



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

**DOCKETED**  
 AUG 30 1996

ISSUED August 29, 1996

REFER TO OUR FILE  
 IN REPLY PLEASE  
 F-00306788

MARTA C AIKENS  
 28-A MIDWAY DRIVE APT #A  
 WEST MIFFLIN PA 15122

Marta Aikens v Duquesne Light Company

DOCUMENTS  
 FOLDER

TO WHOM IT MAY CONCERN

KJR

Enclosed is a copy of the Initial Decision of Administrative Law Judge James D. Porterfield. 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 IN ROOM B-20, NORTH OFFICE BUILDING, NORTH STREET AND COMMONWEALTH AVENUE, 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,

John G. Alford  
 Secretary

law

Encls

Certified Mail

Receipt Requested

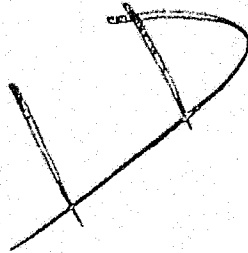
cc ALJ PORTERFIELD OFFICE OF ALJ/OA/OCA/PIO/LAW/OTS/BCS/BFUS OUR FILE/NEW FILE/CHAIRMAN/COMMISSIONERS  
 REGINA SESTAK ESQ  
 DUQUESNE LIGHT COMPANY  
 411 7TH AVENUE (16-006)  
 PITTSBURGH PA 15230-1930

F-00306788 Marta C. Aikens Duquesne Light Company

Complainant alleging inability to pay as requested. Complainant willing to pay current bill plus \$20.00 on arrearages.

MARTA C AIKENS  
28-A MIDWAY DRIVE APT #A  
WEST MIFFLIN PA 15122  
(412) 461-5254

REGINA SESTAK ESQUIRE  
DUQUESNE LIGHT COMPANY  
411 7TH AVENUE (16-006)  
PITTSBURGH PA 15230-1930  
(412) 393-4113  
FAX (412) 393-6645



BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**DOCKETED**  
AUG 30 1996

Marta Aikens :  
 :  
 v. : Docket No.  
 : F-00306788  
 :  
 Duquesne Light Company :

INITIAL DECISION FROM THE BENCH

DOCUMENT  
FOLDER

Before  
James D. Porterfield  
Administrative Law Judge

History of the Proceeding

On May 3, 1996, Marta Aikens (Aikens or Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission (the Commission) against Duquesne Light Company (DLC, Duquesne, or Respondent) alleging that inasmuch as she receives only public assistance in the amount of \$316.00 per month as income, she cannot afford to pay for her electric utility service as apparently prescribed by a decision on informal complaint issued by the Commission's Bureau of Consumer Service (BCS) on April 10, 1996, at BCS No. 0306788. The subject complaint is apparently an appeal from the cited BCS decision and is docketed at F-00306788.

The BCS decision indicates that the complaint was originally a complaint that the bill dated March 18, 1996, in the amount of \$45.00 was too high. After noting (1) that the customer has requested cancellation of service, effective April 22, 1996 (because the Complainant is moving and will not need new service at the new address), (2) that the challenged bill is in line with the

Complainant's normal usage, and (3) that the Complainant failed to satisfy a payment arrangement made with DLC, the BCS decision decided (in part), as follows:

2. That the customer must pay current bills plus \$50.00 per month toward the outstanding balance [then \$1,519.40] as long as she remains a customer of the Company.

3. That if the customer does not get service at a new location or in fact does cancel the subject service, she still has an obligation to pay this bill and may pay it off at the rate of \$50.00 per month, beginning April 30, 1996 and continuing monthly until the outstanding balance is paid in full.

The BCS decision contains no financial information regarding the Complainant.

Duquesne Light Company (by counsel) answered the subject complaint and averred new matter on May 29, 1996. As new matter, DLC avers (1) that at the request of the Complainant service was terminated on April 22, 1996, (2) that on May 10, 1996, the Complainant requested that service be reinstated at the same address, and (3) that DLC reinstated service transferring the balance due of \$1,547.26 to the new account. DLC requested an interim payment order requiring the Complainant to make payments on account pursuant to the above-referenced BCS decision.

On June 4, 1996, Robert A. Christianson, Acting Chief Administrative Law Judge, issue an Interim Payment Order requiring the Complainant "to pay current bills plus \$50.00 until otherwise directed by the Administrative Law Judge hearing this case or until a final Commission Order is issued."

