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November 16, 2015

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
Post Office Box 3265, 400 North Street  
Harrisburg, PA 17105-3265

**RE: Ruth Sanchez v PPL Electric Utilities Corporation**  
**Docket No: C-2015-2472600**

Dear Ms. Chiavetta:

Enclosed for eFiling in the above-captioned matter is an original of the Exceptions of PPL Electric Utilities Corporation to the Initial Decision, along with the attached Certificate of Service.

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

Thank you for your cooperation in this matter.

Very truly yours,

KIMBERLY G. KRUPKA

KGK/ejm  
Enclosure

cc: Ruth Sanchez (w/ enc.)  
Administrative Law Judge Katrina L. Dunderdale (w/ enc.); *via email only*  
Kimberly R. Safford (w/ enc.); *via email only*

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COMMONWEALTH OF PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

RUTH SANCHEZ,

Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

Docket No. C-2015-2472600

**EXCEPTIONS OF PPL ELECTRIC UTILITIES CORPORATION  
TO THE INITIAL DECISION**

AND NOW, comes the Respondent, PPL Electric Utilities Corporation (“Respondent” and/or “PPL Electric”), by and through its counsel, Gross McGinley, LLP, and files the within Exceptions to the Initial Decision, dated October 16, 2015, as follows:

**Introduction**

The Pennsylvania Administrative Code (the “Code”) provides that exceptions may be filed by a party and served within 20 days after the initial, tentative or recommended decision is issued. 52 Pa. Code § 5.533(a). Exceptions must be “concise.” 52 Pa. Code § 5.533(c). Additionally, the Code provides that each exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision. 52 Pa. Code § 5.533(b). Further, supporting reasons for the exceptions shall follow each specific exception. *Id.*

As it pertains to the instant case, PPL Electric files the instant Exceptions due to the fact that the Administrative Law Judge (“ALJ” and/or “presiding officer”) incorrectly determined

that PPL Electric improperly terminated Complainant's Electric service, and also incorrectly assessed a civil penalty against PPL Electric totaling two thousand dollars (\$2,000).

### **History of the Proceeding<sup>1</sup>**

On March 16, 2015, Ruth Sanchez (Ms. Sanchez or Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL Electric or Respondent). Complainant alleged PPL Electric violated termination procedures in July 2014 when PPL Electric terminated service without sending a termination notice first and despite having received the required payment from Complainant. Complainant also alleged it took PPL Electric too long to resume service. Complainant requested the Commission order PPL Electric to reimburse her for lost food during the one week service remained off.

PPL Electric filed an answer in response to the complaint on April 6, 2015, in which PPL Electric denied it improperly terminated service or that it failed to notify Complainant about a pending shut-off notice. PPL Electric also denied Complainant made a payment before the service termination and it requested the Commission dismiss the complaint.

On May 21, 2015, the Office of Administrative Law Judge scheduled an initial telephonic hearing in this matter for Friday, June 26, 2015. On May 22, 2015, the undersigned presiding officer issued a Prehearing Order.

The presiding officer convened the initial hearing June 26, 2015, at which Ms. Sanchez appeared unrepresented. PPL Electric was represented by Kimberly G. Krupka, Esquire. Complainant presented testimony from herself. Complainant offered four exhibits, marked Complainant Exhibits 1 through 4, which were admitted into evidence. Respondent presented the testimony of one witness, and offered three exhibits, marked PPL Electric Exhibits 1, 2 and

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<sup>1</sup> Taken from the Initial Decision at pp. 1-2.

4G, which exhibits were admitted into evidence. Complainant and Respondent issued final statements on the hearing record in lieu of filing briefs.

The presiding officer received the transcript of the hearing, containing 85 pages, on July 24, 2015. Upon receipt of the transcript, the presiding officer closed the hearing record by Interim Order Closing the Hearing Record on July 28, 2015.

