

CAPTION SHEET

MANAGEMENT SYSTEM

- 1. REPORT DATE: 00/00/00
- 2. BUREAU: ALJ
- 3. SECTION(S):
- 5. APPROVED BY:
DIRECTOR:
SUPERVISOR:
- 6. PERSON IN CHARGE:
- 8. DOCKET NO: C-20066264
- 4. PUBLIC MEETING DATE:
00/00/00
- 7. DATE FILED: 04/24/06
- 9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: SAMALL PROPERTIES INC

RESPONDENT/APPLICANT: PIKE COUNTY LIGHT & POWER CO.

COMP/APP COUNTY: PIKE

UTILITY CODE: 110650

ALLEGATION OR SUBJECT

COMPLAINT IS BEING FILED IN RELATION TO CASE DOCKET NUMBER P-00052168.

DOCKETED
APR 27 2006

DOCUMENT
FOLDER

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint Form

PA P.U.C.
SECRETARY'S BUREAU

2006 APR 24 AM 10:11

RECEIVED

Please print or type.

C-20066264

1. CUSTOMER NAME (COMPLAINANT)

Your name, mailing address, county, telephone number, utility account number and service address:

Name Samall Properties, Inc.

Street/P.O. Box P.O. Box 927 Apt # _____

City Milford State PA Zip 18337

County Pike

Area Code/HOME Phone _____

Area Code/WORK Phone 570-296-6249

Utility Account Number 27200-92000 88471-25015
(from your bill)

DOCKETED

APR 27 2006

If your complaint involves utility service provided to a different address than your mailing address, please list this information below.

Name Samall Properties, Inc.

Street/P.O. Box 10 Buist Road

City Milford State PA Zip 18337

2. UTILITY NAME (RESPONDENT)

Name of utility company your complaint concerns: Pike County Light & Power

3. TYPE OF UTILITY (check one)

- ELECTRIC
- GAS
- WATER
- TELEPHONE
(local, long distance)
- STEAM HEAT
- WASTE WATER
- MOTOR CARRIER
(taxi, moving company, limousine)

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4. **COMPLAINT** (check one)

A. **In general, what is your complaint?**

- I want to oppose the company's proposed rate increase of January 1, 2006.
- There are incorrect charges on my bill.
- There is a reliability, safety or quality problem with my utility service.
- I received a notice that my utility service is being terminated.
- I would like a payment agreement.
- Other
(explain)

B. **State the facts of your complaint.**

Include any specific dates, times or places that are important. If the complaint is about a bill, tell us about any charges that you believe are not correct. Use additional paper if you need more space. Provide copies of all relevant documents you believe will support your complaint.

The 73% increase in rates as of January 1 will not only significantly increase our cost as the owner of a 35,000 square foot commercial building but will also discourage tenants from renting in such a high-cost area.

5. **RELIEF**

What do you want the Public Utility Commission to do about your complaint? Use additional paper if you need more space.

1. Invalidate the October 2005 auction as not reflecting true market value.
2. Allow Pike County Light & Power to immediately be able to opt out to a lower-cost energy supplier or, alternatively allow Pike County Light & Power consumers to opt in to another lower-cost energy provider.

6. PROTECTION FROM ABUSE

Answer the following question if your complaint is against a natural gas distribution company, an electric distribution company or a water company AND your complaint is about a billing problem, an application for service problem, a termination of service problem or a request for a payment agreement.

Has a court granted a "Protection from Abuse" order for your personal safety?

YES

NO

7. PRIOR UTILITY CONTACT

Answer the following question only if you are a residential customer and your complaint is against an electric distribution utility, natural gas distribution utility or a water distribution utility.

Have you spoken to a utility company representative about this complaint?

YES
(includes appeals of BCS determinations)

NO

If you tried to, but could not speak to a utility company representative about your complaint, please explain why.

8. VERIFICATION AND SIGNATURE

You must print or type your name below on the line provided for the verification paragraph, and you must sign and date (in ink) this form on the lines provided.

Verification:

I Richard L. Snyder, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Richard L. Snyder
(Signature)

4/15/06
(Date)

9. LEGAL REPRESENTATION (IF ANY)

If you are represented by a lawyer in this matter you must provide your lawyer's name, address and telephone number.

