

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Famille S. Trust and Lusala Simananga
(Complainant)

vs

Duquesne light company
(Respondent)

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C-2014-2440650

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EXEPTION OF FAMILLE S. TRUST PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

September 9,2015

To: The Honorable Secretary of PUC of The Commonwealth of Pennsylvania,

Pursuant to 52 Pa, code § 5.533, Famille S. Trust, complainants in the above docketed matter, by and through his attorney, hereby files this Answer (Exceptions) to the initial decision of the administrative law judge for granting motion to dismiss improperly filed by defendant Duquesne Light Company

Below are our responses to the initial decision issue by the honorable Administrative Judge Katrina L. Dunderdale

Facts Reviews

1. Lusala Simananga and Famille S. Trust had requested service termination since 2006. But for some reason it was not carried out until Famille S. Trust, which acquired the property, files a complaint with public utility commission in 2014.
2. Defendant Duquesne light alleged transfer of the account to owner name because it could not located the solar panel on the property and avers existence of foreign

load between 1st and second Floor. Defendant Duquesne light company was looking Solar panel in the front without knowledge that solar panel are almost always placed relative to the position of the sun toward south which is the back yard in this case (Picture # 1a,b, similar picture was sent via e-mail to the administrative law judge on November 19, 2014 (panel only)) . Only until November 14, 2014 when Complainant Famille S. Trust representative shows defendant Duquesne light company workers the solar panel and again on July 31, 2015 Defendant Duquesne light was able to end its assumption that the solar panel does not exist. Therefore, Complainant Famille S. Trust contend that defendant Duquesne light company erred in assuming no solar panel existed in the property thus causing their experts to assume light from the hallway come from 1st or 2nd Floor and falsely transfer the account to the owner name even when it became clear they erred in their interpretation of facts¹

3. Soon After, Discovering the existence of Solar panel in the property, Defendant Duquesne light claims that complainant is not a registered member of association net metering and the solar system is dangerous and an hazard to the premise, to defendant equipments and pose safety issue even thought the Complainant Famille S. Trust Solar system is an off –grid system as opposed to Grid system as defendant believed thus to subject to tariff rules²

1. In North hemisphere including the USA solar panels are always place toward the south, which in this case is the back yard of the property. Duquesne light company erred by looking panel in front of the property.

2. Tariff applied only to equipments connected to utility power line. Off grid systems cannot be connected to the utility power line. Thus Defendant Duquesne light falsely assumed Complainant Famille S. Trust should be member of association of net metering, which applied only to Grid system. Defendant Duquesne light Company net metering

program. is a program that allows defendant customers to use renewable energy sources (such as solar power) by installing generation equipment approved by defendant Duquesne light for interconnecting with the defendant company's electrical distribution grid.

4. In light of these misunderstandings and erroneous interpretations of the facts, and for the sake of impartial and the integrity of the investigations; and finally because of lack of expertise, transparency and integrity on Defendants actions before and after the hearing, Complainants Famille S. Trust requested on November 24, 2014 and subsequent correspondences that the matter be investigated by independent investigators who will report directly to the PUC and the administrative law court ³. However, when it become clear that the PUC and the court would not intervene by allowing both complainant and defendant to use an independent investigators who would have been able to fairly access the problem and report directly to PUC and the Administrative court law officer Complainant, Famille S. Trust indeed contacted an attorney in Pittsburgh to deal with the issue as explain later herein in this Exemption report.
 5. Complainant Famille S. Trust first believed that Defendant Duquesne light company *misunderstanding on the issue may have been innocent* misinterpretations and misunderstandings and was willing to let matter be solved in a fair way by bring in independent investigators but Defendant Duquesne light continued to refuse until later in July 2015 when Defendant Duquesne light company for the first time explained that it cannot get independent investigators due to their company internal and union rules.
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3. When two parties are far apart in their interpretations of facts and are not seeing the same things for the same events. It is only logic to bring in an impartial mind to clarify the issue and bring impartiality, credibility and integrity into the investigation