**First Exception**

**The record fails to establish that PPL Electric failed to provide Complainant with reasonable and adequate customer service in its termination of Complainant's Electric service on July 15, 2014 for non-payment**

In the Initial Decision, the ALJ found that PPL Electric failed to provide Complainant with reasonable and adequate customer service in its termination for non-payment. *See* Initial Decision at p. 16, Conclusion of Law 3. The requirements for termination of utility service are set forth in the Public Utility Code. The Code provides, in pertinent part, that:

- (a) **Authorized termination.**--A public utility may notify a customer and terminate service provided to a customer after notice as provided in subsection (b) for any of the following actions by the customer:
  - (1) Nonpayment of an undisputed delinquent account.
  - (2) Failure to comply with the material terms of a payment arrangement.
  - (3) Failure to complete payment of a deposit, provide a guarantee of payment or establish credit.
  - (4) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.
  
- (b) **Notice of termination of service.**—
  - (1) Prior to terminating service under subsection (a), a public utility:
    - (i) Shall provide written notice of the termination to the customer at least ten days prior to the date of the proposed termination. The termination notice shall remain effective for 60 days.

- (ii) Shall attempt to contact the customer or occupant to provide notice of the proposed termination at least three days prior to the scheduled termination, using one or more of the following methods:
    - (A) in person;
    - (B) by telephone. Phone contact shall be deemed complete upon attempted calls on two separate days to the residence between the hours of 8 a.m. and 9 p.m. if the calls were made at various times each day; or
    - (C) by e-mail, text message or other electronic messaging format consistent with the commission's privacy guidelines and approved by commission order.
    - (D) In the case of electronic notification only, the customer must affirmatively consent to be contacted using a specific electronic messaging format for purpose of termination.
  - (iii) During the months of December through March, unless personal contact has been made with the customer or responsible adult by personally visiting the customer's residence, the public utility shall, within 48 hours of the scheduled date of termination, post a notice of the proposed termination at the service location.
  - (iv) After complying with paragraphs (ii) and (iii), the public utility shall attempt to make personal contact with the customer or responsible adult at the time service is terminated. Termination of service shall not be delayed for failure to make personal contact.
- (2) The public utility shall not be required by the commission to take any additional actions prior to termination.

66 Pa.C.S.A. § 1406(a) and (b).

At the time of the Initial Telephonic Hearing on June 26, 2015, the customer service representative for PPL Electric, Tammy Nalesnik, testified that PPL Electric generated a shut off notice with respect to Complainant's account on June 12, 2015. (N.T. 6/26/15 at 45:14-17 and 48:10-18.) This shut off notice was mailed to Complainant and indicated a shut off date on or after June 24, 2014. (*Id.* at 48:23-49:5.) After mailing the shut off notice to Complainant, PPL

Electric also attempted to contact Complainant by telephone on June 18, 2014 and June 19, 2014. (*Id.* at 51:24-52:8.)

While Complainant has testified that she had not received such notice, there was ample evidence that she had received the notices. Specifically, according to the PPL Electric Customer Contacts, accepted into evidence as PPL Exhibit 2, Ms. Sanchez performed an IVR (automated system) account inquiry on June 20, 2014. On the same date, she inquired about a three day medical certification. (PPL Hearing Exhibit 2). She then spoke with a PPL Electric Customer Service representative. At that time, Ms. Sanchez informed the representative that she had in fact mailed a check on June 3, 2014. When PPL Electric attempted to locate the check, Ms. Sanchez did not have the necessary information in order to permit PPL Electric to perform such search. In addition, Ms. Sanchez confirmed that the check had not been cashed. (PPL Hearing Exhibit 2). At the same time, the representative asked that she “call back so we can go over shut-off. Caller states she will call back then hung up.” (PPL Hearing Exhibit 2). In addition the PPL Electric representative, on June 20, 2014, noted “offer to go over account bc [because] of Shut Off. Cust declined bc [because] had to go. Provided CONSEQUENCE of NOT keeping with with PA [payment arrangement].” These customer contacts, in addition, with the recordation in the contracts that a collections correspondence was mailed on June 12, 2014 with a cut date of June 24, 2014 for an amount of \$3946.21, leads to the conclusion that in fact Ms. Sanchez was provided notice. (See also N.T. at 45:16-49:2).