Pursuant to notice to the parties, dated June 19, 1996, the subject complaint was scheduled for a hearing to be held on Monday, August 19, 1996, at 2:00 P.M., by use of a telephonic conference call, with ALJ James D. Porterfield assigned as the presiding officer.

On August 5, 1996, "INTERIM ORDER TWO -- Pertaining to Prehearing and Posthearing Matters" was issued, which among other things, reminded the Complainant of her obligation to continue to pay current bills and/or all undisputed amounts of bills during pendency of the complaint proceedings, consistent with interim order one styled "Interim Payment Order" and alerted the Complainant to the possibility of a lump-sum, make-up payment being ordered in the absence of evidence of negatively changed financial circumstances or other compelling reason to adjust the operative payment arrangement. 52 Pa. Code §56.174(3) and §56.181.

On the date and at the time for the scheduled hearing, the presiding officer, using the telephone number contained on the formal complaint form and on the notice of hearing (viz., 412-461-5254) could not contact the Complainant: on two occasions, the person answering the telephone call indicated that she was not Marta Aikens and did not know Marta Aikens.<sup>1</sup> Counsel for DLC provided another telephone number that DLC's records indicated was associated with the Complainant (viz., 412-462-4219). After

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<sup>1</sup> Interim Order Two directed the Complainant that if she would be at a telephone number different from the number shown on the hearing notice, then she should inform the presiding officer of the telephone number at which she may be contacted for the hearing on or before August 12, 1996.

repeated attempts by the presiding officer to contact the Complainant using the newly provided number and thereby activating a telephone answering device and leaving a message to be contacted immediately at 412-565-3550, the presiding officer convened the hearing without the Complainant's participation at approximately 2:35 P.M.

Leslie M. Grey, Esquire, entered an appearance on behalf of DLC and offered the testimony of Gary Brockman, Regulatory Analyst, who sponsored Respondent's Exh. No. 1 (an account statement for the period from May 3, 1995, to May 14, 1996, when the account balance [\$1,547.26] was transferred from Account No. 9000129810003 to Account No. 9000129810004), Respondent's Exh. No. 2 (an account statement for Account No. 9000129810004 for the period from April 22, 1996 [the cut-in date] to August 12, 1996)<sup>2</sup>, and Respondent's Exh. No. 4 (a summary of PUC orders and other payment arrangements). Official or administrative notice was taken of the operative BCS decision on informal complaint, dated April 10, 1996, at BCS No. 0306788, identified as Respondent's Exh. No. 3, but not sponsored by DLC's witness.

At the conclusion of the hearing, counsel made a motion to dismiss the complaint because the Complainant failed to appear and prosecute the complaint. The motion was granted.

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<sup>2</sup> Respondent's Exh. No. 2 was updated with testimony to August 12, 1996, when an actual meter reading was obtained and a corrected bill in the amount of \$48.58 was issued which cancelled a bill of \$60.00, based on an estimated meter reading, that was due August 27, 1996.

The record in respect of the subject hearing consists of the exhibits identified and described above and the transcript of the hearing.

Findings of Fact

1. Respondent's Exh. No. 1 is an account statement for the Complainant, at 28-A Midway Drive, Apt. A, West Mifflin, PA 15122, for the period from May 3, 1995, to May 14, 1996, when the account balance (\$1,547.26) was transferred from Account No. 9000129810003 to Account No. 9000129810004).

2. Respondent's Exh. No. 2 is an account statement for the Complainant, at 28-A Midway Drive, Apt. A, West Mifflin, PA 15122 (Account No. 9000129810004) for the period from April 22, 1996 (the cut-in date) to August 12, 1996, at which time, after the issuance of a corrected bill based on an actual meter reading, the balance due on account (as of August 27, 1996) was \$1,618.48, and the current bill (due September 4, 1996) was \$48.58.

3. On May 31, 1995, an account balance due of \$1,109.38 from the Complainant was transferred from Account No. 9000129810002 to Account No. 9000129810003, at 28-A Midway Drive, Apt. A, West Mifflin, PA 15122. (Respondent's Exh. No. 1)

4. The Complainant made payment arrangements with DLC on June 29, 1995 (pursuant to which one partial payment was made), on August 14, 1995 (pursuant to which two partial payments were made), on November 6, 1995 (pursuant to which one partial payment

was made), and on February 5, 1996 (pursuant to which no payments were made). (Respondent's Exh. No. 4)

5. On April 10, 1996, a decision on informal complaint was issued by the Commission's Bureau of Consumer Service, at BCS No. 0306788, directing the Complainant to pay current bills plus \$50.00 per month toward the outstanding balance [then \$1,519.40] as long as she remains a customer of the company; this payment arrangement was reiterated in an Interim Payment Order issued on June 4, 1996.