Lawyer's Name James P. Melia / Kirkpatrick & Lockhart

Street Payne-Shoemaker Bldg. / 240 North Third Street

City Harrisburg State PA Zip 17101-1507

Area Code/Phone Number 717-231-5842

10. FILING

Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
--	--

Facsimiles and/or electronic filings of the complaint form will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your complaint for your records.

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: APRIL 27, 2006

SAMALL PROPERTIES INC

Complainant

v.

Respondent

Complaint Docket

No: C-20066264

DOCUMENT
FOLDER
DOCKETED

APR 27 2006

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO:

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265**, an answer (original and three copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if

you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.

James J. McNulty
Secretary

(SEAL)

Certified Mail
Return Receipt Requested



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

IN REPLY PLEASE
REFER TO OUR FILE

DATE SERVED: APRIL 27, 2006

C-20066264

PIKE COUNTY LIGHT & POWER CO
C/O ORANGE & ROCKLAND UTILITY INC
4 IRVING PLACE
NEW YORK NY 10003

Dear Sir/Madam:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by SAMALL PROPERTIES INC. To defend yourself against the claims stated in the following pages, you must act within twenty (20) days by filing in writing with the Commission, either personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days.

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

DOCUMENT
FOLDER

APRIL 27, 2006

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,

James J. McNulty
Secretary

ddi



conEdison
a ConEdison Inc. company

Law Department

Consolidated Edison Company
of New York, Inc.
4 Irving Place
New York NY 10003-0987
www.conEd.com

ORIGINAL

John L. Carley
Assistant General Counsel
(212) 460-2097
FAX (212) 677-5850
Email carleyj@coned.com

May 8, 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Honorable James J. McNulty
Secretary
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
P O Box 3265
Harrisburg, Pennsylvania 17105-3265

RECEIVED
MAY 8 2006
PENN. PUBLIC UTIL. COM. (HARRISBURG)

Re: Complaint of Samall Properties, Inc
Complaint No. C-20066264

Dear Secretary McNulty,

I enclose an original and three copies of the Answer of Pike County Light & Power Company ("Pike") to the Complaint filed by Samall Properties, Inc. against Pike. As noted in the enclosed Answer, the Commission should dismiss this Complaint without hearing.

If you have any questions regarding this matter, please contact me at the telephone number or address listed above

Very truly yours,

John L. Carley
John L. Carley
Assistant General Counsel

DOCUMENT
FOLDER

c: Samall Properties, Inc.
P O Box 927
Millford, PA 18337

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RECEIVED
MAY 16 2006
PENNSYLVANIA PUBLIC UTILITY COMMISSION

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SAMALL PROPERTIES, INC.,
Complainant

Complaint Docket No. C - 20066264

v.

PIKE COUNTY LIGHT & POWER
COMPANY, Respondent

**DOCUMENT
FOLDER**

ANSWER OF PIKE COUNTY LIGHT & POWER COMPANY

INTRODUCTION

On April 27, 2006, Pike County Light & Power Company ("Pike" or the "Company") was served with a copy of a complaint ("Complaint") filed by its customer, Samall Properties, Inc. ("Complainant"). In its complaint, Complainant objects to the recent increase in Pike's default service rates on the grounds that it will, "not only significantly increase our cost as the owner of a 35,000 square foot commercial building but will also discourage tenants from renting in such a high-cost area." Complainant asks that the Pennsylvania Public Utility Commission ("Commission") invalidate the October 2005 auction as not reflecting true market value and allow Pike's customers to opt-in to another lower-cost energy provider.

As set forth in greater detail below, the rate increase that Complainant objects to already has been reviewed and approved by the Commission. Accordingly, the conduct that the Complainant objects to is simply Pike billing its customers according to the filed

DOCKETED
MAY 16 2006

rates contained in Pike's Commission approved electric tariff. The Complaint is completely without merit and should be dismissed summarily by the Commission.