At the time that the shut off notice was mailed to Complaint, the total account balance was \$3,946.21. (*Id.* at 49:9-11.) Although a payment arrangement had been offered in April 2014, Ms. Sanchez could not agree to the same, so unfortunately, there was no active payment arrangement. (N.T. at 45:5-8). A bill had been issued on May 16, 2014, with a monthly budget

bill charge of \$227 and an arrearage bringing the total balance to \$3,946.21. Payment was due on or before June 6, 2014. (N.T. at 44:12-19). PPL Electric provides customer with a five day grace period. However, no payment was received by June 12, 2014, and, accordingly, the prior payment arrangement was defaulted. Because Complainant did not have an active payment arrangement on her account at the time the shut off notice was generated, she was required to pay her entire account balance – \$3,946.21 – in order to prevent a termination of service. (*Id.* at 49:12-18 and 52:14-19). Although Complainant did mail a payment to PPL Electric in the amount of \$276.34, which was processed on June 20, 2014, this amount was for less than Complainant’s account balance, and therefore, it did not serve to prevent termination of Complainant’s Electric service. While Complainant alleges that her check was delayed due to a requirement to remit payments to Kentucky, there is no evidence to support that it would take two weeks for mail to travel from Pennsylvania to Kentucky. (*Id.* at 11:12-14). Accordingly, PPL Electric terminated Complainant’s Electric service on July 15, 2014. (*Id.* at 52:9-13.)

In light of the above, it is clear that PPL Electric not only complied with the ten-day written notice provision of the Code, but also the telephone notice provisions of the Code prior to terminating Complainant’s Electric service. Complainant did not meet her payment obligation to prevent a termination of Electric service – payment of her entire account balance – and therefore, PPL Electric properly terminated her electric service on July 15, 2014.

**Second Exception**

**The record fails to establish that a civil penalty should have been imposed against PPL Electric**

In the Initial Decision, the ALJ found that by improperly terminating Complainant’s Electric service, PPL Electric’s actions were serious and warranted a civil penalty. (*See* Initial Decision at p. 15 and p. 15 at ¶ 3.) The Commission has promulgated a Policy Statement that

has adopted the ten “*Rosi* factors” which were first articulated in the case of *Joseph A. Rosi v. Bell-Atlantic, et al.*, Docket No. C-009924409, 2000 Pa. PUC LEXIS 5 (March 16, 2000). *See* 52 Pa. Code § 69.1201.

Accordingly, the Commission may consider these *Rosi* factors in evaluating whether a civil penalty should be imposed for violating a Commission order, regulation, or statute. These factors are: (i) whether the conduct at issue was of a serious nature; (ii) whether the resulting consequences of the conduct at issue were of a serious nature; (iii) whether the conduct at issue was deemed intentional or negligent; (iv) whether the regulated entity made efforts to modify internal policies and procedures to address the conduct at issue and prevent similar conduct in the future; (v) the number of customers affected and the duration of the violation; (vi) the compliance history of the regulated entity that committed the violation; (vii) whether the regulated entity cooperated with the Commission’s investigation; (viii) the amount of the civil penalty or fine necessary to deter future violations; (ix) past Commission decisions in similar situations; and (x) Other relevant factors. 52 Pa. Code § 69.1201(c).

In this case, the ALJ found that PPL Electric actions were serious and warranted the imposition of a \$2,000 civil penalty. (*See* Initial Decision at p. 15 and p. 17 ¶¶ 3-4.) The ALJ appears to place a high degree of emphasis on the fact that PPL Electric pursued termination proceedings against Complainant in spite of the fact that Complainant made a payment to PPL Electric of less than her total account balance on June 20, 2014. (*See, e.g., id.* at p. 13.) However, as explained above, because Complainant did not have an active payment arrangement on June 20, 2014, her entire account balance needed to be paid to prevent a termination of Electric service (or at the very least, Complainant needed to contact PPL Electric and establish a



payment agreement.) Nothing permitted Complainant to avoid termination simply by paying one monthly payment. It is undisputed that such full payment was not made.

