

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Alan Haulman d/b/a AJH Pizza, Inc.	:	
	:	
v.	:	C-2014-2415273
	:	
PPL Electric Utilities Corporation/ Blue Pilot Energy, LLC	:	

**ORDER CLOSING THE EVIDENTIARY RECORD  
AND SETTING A BRIEFING SCHEDULE**

This Order is issued pursuant to the authority granted to Presiding Officers under 52 Pa. Code § 5.483. The Order closes the evidentiary record in this case filed against Blue Pilot Energy, LLC, (Blue Pilot) by Alan Haulman d/b/a AJH Pizza, Inc. (Complainant). Other procedural issues are addressed in the Order.

**HISTORY**

This case originated as a Complaint filed by Alan Haulman d/b/a AJH Pizza, Inc. on April 2, 2014. The Complaint was filed against “Blue Pilot and PPL Electric,” alleging incorrect billing. The following relief was requested:

We would request that the PUC determine that AJH Pizza Inc was not billed correctly as a result of an unauthorized switch from PPL Electric to Blue Pilot Energy. Further, Blue Pilot Energy has no written contract with AJH Pizza Inc.

We would request that AJH Pizza Inc be given a credit in the amount of the difference between Blue Pilot Energy's bill for February and March and what PPL Electric would have billed for February and March, as follows:

February: Blue Pilot Energy billed \$0.4490 per KWH for 27,708.2405 KWH, or \$12,441.00. PPL Electric would have billed

\$0.09250 per KWH for this period, or \$2,563.01. This is a difference of \$9,877.99.

March: Blue Pilot Energy billed \$0.4490 per KWH for 26,854.9889 KWH, or \$12,057.89. PPL Electric would have billed \$0.10391 per KWH for this period, or \$2,790.50. This is a difference of \$9,267.39.

Total credit:  $\$9,877.99 + \$9,267.39 = \$19,145.38$ .

The Complaint was signed by Alan Haulman, President of the Complainant.

On April 9, 2014, the Secretary of the Commission served the Complaint on Blue Pilot and PPL Electric Utilities Corporation (PPL).

On April 29, 2014, Blue Pilot filed an Answer to the Complaint denying the allegations contained therein and raising a number of affirmative defenses (essentially New Matter). The Answer was signed by Nazaric J. Jureidini, Esq., an attorney licensed to practice in the state of Nevada.<sup>1</sup>

On April 30, 2014, PPL filed an Answer to the Complaint denying the averments therein but requesting mediation.

On May 7, 2014, Complainant filed an Answer to the New Matter denying every assertion therein as a conclusion of law to which further response was unnecessary.

On May 19, 2014, an Interim Order was issued by the Chief Administrative Law Judge setting this matter for mediation. It would appear that the mediation was inconclusive.

On June 5, 2014, PPL filed a Certificate of Satisfaction which was withdrawn on June 6, 2014.

---

<sup>1</sup> I note that Blue Pilot is currently represented by counsel licensed to practice in Pennsylvania as is required by the Commission.

By Notice issued on July 7, 2014, an evidentiary hearing was scheduled for August 27, 2014 at the Commission's office in Harrisburg, Pennsylvania.

On July 27, 2014, I granted a Motion for Continuance filed by counsel for Complainant.

On August 27, 2014, an Order was issued rescheduling the hearing in this case for November 4, 2014.

On September 26, 2014, PPL filed a "Request for Relief" asking that the parties be directed to pre-file written testimony.

On October 13, 2014, Blue Pilot filed a Motion for Summary Judgment arguing legal insufficiency of the Complaint, lack of justiciable facts in controversy, and the lack of jurisdiction for the Commission to direct the issuance of a refund or credit from an EGS. An evidentiary hearing had been rescheduled for November 5, 2014. That hearing was continued to afford the Complainant an opportunity to file an Answer to the Motion and the presiding officer an opportunity to consider the Motion and Answer.

On October 14, 2014, Complainant filed a Reply to the PPL "Request for Relief," opposing the same on the basis that such a directive would be costly and complex for the Complainant, a small corporation.

On October 23, 2014, Complainant filed an Answer to Blue Pilot's Motion for Summary Judgment disputing the facts raised in the Motion and denying many of the points raised in the Motion as a matter of law to which a responsive pleading was unnecessary.

No further pleadings were filed until July 31, 2015, when Complainant filed its own Motion for Summary Judgment citing collateral litigation before the Commission.<sup>2</sup>

---

<sup>2</sup> *Commonwealth of Pennsylvania, et al. v. Blue Pilot Energy, LLC*, Docket No. C-2014-2427655

On August 20, 2015, Blue Pilot filed an Answer to the Complainant's Motion for Summary Judgment. Blue Pilot asked that the Complaint be dismissed.