6. At the time of hearing, the account was currently active.

7. Taking the payment arrangement prescribed by the BCS decision (issued, April 10, 1996) into account and the \$60.00 payment made by the Complainant on June 18, 1996, into account, DLC's witness testified that it would be appropriate to order the Complainant to make a lump-sum, make-up payment on or before September 4, 1996, of \$172.64 (plus the current monthly billing of \$48.58).

#### Discussion

The Commission recently expressed renewed concern about the number of "no show" cases and the resulting waste of the time and resources of the Commission and the involved utilities. Martin W. Jefferson v. UGI Utilities, Inc., Docket No. Z-00269892, Opinion and Order, adopted October 26, 1995, and entered December 26, 1995. Although the instant case may not involve the willful failure to

appear (telephonically) at hearing or may not involve an abuse of the complaint process, as in Jefferson, the Complainant still had adequate opportunity to notify the Commission of an alternate telephone number where she could have been reached for a telephonic hearing or to advise the Commission of her unavailability for the scheduled hearing. Therefore, in view of the unnecessary expenditure of resources by the Commission to process the complaint, pursuant to law and regulations, and the Respondent's unnecessary expenditure of resources resulting from the Complainant's failure to appear at the scheduled hearing after notice thereof, and in view of the Complainant's failure to prosecute the complaint, the complaint will be denied and dismissed with prejudice.<sup>3</sup> 52 Pa. Code §5.245.

The subject formal complaint is apparently an appeal from a decision on an informal complaint issued by the Commission's Bureau of Consumer Services on April 10, 1996, at BCS No. 0306788. The payment arrangement prescribed by the Commission's Bureau of Consumer Services will be reiterated in the Order accompanying this Initial Decision From The Bench, with the addition of an ordered lump-sum, make-up payment being added, in view of the Complainant's failure to abide by the BCS prescribed payment arrangement.

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<sup>3</sup> The Commission's records indicate that the Complainant received the involved notice of hearing and received INTERIM ORDER TWO -- Pertaining to Prehearing and Posthearing Matters, issued August 5, 1996, which reminded the Complainant of the hearing date and time and of prehearing and posthearing procedures.

Conclusions of Law

1. The Commission has jurisdiction over the parties to and the subject matter of this proceeding.

2. A formal complaint may be dismissed if, after notice and opportunity to be heard, a Complainant or an appropriate representative fails to appear at hearing and prosecute the complaint.

3. Where a Complainant or a billing responsible party disregards a payment arrangement prescribed by a decision on informal complaint issued by the Commission's Bureau of Consumer Services and the relevant household income has not been shown to have negatively changed and there is no other countervailing basis, a make-up, lump-sum payment on account may be ordered reflecting the missed payments in respect of the BCS decision.

4. The Commission has primary jurisdiction over billing matters pertaining to finalized utility accounts, including the power to prescribe payment arrangements, so long as the Commission does not thereby prevent a utility from pursuing alternative civil remedies.

ORDER

THEREFORE,

IT IS ORDERED, as follows:

1. That the motion to dismiss the formal complaint captioned Marta Aikens v. Duquesne Light Company, at Docket No. F-00306788, because of the Complainant's failure to appear at

hearing and to prosecute the complaint after appropriate notice and opportunity to do so, is granted.

2. That the formal complaint captioned Marta Aikens v. Duquesne Light Company, at Docket No. F-00306788, is denied and dismissed with prejudice, except to the extent consistent with the following ordered payment arrangement.

3. That on or before the next billing period subsequent to the date on which this Order becomes final, the Complainant shall make a lump-sum payment to the Respondent in the amount of \$172.64, reflecting missed payments pursuant to the decision on informal complaint issued by the Commission's Bureau of Consumer Services on April 10, 1996, at BCS No: 0306788.

4. That if the Complainant, at her request, discontinues service at the subject location and does not undertake to obtain electric utility service at a new location, the Complainant shall retire the past balance due on the account by paying \$50.00, monthly, to the Respondent, until the past balance due is satisfied or retired.

5. That beginning with the next billing period subsequent to the date on which this Order becomes final, the Complainant shall pay, monthly and in a timely fashion, the current billed amount plus \$50.00 toward retirement or satisfaction of any existing arrearage.