There is no evidence that a partial payment was even received at the time of the June 20, 2014 telephone call. Although a payment was posted sometime that day, there is no indication that the call occurred after the posting. (N.T. at 50:18-23). In addition, the evidence supported that PPL Electric attempted to help the Complainant locate the "lost" payment. As testified to by Ms. Nalesnik of PPL Electric, "As that time, the billing representative - - - representative recorded the lost payment information. They let the customer know that we had not received the payment. The customer indicated that she had not - - - the bank had not cleared the payment yet." (N.T. at 51:4-8). In addition, the representative offered to discuss the shutoff, but Complainant declined as she had to go." (NT at 51:12-15). Interestingly, the Complainant indicated the amount of the lost payment was \$276.34. The amount received later that date was \$263.36. (See PPL Hearing Exhibit 1). Again, however, even this payment was not in an amount sufficient to stop termination.

Second, the ALJ also found PPL Electric's conduct to be intentional and not negligent. However, there is simply no evidence in the record to demonstrate that PPL Electric intentionally violated Pennsylvania law. To the contrary, PPL Electric followed the Code provisions which govern termination of Electric service. Additionally, although Complainant made a payment to PPL Electric in between the time that PPL Electric provided Complainant with the required notice of termination, and the time that service was eventually terminated, Complainant did not make the required payment necessary to prevent PPL Electric from terminating her Electric service. To the extent that the ALJ argues that PPL Electric's conduct was intentional because PPL Electric denied that it had received Complainant's payment when speaking to Complainant

on the June 20, 2014 (*see* Initial Decision at p. 14), there is absolutely no evidence in the record that PPL Electric received Complainant's payment and it was processed before this telephone conversation took place. The oral testimony of Ms. Nalesnik established that written notice was provided on June 12, 2014 for termination unless the amount of \$3,946.21 was paid. N.T. 48:14-49:18). In addition, Ms. Nalesnik testified that two calls were made, June 18, 2014 and June 19, 2014. (N.T. at 52:4-8). Such evidence is consistent with the fact that Ms. Sanchez called into PPL Electric on June 20, 2014 about her account, and then declined to even discuss the termination notice.

Further, the amount of the fine appears to be based on a delay in restoring power. Ms. Sanchez was equivocal about the dates of termination, payment and restoration. However, PPL Electric provided testimony that power was terminated on July 15, 2014; payment was received via check on Friday July 18, 2014 and restored Monday, July 21, 2014. (N.T. 52:12-53:10). Without any competent evidence of record to demonstrate that PPL Electric intentionally lied to Complainant, the ALJ's conclusion in this regard was error. At most, miscommunication may have occurred but there was no intentional conduct. Therefore, to the extent this Commission finds PPL Electric violated Ms. Sanchez's rights in terminating service, such fine should be reduced.

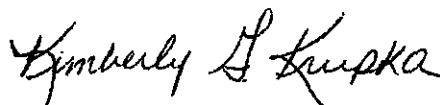
**Conclusion**

In light of the foregoing, PPL Electric Utilities Corporation respectfully requests that the Public Utility Commission grant these Exceptions and not adopt the ALJ's Initial Decision.

Respectfully submitted,

DATE 11/16/15

GROSS MCGINLEY, LLP



BY: \_\_\_\_\_

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RUTH SANCHEZ,

Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

Docket No. C-2015-2472600

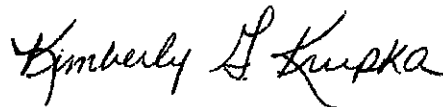
**CERTIFICATE OF SERVICE**

This is to certify that the EXCEPTIONS OF PPL ELECTRIC UTILITIES CORPORATION TO THE INITIAL DECISION on behalf of PPL ELECTRIC UTILITIES CORPORATION was mailed to counsel/complainant of record on behalf of Respondents by Email and First Class United States mail, postage on this the 16<sup>th</sup> day of November, 2015.

RUTH SANCHEZ  
119 SNOWSHOE COURT  
MT. POCONO, PA 18433

DATE 11/16/15

GROSS MCGINLEY, LLP



BY: \_\_\_\_\_

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