6. Famille S. Trust reminded defendant Duquesne light that the alleged foreign load in its reports do not exist and therefore could not fix some thing that is non-existent. Furthermore, Defendant Duquesne light company contend that since complainant Famille S. Trust is not a member of association of Defendant net metering Defendant Duquesne light company has the right to inspect equipment in the building in apparent misunderstanding between grid and off grid system. Defendant Duquesne light assumes that all solar systems should be connected to utility power line therefore some how use their electricity at night. While in fact the system Famille S. Trust use off grid system with dual use of both AC and DC current as shown in the pictures set 2-3-4-5-6
7. Complainant Famille S. Trust did not get the opportunity to secure a lawyer in Pennsylvania because is out of the USA. Moreover, the matter in question was more technical than legal and was hoping to solve it fairly by asking Defendant Duquesne light for independent investigations to resolve their differences of interpretations of facts on the property and avoid the hassle of litigations.
8. After multiple attempt to resolve the issue with Defendant Duquesne light about false investigation and its alleged foreign load and the hazard that the Complainant solar system present to the premise, Complainant Famille S. Trust avert that there is a huge gap between what defendant Duquesne light believe to be grid system while complainant indeed use off grid system. Thus the imperative of bringing in independent investigators to resolve the issue in question.

Finding of facts

9. The Pennsylvania Rules of Civil procedure requires all parties to be served properly with proof of certificate of service. However in page 4§ 1 and 4 of the initial decision by the Administrative officer defendant Duquesne light did not serve properly the presiding officer by omitting her on the certificate of service not once but in both Motions submitted to court as well as failed to provide the documents upon the presiding officer. Facts underlined in pages 4 of the initial decision. This is not an unfortunate coincidence but part of defendant Duquesne light Counsel tactics to mislead the parties. Furthermore, Famille S. trust has already mentions these facts. In the later motion, Defendant Duquesne light motion mailed to Famille S. Trust was without exhibits. Therefore both motions for dismal of the cases must be considered improperly served and Should be dismissed in accordance of 52 Pa. § 1.54⁴ and § 1.57⁵ Rules of civil procedure and the case be allowed to reopen for formal proceeding so we can prosecute them.

(4) 52 Pa. § 1.54 " pleadings, submittals, briefs and other document, filed in proceeding pending before the commission shall be served upon parties in the proceeding and upon the presiding officer, if one has been assigned.

(5) 52Pa. §1.57

(a) A certificate of service in the form prescribed by § 1.58 (relating to form of certificate of service) must accompany and attached to the original and all copies of pleadings, submittals or other documents filed with the commission when documents filed on the commission's electronic filing system must contain a certificate of service stating that the document was filed electronically. The certificate of service must identify the manner in which service on each party was accomplished.

- a. Considering that the certificate of service for Duquesne light motions dated December 11, 2014 and that of the March 31, 2015 were both not did not include and served upon the presiding officer as stated in the initial decision Page 4 paragraphs 1 and 4 (Facts underlined). Duquesne light motions to dismiss the complaint against it of December 11,2014 and that of March 31,2015 should be consider improper filing and in violation of 52 Pa § 1.54 and 52 Pa. § 1.57 and should be dismissed and the case reinstated for formal proceeding.
- b. Given the fact the same motions have been sent to Famille S. Trust without exhibits. The matter should not be considered as random errors, but as deliberate tactics by defendant Duquesne to mislead other parties and avoid prosecution on substances. Therefore, The motions should be declared invalid and should be dismissed and the above docketed case reopen for formal hearing.
- c. Famille S. Trust scheduled the service of licensee attorney in Pennsylvania and provided all related correspondence to its counsel who did contact the defendant Duquesne light company counsel on the issues. After leaving several messages to defendant Duquesne light Company responded back later to Famille S. Trust counsel who contacted Mr. Matundu.
- d. The issue in question was that since Duquesne light erroneously believed the solar system in the property was a grid system which require connection to utility power line while in fact Famille Trust use off grid system which is not connected to the power line as Duquesne line alleged