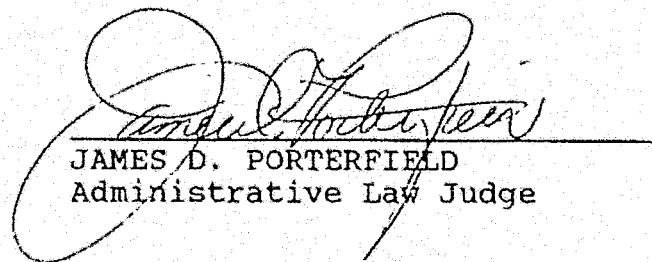
6. That the Respondent shall not assess any (additional) late charges or finance charges on the balance due, at

the date on which this Order becomes final, as long as the Complainant complies with the terms of this Order.

7. That the Respondent is enjoined from terminating or suspending service except for specific and valid safety reasons, so long as the Complainant adheres to the payment schedule prescribed by this Order.

8. That the Respondent is authorized to terminate or to suspend service in compliance with Chapter 56 of Title 52 of the Pennsylvania Code, if the Complainant fails to adhere to the payment schedule prescribed by this Order.

Date: August 20, 1996



JAMES D. PORTERFIELD  
Administrative Law Judge

Act 294

Case Identification: F-00306788; Marta Aikens v. Duquesne Light Company

Initial Decision By: ALJ James D. Porterfield

Deadline for Return to OSA: September 11, 1996

JLS

This decision has not been reviewed by OSA.

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SEP 10 1996

OFFICE OF SPECIAL ASSISTANTS

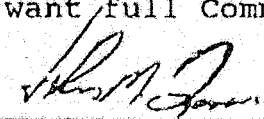
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I want full Commission review of this decision.

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Commissioner

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Date

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Commissioner

9-9-96  
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Act 294

Case Identification:

F-00306788; Marta Aikens v.  
Duquesne Light Company

Initial Decision By:

ALJ James D. Porterfield

Deadline for Return to OSA:

September 11, 1996

This decision has not been reviewed by OSA.

RECEIVED

SEP 10 1996

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OFFICE OF SPECIAL  
ASSISTANTS

I want full Commission review of this decision.

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Commissioner

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Date

*James D. Porterfield*  
~~I do not want full Commission review of this decision.~~

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Commissioner

*9/5/96*  
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Date

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FOLDER

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**DOCKETED**

SEP 13 1996

Act 294

Case Identification:

F-00306788; Marta Aikens v.  
Duquesne Light Company

Initial Decision By:

ALJ James D. Porterfield

Deadline for Return to OSA:

September 11, 1996

This decision has not been reviewed by OSA.

RECEIVED

SEP 12 1996

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OFFICE OF SPECIAL  
ASSISTANTS

I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

I do not want full Commission review of this decision.

x John Hanger  
Commissioner

9-11-96  
Date

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**DOCKETED**  
SEP 13 1996

Act 294

Case Identification:

F-00306788; Marta Aikens v.  
Duquesne Light Company

Initial Decision By:

ALJ James D. Porterfield

Deadline for Return to OSA:

September 11, 1996

This decision has not been reviewed by OSA.

RECEIVED

SEP 11 1996

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OFFICE OF SPECIAL  
ASSISTANTS

I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

I do not want full Commission review of this decision.

David W. Roeka / p. 3.  
\_\_\_\_\_  
Commissioner

9/11/96  
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**DOCKETED**  
SEP 13 1996

Act 294

Case Identification:

F-00306788; Marta Aikens v.  
Duquesne Light Company

Initial Decision By:

ALJ James D. Porterfield

Deadline for Return to OSA:

September 11, 1996

This decision has not been reviewed by OSA.

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SEP 11 1996

OFFICE OF SPECIAL  
ASSISTANTS

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I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

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Date

I do not want full Commission review of this decision.

Robert A. Brown GAS  
Commissioner

9/9/96  
Date

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PROTHONOTARY'S OFFICE  
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DOCKETED  
SEP 13 1996

DATE: October 1, 1996

SUBJECT: F-00306788

TO: Office of Administrative Law Judge  
Annette Shelley

FROM: Betty R. Jones, Administrator  
Information Control Section  
Division of Office Service

KJF

DOCUMENT  
FOLDER

MARTA AIKENS  
VS  
DUQUESNE LIGHT COMPANY

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.

**DOCKETED**  
OCT 04 1996

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.