



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

IN REPLY PLEASE
REFER TO OUR FILE

ISSUED: February 16, 2005

R-00049255C0020

STEVEN P CARLYLE
831 PEQUEA AVENUE APT A
GAP PA 17527

**DOCUMENT
FOLDER**

Steven P. Carlyle
V.
PPL Electric Utilities Corporation

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision Dismissing Complaint of Administrative Law Judge Allison K. Turner. This decision is being issued and mailed to all parties on the above specified date.

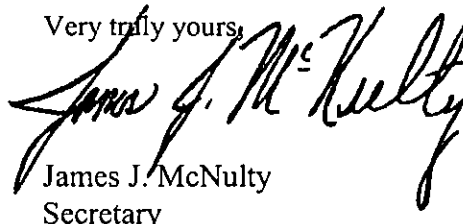
If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Specifically, an original and nine (9) copies of your signed exceptions MUST BE FILED WITH THE SECRETARY OF THE COMMISSION 2ND FLOOR, KEYSTONE BUILDING, 400 NORTH STREET, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17105-3265, within twenty (20) days of the issuance date of this letter. The signed exceptions will be deemed filed on the date actually received by the Secretary of the Commission or on the date deposited in the mail as shown on U.S. Postal Service Form 3817 certificate of mailing attached to the cover of the original document (52 Pa. Code §1.11(a)) or on the date deposited with an overnight express package delivery service (52 Pa. Code 1.11(a)(2), (b)). If your exceptions are sent by mail, please use the address shown at the top of this letter. A copy of your exceptions must also be served on each party of record. 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of exceptions/reply exceptions. A certificate of service shall be attached to the filed exceptions.

If you receive exceptions from other parties, you may submit written replies to those exceptions in the manner described above within ten (10) days of the date that the exceptions are due.

Exceptions and reply exceptions shall obey 52 Pa. Code 5.533 and 5.535 particularly the 40-page limit for exceptions and the 25-page limit for replies to exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

If no exceptions are received within twenty (20) days, the decision of the Administrative Law Judge may become final without further Commission action. You will receive written notification if this occurs.

Very truly yours,


James J. McNulty
Secretary

Encls.
Certified Mail
Receipt Requested
MK

See Attached Listing for Additional Parties of Record.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Steven P. Carlyle

v.

PPL Electric Utilities Corporation

:
:
:
:
:

R-00049255C0020

DOCKETED
FEB 17 2005

INITIAL DECISION DISMISSING COMPLAINT

Before
Allison K. Turner
Administrative Law Judge

**DOCUMENT
FOLDER**

HISTORY OF THE PROCEEDING

By complaint dated October 20, 2004, Steven P. Carlyle (Customer, Complainant or Carlyle) filed this complaint against PPL Electric Utilities Corporation (PPLEU, Company or Utility). Carlyle protested "PPL's request for a rate hike of 10%". He protests any rate hike whatsoever, and avers that he is on a fixed income, SSI, and that the increase would be a hardship for him. He wanted the PUC to deny the requested rate hike.

On December 8, 2004, the Commission served notice of this complaint on PPLEU.

On December 28, 2004, PPLEU filed and served its Answer with New Matter. PPLEU specifically denied the allegations of a low fixed income and hardship for lack of information. PPLEU avers that the proposed increase is relatively modest, is only 9.67% for most residential customers, and that it follows a twenty-year period of rate stability.

In its New Matter, PPLEU avers that: technical evidentiary hearings on the rate increase request concluded on August 13, 2004; that public input hearings were held on various days from June 28 through August 13, 2004; that the ALJ's Recommended Decision was dated October 21, 2004; that Exceptions and Replies to Exceptions were due November 22, 2004; that the

Commission reviewed the matter at its Public Meeting on December 2, 2004; and that it has adopted an Opinion and Order disposing of all the issues in the rate proceeding, which was entered on December 22, 2004.

PPLEU seeks to have the Commission dismiss this complaint.

The ALJ notes that Carlyle's complaint, docketed at R-00049255C0020 is included in the caption of the Commission's Opinion and Order, and that the Commission ruled that "the complaints docketed at R-00049255C0001 to R-00049255C0020 [were] granted or denied to the extent consistent with [its] opinion and Order and shall be marked closed." Opinion and Order at R-00049255, et al., ¶4 at 102, entered December 22, 2004.

DISCUSSION

The Public Utility Code allows the Commission to dismiss a complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. 66 Pa.C.S. §703(b). This section provides in pertinent part:

§703. Fixing of hearings

* * *

(b) Notice of hearing. – The commission shall fix the time and place of hearing, within or without this, Commonwealth, if any is required, and shall serve notice thereof upon parties in interest. **The commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest.**

(Emphasis added).

The averments and/or allegations in Carlyle's complaint are very similar to the allegations in many other of the individual complaints filed more timely during this proceeding. Some of these complaints were the subject of testimony at various public input hearings. Carlyle's testimony on these issues would be repetitive. As a matter of policy, the Commission can provide for the exclusion of unduly repetitious testimony. 66 Pa. C. S. §332 (b)

PPL has denied Complainant's factual averments about fixed income and hardship for lack of available knowledge. In its New Matter, PPLEU averred facts about the procedural history of the case. The Commission's rules provide that if no Response to New Matter is filed, the Complainant may be deemed to be in default. 52 Pa. Code §5.62 (c). The Commission's rules do not require a response to Motions to Dismiss, but they do permit one. No response to either the Motion or New Matter was filed here. Thus, Carlyle's factual averments were disputed, and none of the factual averments made by PPL in its New Matter was disputed.

The ALJ can infer that the Commission opined that no hearing was necessary in the public interest on this complaint. A hearing might have been required if there were disputed facts that had not been raised and pursued by other complainants. Here, even construing the complaint in the most favorable light, I find no such facts. Therefore, to have held, or to now hold, a hearing on this complaint, other than the public input hearings, would not be in the public interest. 66 Pa.C.S. §703 (b)

For these reasons, I conclude that Carlyle's complaint was properly dismissed without a hearing because the Commission had considered the issues raised by Carlyle in his complaint, and all complaints, including his, were either denied or granted consistent with its Opinion and Order.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to this complaint, and over PPLEU's proposed rate increase. 66 Pa.C.S. §§701, 703, 1301, et seq.
2. The Commission scheduled and held public input hearings and complainants who made very similar allegations gave testimony in support of those allegations.
3. The Commission may dismiss any complaint without a hearing if in its opinion, a hearing is not necessary in the public interest. 66 Pa.C.S. §703(b).

4. A hearing is not necessary when the Commission has received testimony about similar allegations, and testimony on Carlyle's complaint would only be repetitive. 66 Pa.C.S. §332 (b)

5. A hearing is not necessary in the public interest in this case.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the complaint of Steven P. Carlyle v. PPL Electric Utilities Corporation, docketed at R-00049255C0020 has been properly decided, dismissed and closed by the Commission in its Opinion and Order entered December 22, 2004, and shall be considered moot as regards any further proceedings. No further hearing need be or shall be held on this complaint.



Allison K. Turner, ALJ
Administrative Law Judge

Date: January 25, 2005