on their correspondence dated September 22, 2014. And the reason the Duquesne light did not see the solar panel because they were looking on the front while the panel was located on the back of the building and Complainant Famille S. Trust representative had indeed show them the panel and the system when defendant team first visited the premise on November 14, 2014 and later on July 31, 2015. Therefore, the initial decision erred by assuming defendant is not responsible and accountable for the problem described in the complaint (Initial decision page 8 § 1 , page 10 § 6) . Defendant by failing to locate solar panel in complainant property which is the central evidence in the complaint caused the problems, and that defendant negligence and lack of knowledge on the issue and its subsequent erroneous assumptions on the issues created the problems, thus defendant Duquesne light is fully responsible and accountable by negligence and ignorance of facts.

- e. Furthermore, Famille S. Trust representative did not in by any means limit Defendant Duquesne light access to premise as alleged in page 7 point 10 of the initial decision. It is Defendant Duquesne light people who choose to leave instead of completing their job on November 14, 2014 and later came with a bogus report. Mr. Matundu learnt later from defendant attorney during the pre-hearing and thereafter that defendant Duquesne light company workers left because of their union policies about overtime pay. Therefore, Famille S. Trust representative was not by any means responsible for defendant Duquesne light failed inspection on November

14, 2014 as well as the defendant subsequent bogus reports dated November 18 and 20, 2014, which prompt Famille S. Trust to respond on November 24, 2014 to request independent investigators to complete the work and report directly to the PUC and to the administrative law judge office.

- f. After going back and forth with Duquesne light company and its counsel asking for an independent investigation because Duquesne light in Famille S. trust view does not have the expertise to deal with a system their teams are not familiar with. Complainant Attorney contacted Defendant Duquesne light Attorney on the issue and talk back a forth-in July 2015. Mr. Matundu permitted them to come either on July 17 or July 24, 2015 to inspect the premise at 510 South, Pittsburgh PA 15221 at 15:30 when every one living in is present. However the telephonic communication continue between Duquesne light counsel and Complainant Famille S. Trust Counsel until it become evident that the Duquesne light refusal to agree for an independent investigators continue although defendant seem not to have proper expertise to deal with the issue and because of Defendant Duquesne light company union policy on overtime and some kind of self served interest within Duquesne light company which prevent it to seek outside investigators⁶.

(6) Defendant here act as parties and judge while requesting anybody else to bend and accommodate its internal rules. This is a form of corporation tyranny and is not constructive for conducting impartial and credible investigation.

- g. On July 22, 2015 after useless back and forth between the two parties, Complainant counsel proposed direct communication between Mr. Matundu and Duquesne light. Later Duquesne light counsels Mr. Jeremy Farrell (Tel: 1-412-566-1212 for the first time Called Mr. Matundu and left a message at 12:49 pm. Mr. Matundu Called back at the same day at 1:30 pm and talked directly To Mr. Jeremy Farrell who said that their teams are working hard to visit the property and that defendant light internal protocol and union policy do not allow defendant to hire independent investigators and defendant should do their own inspection⁶. Furthermore, because of Duquesne light union policy on overtime pay, Mr. Farrell asked to allow the team to come earlier. To end the excuses, Mr. Matundu agreed for 1:30 pm and since their team was not ready for July 24, 2015 Complainant representative and Duquesne light counsel Mr. Jeremy Farrell both reschedule the inspection for July 31, 2015 at 1:30 pm
- h. Later Mr. Farrell Called back at 1:51 pm to confirm the schedule on July 31,2015 at 1:30 pm. About an hour later at 2:29 pm Mr. Matundu received a call from Mr. Charlie Solsburger of defendant Duquesne light (Tel 1-412-393-8941) and talked about the issues and confirmed July 31, 2015 at 1:30 pm. At 2:44 pm Mr. Matundu relayed the information to Famille S. Trust Counsel.
- i. On July 31,2015 at 1: 30 pm cars and trucks from Duquesne light arrived at the property located at 510 South Ave, PA 15221. Three Man (Charlie,