In response to the Complaint, Pike states as follows:

DISCUSSION

1. On May 31, 2005, Pike filed a plan to establish default service rates for the period beginning January 1, 2006. Default service rates are those rates charged to customers, such as the Complainant, who do not take service from electric generation suppliers. To increase its ability to achieve the goal of providing default service coverage in an economic fashion, Pike proposed to utilize commodity swap transactions rather than physical purchases.

2. On September 23, 2005, the Commission issued an Order ("September 23 Order") approving Pike's auction proposal with certain modifications. One such modification was the Commission's directive to increase, from one to three days, the amount of time for the Commission to review the auction results and notify Pike of its recommendation.

3. Pike conducted the auction on October 25, 2005. Copies of the auction results and impacts on customers' bills were provided electronically to counsel for the Office of Consumer Advocate ("OCA"), Office of Small Business Advocate ("OSBA"), as well as to the Commission Staff on October 25, 2005. These bids provided Pike's default service customers with fixed prices for energy and capacity for a two-year period (i.e., 2006-2007). In setting default service rates, Pike does not mark up the auction prices.

4. No comments or complaints were received from OCA or OSBA during the three-day Commission review period. Commission Staff requested, and was provided by Pike, certain additional information during this three-day Commission review period.

5. In a letter to Pike dated October 28, 2005, a copy of which is attached hereto as Exhibit A, Commission Secretary James McNulty stated that "the auction appears to have been conducted in accordance with RFP Guidelines" and that "[F]urther investigation does not appear warranted". Accordingly, the Commission approved the auction results and directed Pike to file a supplement to its Tariff incorporating the default service rates resulting from the auction.

6. On January 1, 2006, Pike's new default service rates became effective. The Commission-approved rates are the subject of the Complaint.

7. At its open session on January 27, 2006, the PAPUC unanimously adopted a motion of Commissioner Shane directing the PAPUC's Law Bureau "to initiate a fact finding investigation into the competitive electric market in Pike County Power's service territory." On February 14, 2006, the Commission in Docket No. P-00052168 initiated a fact-finding investigation in the competitive electric market in Pike's service territory ("Fact-Finding Investigation"). The Fact-Finding Investigation is ongoing.

8. The basis of the Complaint is that Pike's default service rates filed with and approved by the Commission are somehow unreasonable. The fact that these rates increased as of January 1, 2006 does not detract from their validity. Pike denies Complainant's allegation that its default service rates are unreasonable since the Commission has reviewed and approved these very rates. Pursuant to the long established filed rate doctrine, Pike could not charge the Complainant any rate other than

the Commission-approved rate of which he complains. *Cheltenham & Abington Sewerage Co. v. Pennsylvania Public Utility Commission*, 344 Pa. 366, 25 A.2d 334 (Pa. 1942).

9. Pursuant to the filed rate doctrine, Pike is required to bill its default service customers in accordance with its existing Commission-approved default service rates until the Commission approves new default service rates. Any such new rates would apply on a prospective basis only.

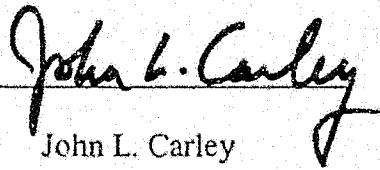
10. The Complainant also states that the Commission should invalidate the October 2005 auction as not reflecting true market value and allow Pike's customers to opt-in to another lower-cost energy provider. If the Commission is to review whether to invalidate the October 2005 auction, it should perform such review in the Fact-Finding Investigation rather than in this complaint proceeding. As to the requested opt-in process, this matter is moot since the Commission already has approved an opt-out aggregation process.¹

¹ See, *Petition of Direct Energy Services, LLC for Emergency Order Approving a Retail Aggregation Bidding Program for Customers of Pike County Light & Power Company*, Docket No. P-00062205 (Order entered April 20, 2006).

