



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

IN REPLY PLEASE
REFER TO OUR FILE

ISSUED: OCTOBER 21, 2004

Z-01537584

MAURITIA G ZERCHER
36 EAST WILLOW STREET
ELIZABETHTOWN PA 17022

Mauritia G. Zercher
V.
PPL Electric Utilities Corporation

**DOCUMENT
FOLDER**

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Susan D. Colwell. 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
FG

KIMBERLY G KRUPKA ESQUIRE
GROSS MCGINLEY LABARRE & EATON LLP
33 SOUTH SEVENTH STREET
PO BOX 4060
ALLENTOWN PA 18105-4060

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Mauritia G. Zercher

v.

PPL Electric Utilities Corporation

:
:
:
:
:

Z-01537584

INITIAL DECISION

Before
Susan D. Colwell
Administrative Law Judge

HISTORY OF THE PROCEEDINGS

DOCKETED
OCT 21 2004

**DOCUMENT
FOLDER**

Mauritia G. Zercher (Complainant) filed a Complaint with the Commission against PPL Electric Utilities Corporation (PPL) on January 16, 2004 alleging that she was unable to come to a payment agreement with PPL, which threatened to terminate her service. She alleged that she could not pay the \$180.00 per month amount set by BCS and was planning to file her electric bill with her bankruptcy. In addition, she stated that her summer bills were too high and that there was a problem with the meter.

PPL filed its Answer on February 11, 2004, admitting that it and the Complainant were unable to reach a payment arrangement but stating that it had insufficient information to form a belief that Complainant was unable to make payments under the latest BCS payment arrangement. In addition, PPL states that Complainant's service was disconnected effective December 31, 2003 at her request.

A telephone hearing notice was issued on May 21, 2004, setting the date for the telephonic hearing as July 28, 2004 at 10:00 am. I issued a prehearing order on May 27, 2004, which set forth some of the procedural terms for the evidentiary hearing, including a warning that the parties may lose the case if they do not participate in the hearing, and instructing the

Complainant to fill out and return the budget forms attached to the prehearing order. Neither the hearing notice nor the prehearing order was returned as undeliverable.

Upon request from PPL's counsel, the initial hearing date was rescheduled for September 14, 2004, due to a scheduling conflict, and a hearing cancellation/reschedule notice was issued July 21, 2004. The hearing cancellation/reschedule notice was not returned by the post office.

The hearing was held as scheduled. PPL was represented by counsel and was prepared to proceed with two witnesses. Complainant did not appear.

The hearing resulted in a 14-page transcript, and the record was closed upon its receipt on September 29, 2004. The motion to dismiss made on the record by PPL is now ready for decision.

FINDINGS OF FACT

1. Complainant is Mauritia G. Zercher, 36 E. Willow Street, Elizabethtown PA 17022.
2. Respondent is PPL Electric Utilities Corporation, a jurisdictional public utility providing residential electric service in the Commonwealth of Pennsylvania.
3. At the hearing held September 14, 2004, Respondent informed the Commission that the Complainant was no longer a ratepayer of PPL. PPL Ex. 1.
4. Complainant did not appear for the scheduled hearing.
5. The telephone hearing notice sent to the Complainant at the address provided on her Complaint was not returned.

6. The prehearing order sent to the Complainant at the address provided on her Complaint was not returned.

7. The hearing cancellation/reschedule notice sent to the Complainant on at the address provided on her Complaint was not returned.

8. Service to Complainant's residence was discontinued on or around December 31, 2003, upon her request.

9. Complainant's unpaid balance is \$503.52. PPL Ex. 1.

DISCUSSION

Before the Commission are both a Complaint and a Motion to Dismiss the Complaint: (1) for failure to prosecute the Complaint; and (2) because the relief requested cannot be granted since Complainant is no longer a customer.

The PPL witness sponsored PPL Exhibit 1, an account activity statement which showed that service to Complainant has ceased.

Since Complainant is no longer a customer, the Commission lacks jurisdiction over closed accounts and over a utility's right to pursue its legal right to collect a civil debt, when continuation of utility service to the ratepayer is not threatened. Thompson v. Columbia Gas of Pennsylvania, Inc., 1991 Pa. PUC LEXIS 143 (August 27, 1991). The claim that Complainant is no longer a customer is verified in PPL Exhibit 1, sponsored by Kevin Diehl, PPL Customer Service Representative, who attested to its accuracy. Therefore, the evidence supports the claim that Complainant is no longer a customer, and the Commission must dismiss that portion of the Complaint seeking payment arrangements for lack of jurisdiction.