Tom and Sam) and One Woman (Ms/Mrs. Patt) from Duquesne light came in and were joined later by another man (Carlos?) (*See attached photographs 7-8-9-10 and video clip (via e-mail at ra-OSA@pa.gov)*) The inspection started from the basement, Solar system (Controller, charger, battery bank and inverter and motion sensor lights in the hall way, outside the building entrance lights, Camera (Fake one), Gas meter (which is not in service shut off), Electric meters outside, 1st floor apartment heating system etc, back to meters and 2nd Floor apartment. Mr. Matundu responded to all of defendant Duquesne light workers questions from hot water heaters, which are all electric, electric box in the back fence that Ms/Mrs Patt was thinking as a Camera. They have been allowed to check that closer by themselves and take the pictures of the Solar panel on the back as well as anything they needed inside and outside the building. At The end everything was fine they left with the promise from Mr. Charlie the lead investigator from defendant Duquesne light company that someone from Duquesne light will respond to Mr. Matundu next week. Up to day six (6) week later no response.

- j. On September 3-4, 2015 Mr. Matundu Contact Mr. Charlie (Tel 1-412-393-8941) at 9:38 am, and 10:21 am who respond that there is nothing he can do and could not talk to him and produce the report. Mr. Matundu relayed the information to Famille S. Trust later the same day and Schedule an appointment for July 9, 2015 at 2:00 pm

k. Given the inability of Duquesne light to produce a report on a simple matter over six weeks after the inspection in a simple matter that requires no more than 5 minutes for a knowledgeable person to draw a conclusion suggests clearly that Defendant is not familiar with the system and lack expertise. Defendant refusal to respond back to Mr. Matundu the following week as agreed, is a testimony that Defendant Duquesne light company was not interested in solving the issue in a fair ways by clinging on procedural rather than substance.

l. Conclusion

- m. The initial decision erred by assuming Complainant did not show Defendant Duquesne light is responsible and accountable for the problems. However, Defendant Duquesne light company by failing to investigate properly the premise and to located the solar panel and moving forward with erroneous assumptions in its reports due to negligence and lack of knowledge on the appropriate positioning of solar panel as well the off grid operating system caused the problems in the complaint.
- n. Even after discovery of the Solar panel, defendants Duquesne light falsely assumed that it should be Grid system thus, subject to registration with defendant association of net metering while it is indeed an off grid system independent from utility company tariff rules. Complainant avers that defendant Duquesne light lack of professional expertise on the

investigation caused the problems and the need for independent investigation that defendant refused.

- o. Given defendant failure to conduct inspection in a professional manner and defendant lack of expertise on the issue and the fact that Famille S. Trust was open to resolving that simple problem due to misunderstanding and apparent lack of knowledge on the issue in question on the part of defendant Duquesne light company and the fact that the commission itself promote mutual solution between parties instead of resorting to court and Finally, Given the fact that Famille S. Trust was open and shows defendant in November 14,2014 and July 31,2015 the solar panel and system in the property and decided to go to formal proceeding after exhausting all the reasonable common sense manners to resolve the issue should not have been construed as failure to prosecute the defendant Duquesne light Company as contended in the initial report page 11. It is only a sense of goodwill and openness before resorting to hard-line proceeding. In this Complainant Famille S. Trust has exhausted all reasonable manners to solve the issues while defendant Duquesne light resort to procedural tactics while keeping a semblance of trying to solve the issue in question. When a party resorts to tactical maneuver while keeping a semblance dealing with an issue in disregard of the substance that means defendant Duquesne light was not trying to resolve the issue in good faith.

Therefore, this should not be construed as Complainant unwillingness to obtain the service of Attorney, but a way to show case that complainant was open in spite of defendant lack of expertise and knowledge on the issue which it appeared not to be familiar with in defendant practice, particularly in today fast changing technological world.

