percent, and as much as sixty-nine (69%) percent in May 2014.

The spike and then drop in usage is explained by improperly functioning electric hot water heaters that were subsequently replaced. When PPL Electric performed an in-home analysis, the investigator discovered that the electric hot water heater was tripping the breaker. Mr. Castaneira then testified that, in accordance with Complainant's Exhibit I, the two (2) 50-gallon electric hot water heaters were converted to one (1) 75-gallon gas hot water heater in March of 2014 (Complainant Exhibit "I"). Specifically, Exhibit I indicates the conversion occurred on March 5, 2014. What is clear is that the precipitous drop in usage corresponded directly to the time in which the electric hot water heaters which were tripping the electric breaker were converted to gas. What this evidence suggests is that the Castaneira household had

two (2) poorly working electric hot water heaters which, when removed, rectified the issues with the electric consumption. Plaintiffs' expert, Dabis Camero, simply ignores this change in home equipment in his analysis of electric consumption.

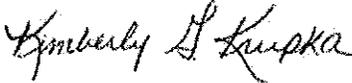
### III. POWER SURGES AND SPIKES/TRANSFORMER MALFUNCTION

Complainants have asserted that the transformer servicing the Castaneira home is improper and that a 25 kva transformer is required. However, there has been absolutely no scientific evidence to support this claim. In fact, the only allegation upon which Complainant relies is the testimony of Mr. Castaneira that the transformer "blew up" on several occasions. However, he is unable to point to the dates, or even approximate dates, when the transformers allegedly "blew up". It must be noted that an interruption of electric service can be due to many causes, including ice on lines and motor vehicles striking poles. Despite having the right to subpoena PPL Electric for records, Complainant chose to provide no evidence at all of transformer malfunctions. There is simply no evidence of any safety issues present at the Castaneira home.

### IV. CONCLUSION

For the foregoing reasons, and for all the reasons set forth in PPL Electric's Main Brief, it is respectfully requested that the Complaint be dismissed.

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**CERTIFICATE OF SERVICE**

This is to certify that the Reply Brief on behalf of PPL ELECTRIC UTILITIES CORPORATION was mailed to counsel/complainant of record, on behalf of Respondents *via Email only*, on the 11<sup>th</sup> day of May, 2015.

EDWARD LANZA, ESQUIRE  
Via Email only to: [ed@lanzafirm.com](mailto:ed@lanzafirm.com)

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# **EXHIBIT “A”**

2011		2012		2013		2014	
January	5934	January	4910	January	6826	January	7814
February	5313	February	4743	February	5749	February	7996
March	3475	March	3350	March	5179	March	6100
April	2936	April	4133	April	4300	April	2220
May	2904	May	2929	May	3593	May	1108
June	3103	June	3795	June	4124	June	1969
July	4311	July	5453	July	4893	July	2925
August	4550	August	4597	August	2970	August	
September	3125	September	3086	September	2925	September	
October	3073	October	2975	October	2354	October	
November	3397	November	4052	November	4597	November	
December	3896	December	4754	December	7339	December	