CONCLUSION

The Complainant filed its Complaint in order to oppose the increase in Pike's default service rates that became effective on January 1, 2006. The very default service rates at issue in the Complaint, however, have been reviewed and approved by the Commission. Under the filed rate doctrine, Pike can only bill the Complainant these default service rates. Accordingly, the Commission should dismiss this Complaint, without hearing. Any investigation into invalidating the results of the October 2005 auction should be performed in the context of the Commission's ongoing Fact-Finding Investigation. Finally, Complainant's request that the Commission implement an opt-in aggregation process is moot

Respectfully submitted,



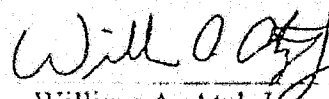
John L. Carley
Assistant General Counsel
Pike County Light &
Power Company
4 Irving Place
Room 1815-S
New York, NY 10003
(212) 460-2097 (Phone)
(212) 677-5850 (Fax)
carleyj@coned.com

AFFIDAVIT

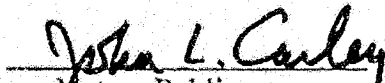
STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

WILLIAM A. ATZL, JR., being duly sworn, according to law, upon his oath
deposes and says:

1. I am a Director in the Rate Engineering Department of Consolidated Edison Company of New York, Inc. ("Con Edison"), an affiliate of Pike County Light & Power Company ("Pike"), and in that capacity I make this Affidavit. I am familiar with Pike's gas tariff, as well as its rates and charges for gas service.
2. I have read the attached Answer, and the same is true to the best of my knowledge, information and belief.


William A. Atzl, Jr.

Sworn to and subscribed
before me this 27th day
of May, 2006.



Notary Public

EXHIBIT A

NOV 14 2006
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FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE



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

October 28, 2005

P-00052168

RECEIVED

OCT 31 2005

JOHN L CARLEY
ASSISTANT GENERAL COUNSEL
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
4 IRVING PLACE
NEW YORK NY 10003

CON EDISON LAW DEPT.

Re: Pike County Light & Power Company – Results of Auction for Financial Swap Transactions, including the impact on Retail Rates for Default Service to Residential, General, Municipal Street Lighting and Private Lighting Customers

Dear Mr. Carley:

On October 25, 2005, Pike County Light & Power Company (“Pike”) submitted electronically the results of its Request for Proposals (“RFP”) auction process, including the impact on retail rates for residential, general, municipal street lighting and private lighting customers receiving default service effective January 1, 2006, at Docket No. P-00052168. On October 27, 2005, Pike filed the results with the Commission’s Secretary.

This filing is submitted pursuant to the RFP process and Default Service Implementation Plan (“Plan”) filed May 31, 2005 and approved by the Commission in its Order, entered September 23, 2005, at Docket No. P-00052168, as modified by the Order.

Pike requests that the Commission approve the results of the auction by 11:59 p.m. October 28, 2005.

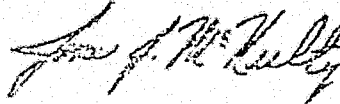
Further investigation does not appear to be warranted at this time and the auction appears to have been conducted in accordance with the RFP Guidelines.

Therefore, we approve the results of the auction and direct Pike to file a supplement to its Tariff Electric – Pa. P.U.C No. 8, no later than 60 days prior to an effective date of January 1, 2006, incorporating the proposed tariff language changes approved in the Commission’s Order, entered September 23, 2005, at Docket No. P-00052168, as modified by the Order and the default service rates resulting from the auction.

If you are dissatisfied with the resolution of this matter, you may, as set forth in 52 Pa. Code §5 44, file a petition with the Commission within 10 days of the date of this letter.

Please direct any questions to H. Edwin Rodrock, Energy Supervisor, Bureau of Fixed Utility Services at (717) 783-6185.

Sincerely,



James J. McNulty
Secretary

cc: John L. Carley, Consolidated Edison Company of New York, Inc. (electronic)
William Atzl, Consolidated Edison Company of New York, Inc. (electronic and first class mail)
Michael Hassell, Esq., Morgan Lewis & Bockius LLP (electronic and first class mail)
Tanya McCloskey, OCA (electronic and first class mail)
Aron Beatty, OCA (electronic and first class mail)
William Lloyd, OSBA (electronic and first class mail)
Robert Eckenrod, OTS (electronic and first class mail)
Kerry Klinefelter, Bureau of Fixed Utility Services
Kathy Aunkst, Secretary's Bureau