- p. Given the fact that Duquesne light cannot produce a report in timely matter for a simple issue which will require less than 5 minutes for a knowledgeable person to reach a conclusion and the fact that there is not a connection of the off grid system to Duquesne light power line neither a foreign load between apartments. And Finally Given the fact Duquesne light was fully allowed to inspect a system that is even outside the tariff² even take pictures in violation of private property and an abusive extension authority is a testimony that Defendant Duquesne light give precedence on procedure over substances to escape the issue in question thus, its motions should not have been granted for procedural defects on the part of complainant while the same motions were filled with equal procedure defects and have been misfiled. Therefore, the commission should reverse the initial decision and allowed the matter to proceed to formal hearing and the above docketed matter be reopened.
- q. Furthermore, since the process and communication were not completely closed or at least since defendant Duquesne light gave the impression of trying to solve the issue while resorting to procedural tactics, and the fact that Famille S. Trust did contacted an attorney who communicated with

defendant Duquesne light counsel; it should be reasonable to assert that complainant was zeroing in on going forward with retaining attorney to proceed with formal hearing as noted in complainant correspondences dated May 19,2015 and June 30, 2015. Therefore, Complainant Famille S. Trust through it attorney, hereby request the complaint to be reopen and go straight to formal hearing for prosecution

r. Given the fact Famille S. Trust and Lusala Simananga are not present in USA. It is reasonable to think they acted in good faith to solve the problem outside the already overcrowded USA legal system especially for a simple matter that is common practice in many places around the world but seems to be misunderstood by a utility company in Pittsburgh in USA.

10. Moreover, The same legal system provides a mechanism for the parties to solve their problems of outside the court system. Complainant Famille S. Trust have provided Duquesne light with the best common sense solutions to end the issue by asking to bring in independent investigators to report directly to the court and the PUC. Famille S. Trust and stated clearly it willingness to resort to formal hearing by bringing in the service of an attorney after exhausting all possible manners to solve the issue while Duquesne light resorted to deceptive tactics clinging on procedure rather than substance.

11. Since Lusala Simananga and Famille S. Trust do not live in USA it was impossible for them to attend the pre-hearing. Although they could not comprehend a law that prevent a trustee of a trust to file a complaint and represent

the trust while a corporation which is more complex than a trust can have their trustee do so. Complainant was ready to retain an attorney if the problems could not be solved which they did by contacting an Attorney in Pittsburgh who contacted the counsel for defendant Duquesne light who later contact Famille S. Trust representative but failed to report the issue to Administrative law Judge office and the PUC who in turn proceed with a decision while it was clear that Famille S. trust indicated so in its letter dated June 30, 2015 (page 6 paragraph 1.) and contacted an Attorney the same day who later contacted defendant Duquesne light counsel. Finally, given the fact that the complainants live outside the USA and almost all correspondences where sent to 510 South Ave, PA 15221 in USA. It should be understandable that there should be a time delay to consult with them first before responding. And all responses were provided to the administrative law court and PUC in timely manners in spite of language barriers as noted in page 3 of the initial decision.

12. Complainant Famille S. Trust could not secure the service of Attorney because the matter was more technical than legal and was hoping that an independent investigation will certainly clarify the matter and satisfy both parties in a fair manner.
13. While a knowledgeable attorney representing Duquesne light failed to follow the procedure to present his motions not once but twice is granted in violation of 52Pa 1.54 and 1.57 and at the same time the alleged five experts from Duquesne light company still struggle to produce a 5 minutes reports for over 6 weeks now since defendant Duquesne light visited the property on July 31, 2015 is beyond

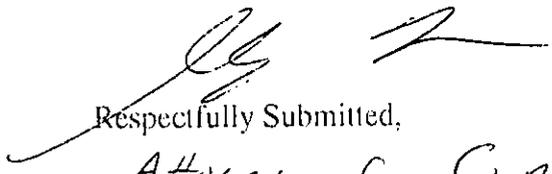
comprehension. Those with knowledge of the law should be punished more severely than the private living out side the USA who could not comprehend why 52 Pa. 1-21 and 1-22 is a law in Pennsylvania in the first place.