On August 24, 2015, PPL filed an Answer to the Complainant's Motion for Summary Judgment. PPL asked that the Complaint be dismissed.

On October 14, 2015, an Order was issued denying the Motion for Summary Judgment filed by Blue Pilot and the Motion for Summary Judgment filed by Complainant.

An evidentiary hearing in this matter was held on December 15, 2015. As a result of that hearing, the Complaint filed against PPL was withdrawn by Complainant.

#### DISCUSSION

This case is a billing dispute over which the Commission has jurisdiction. 66 Pa. C.S. §§ 1501; 1509. However, the Commission lacks the jurisdiction to award money damages. This point has been well-settled in numerous court decisions.<sup>3</sup> The Commission retains the jurisdiction to rule on service and safety issues and may order other relief as appropriate. The Commission has broad powers to supervise and regulate all public utilities doing business within the Commonwealth and is empowered to determine whether a public utility is providing safe, adequate and reasonable service.<sup>4</sup> The Commission may impose civil penalties upon a utility which is found to be in violation of a statute, regulation or order of the Commission. Utility service is not limited to the provision of service and includes "any and all acts" related to that function.<sup>5</sup>

What is clear from the record in this case is that: (1) the central issues in this case involve customer switching practices and, ultimately, responsibility for the charges incurred;

---

<sup>3</sup> *Elkin v. Bell Telephone Company of Pennsylvania*, 491 Pa. 123, 420 A.2d 371 (1980); *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977); *Poorbaugh v. Pa. Pub. Util. Comm'n*, 666 A.2d 744 (Pa.Cmwith. 1995).

<sup>4</sup> 66 Pa.C.S. §§ 501, 1501.

<sup>5</sup> 66 Pa.C.S. § 3301.

and, (2) this is not a case in which variable rates or the amount of the arrearage is in dispute. Therefore, this controversy is not affected by any adjudication or settlement(s) related to variable rate billing cases in which Blue Pilot was involved. It is also clear that PPL committed no violation of the Public Utility Code, or any rule or regulation of the Commission. Tr. at 68, 73. Indeed, by the end of the evidentiary hearing, the Complaint against PPL had been withdrawn.

Also at the end of the hearing, I stated that I would set a briefing schedule in this matter. While it had been my hope that the remaining parties might be able to come to some sort of accommodation, given the fact that the Commission lacks the jurisdiction to award money damages, that has not happened after a considerable passage of time. Therefore, Main Briefs in this case will be due on January 24, 2017, with Reply Briefs due on February 3, 2017. The parties are reminded that pursuant to 52 Pa. Code § 5.231, it is the Commission's policy to promote settlements.

ORDER

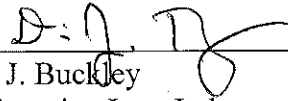
THEREFORE;

IT IS ORDERED:

1. That the Motion to Withdraw the Complaint against PPL Electric Utilities Corporation made by Alan Haulman d/b/a AJH Pizza, Inc., at Docket No. C-2014-2415273 is granted.
2. That the late-filed exhibits of Blue Pilot Energy, Exhibits 1, 1A, 2, 3, 4, and 5, filed by the court reporter on January 11, 2016, are admitted into the record.
3. That the evidentiary record in this proceeding is closed.

4. That Main Briefs in this case will be due on January 24, 2017, with Reply Briefs due on February 3, 2017.

Date: December 30, 2016

  
\_\_\_\_\_  
Dennis J. Buckley  
Administrative Law Judge

C-2014-2415273 ALAN HAULMAN d/b/a AJH PIZZA INC. v. PPL ELECTRIC UTILITIES CORPORATION  
C-2014-2415273 ALAN HAULMAN d/b/a AJH PIZZA INC. v. BLUE PILOT ENERGY, LLC (REVISED 12/29/16)

DERRELL C. DETHLEFS ESQUIRE  
DETHLEFS-PYKOSH LAW GROUP LLC  
PO BOX 2132 MARKET STREET  
CAMP HILL PA 17011  
(717) 975-9446

CHRISTOPHER T WRIGHT ESQUIRE  
POST & SCHELL PC  
17 NORTH SECOND STREET 12TH FLOOR  
HARRISBURG PA 17101-1601  
(717) 731-1970  
*Representing PPL Electric Utilities Corporation*  
**-ACCEPTS ELECTRONIC SERVICE-**

KAREN O. MOURY ESQUIRE  
ECKERT SEAMENS CHERIN & MELLOTT, LLC  
213 MARKET STREET, 8<sup>TH</sup> FLOOR  
HARRISBURG, PA 17101  
(717) 237-6036