The remainder of the Complaint, regarding alleged high billing, is dismissed for failure to prosecute, since Complainant cannot sustain her burden of proof without participation. 66 Pa. C.S. § 332(a).

CONCLUSIONS OF LAW

1. Complainant bears the burden of proof. 66 Pa. C.S. § 332(a).
2. Notice mailed to Complainant's last known address and not returned by the U.S. Post Office is presumed to have been received.
3. Where Complainant is no longer a ratepayer of Respondent utility, the Commission lacks jurisdiction to set a payment arrangement.
4. Motion to dismiss for lack of jurisdiction must be granted where Complainant is no longer a ratepayer.
5. Motion to dismiss for failure to prosecute is granted where the Complainant fails to appear.

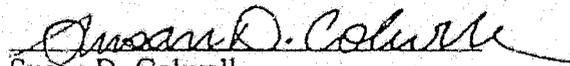
ORDER

THEREFORE,

IT IS ORDERED THAT:

1. PPL Electric Utilities Corporation's Motion to Dismiss the Complaint of Mauritia G. Zercher., PUC Docket No. Z-01537584, is granted.
2. The Complaint filed by Mauritia G. Zercher., against PPL Electric Utilities Corporation at PUC Docket No. Z-01537584, is dismissed with prejudice.

Dated: October 14, 2004


Susan D. Colwell
Administrative Law Judge

Act 294

Case Identification:

Z-01537584 Mauritia G.
Zercher v. PPL Electric
Utilities Corporation

Initial Decision By:

ALJ Susan D. Colwell

Deadline for Return to OSA:

November 5, 2004

This decision has not been reviewed by OSA.

RECEIVED

NOV 05 2004

OFFICE OF SPECIAL
ASSISTANTS

* * * * *

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Spencer J. Ireland

Commissioner

11/5/04

Date

Commissioner

Date

SECRETARY'S BUREAU

2004 NOV 6 - 9 AM 10:47

DOCKETED
NOV 15 2004

RECEIVED

DOCUMENT
FOLDER

Act 294

M

Case Identification:

Z-01537584 Mauritia G.
Zercher v. PPL Electric
Utilities Corporation

Initial Decision By:

ALJ Susan D. Colwell

Deadline for Return to OSA:

November 5, 2004

This decision has not been reviewed by OSA.

RECEIVED

NOV 08 2004

OFFICE OF SPECIAL
ASSISTANTS

* * * * *

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Robert K. Bloom/rrk

10-28-04

Commissioner

Date

Act 294

Case Identification: Z-01537584 Mauritia G.
Zercher v. PPL Electric
Utilities Corporation

Initial Decision By: ALJ Susan D. Colwell

Deadline for Return to OSA: November 5, 2004

This decision has not been reviewed by OSA.

RECEIVED

NOV 02 2004

OFFICE OF SPECIAL
ASSISTANTS

* * * * *

I want full Commission review of this decision.

Commissioner

Date

✓ I do not want full Commission review of this decision.

[Handwritten Signature]

11.7.04

Commissioner

Date

Act 294

Case Identification:

Z-01537584 Mauritia G.
Zercher v. PPL Electric
Utilities Corporation

Initial Decision By:

ALJ Susan D. Colwell

Deadline for Return to OSA:

November 5, 2004

This decision has not been reviewed by OSA.

RECEIVED

NOV 03 2004

OFFICE OF SPECIAL
ASSISTANTS

* * * * *

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Kim Pappas

Commissioner

11/2/04

Date

Act 294

Case Identification:

Z-01537584 Mauritia G.
Zercher v. PPL Electric
Utilities Corporation

Initial Decision By:

ALJ Susan D. Colwell

Deadline for Return to OSA:

November 5, 2004

This decision has not been reviewed by OSA.

* * * * *

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Commissioner

Date

DATE December 1, 2004

SUBJECT: Z-01537584

TO: Office of Administrative Law Judge
Susan Hoffner

FROM: James J. McNulty
Secretary
nvl

DOCKETED
DEC 16 2004

MAURITIA G. ZERCHER

VS

PPL ELECTRIC UTILITIES CORPORATION

**DOCUMENT
FOLDER**

The Initial Decision has been served upon all parties of interest.

Neither exceptions nor requests for review from the Commissioners have been received by the Commission. This matter is referred to your office for whatever action you deem necessary.

cc: Office of Special Assistants

P.S. Please note that exceptions or reply exceptions may come in timely with certificates of mailings. A second memo will not be released for these exceptions.