14. Since both motions December 11, 2014 and that of March 31, 2015 were not served upon the presiding officer. It should be considered non-existent and against the 52 Pa. 1.54 and 1.57 relative to service to party and presiding officer.

Therefore, both motions should not have been granted and the complaint should be reinstated for proper proceeding by both parties to amend their vices of procedure and obtain fair hearing without exception.

15. Granting Defendant motions on procedural grounds while at the times the same motions were filed with procedural defects is not equitable to both parties and is double standards. Furthermore, giving preponderance on procedures rather than substances is not justice especially when the alternative of a third party could have clarified the matter that defendant lack expertise or the matter was new in its professional practices. Finally, in this case Defendant Duquesne light was allowed to act as Judge and party at the same time, while Complainant Famille S. Trust is denied one of the fundamental aspect of universal Justice, equality and freedom of choice by refusing the notion of independent investigation to solve the issue and by compelling it to adjust to defendant internal rules for issues it does not even have proper expertise⁶.

16. In view of the entire situation explained above, Famille S. Trust through its attorney hereby requests the Honorable commission to reopen the case docket above for formal hearing.



Respectfully Submitted,

Attorney for Complainant

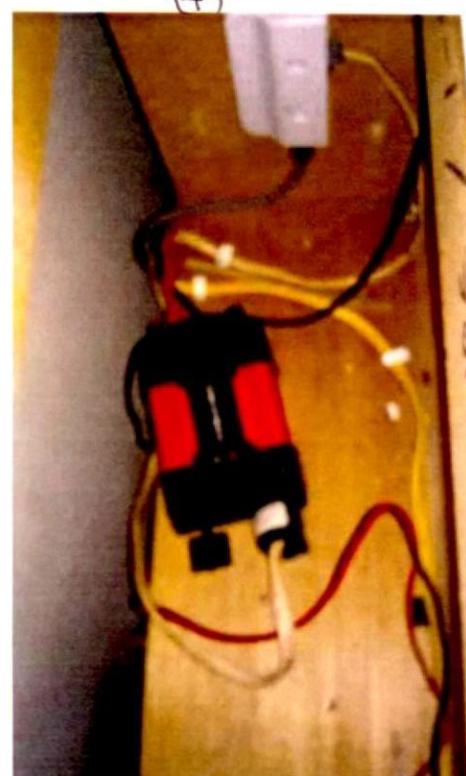
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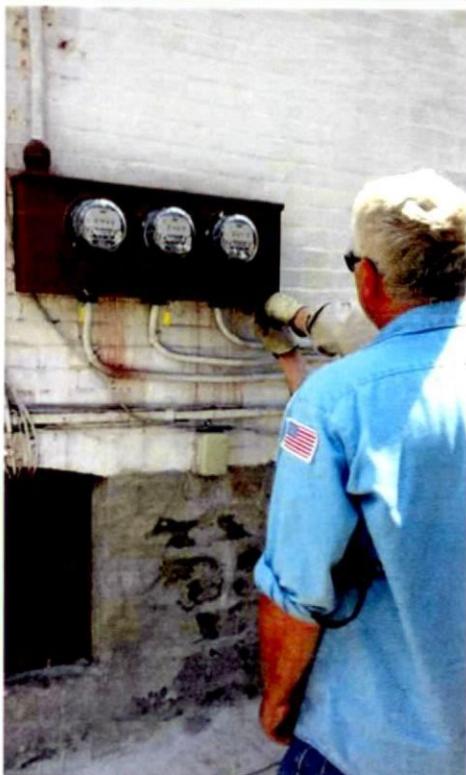
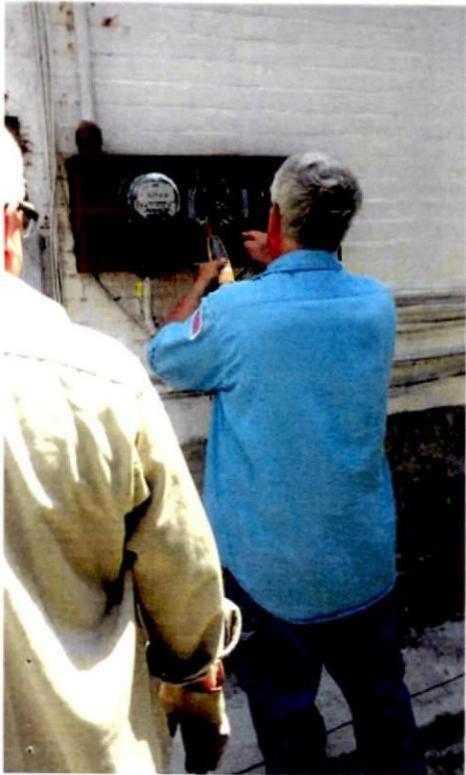
- (1) Picture # 1a Backside with solar panel on lower roof.
- (2) Picture # 1b Front Entrance with Solar Motion Sensor led lights
- (3) Picture #2 Charger controller and DC output
- (4) Picture #3 Power inverter
- (5) Picture #4 Batteries bank box 1
- (6) Picture #5 Controller and power inverter
- (7) Picture #6a modified Solar motion sensor Led light Apt.1
- (8) Picture #6b modified Solar motion sensor led light Apt.2
- (9) Picture #6c modified Solar motion sensor led light Apt.3
- (10) Picture #7a Duquesne light Vehicle
- (11) Picture #7b Duquesne light Vehicles and workers
- (12) Picture # 8 a Basement circuit breaker
- (13) Picture #9a Meter testing
- (14) Picture #9 b Meter testing
- (15) Picture #10 a baseboard heater inside apartment
- (16) Picture #10 b gas meter
+ video clip at: rci-OSAP.Pa.gov.

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(18) (13)

(14)

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CERTIFICATE OF SERVICE

I hereby certify that I have this day of September 9, 2015 served a true copy of the forgoing documents upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by Certified mail and copies to the commission office of special assistant via e-mail at ra-OSA@pa.gov

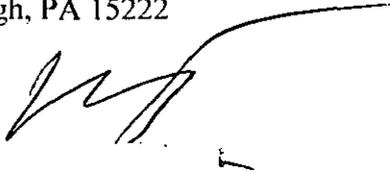
- 1) Secretary of the Pennsylvania Public Utility Commission
Public utility Commission
P.O Box 3265
Harrisburg, PA 17105-3265, USA

Certified mail

- 2) Honorable Administrative law Judge Katrina L. Dunderdale
Pennsylvania Public Utility Commission
301 5th Ave, Piatt Place, Suite 220
Pittsburgh, PA 15222

Via First class mail with proof of mailing

- 3) Jeremy Farrell
Tucker Arensberg, 1500 One PPG place
Pittsburgh, PA 15222

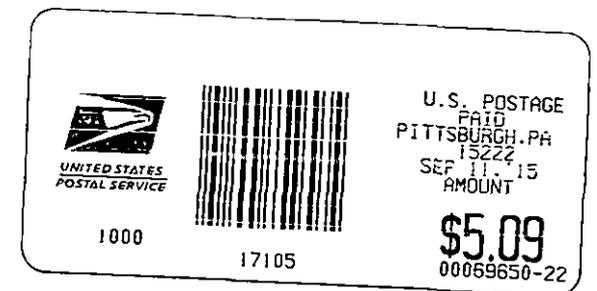


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To the Attention of Secretary of Common Wealth of Pennsylvania
Public Utility Commission Bureau of Consumer Service
P.O BOX 3265 Harrisburg, PA17105-3265