



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

IN REPLY PLEASE
REFER TO OUR FILE

July 31, 2006

Thomas S. Anderson Esquire
John P. Liekar Jr Esquire
Yukevich Marchetti Liekar & Zangrilli PC
11 Stanwix Street Suite 1024
Pittsburgh Pa 15222-1324

Re: Wallace E. and Janet Louise Martin v. Equitable Gas Company
C-20065801

Dear Mr. Farinas:

On July 24, 2006, Wallace E. and Janet Louise Martin filed Exceptions to the Initial Decision of Administrative Law Judge David A. Salapa in the above captioned matter. Our review of the Exceptions revealed that no certificate of service or other indications of service accompanied that filing. Accordingly, we have enclosed a copy of the Exceptions for your use. This shall constitute service of the Exceptions for purposes of 52 Pa. Code §5.533.

Pursuant to 52 Pa. Code §5.535, you shall have ten (10) days from the date of service of the enclosed Exceptions to reply. The Exceptions were filed July 24, 2006. Although the Exceptions were timely filed, due to the failure of Wallace E. and Janet Louise Martin to note service on Equitable Gas Company, and in order to avoid prejudice to either party, we shall deem the filing date to be the date of this letter for purposes of Section 332(h) of the Public Utility Code, 66 Pa. C.S. §332(h), relating to the time for Commission consideration of Exceptions.

Sincerely,

James J. McNulty
Secretary

Enclosure

nvl

cc: Wallace & Janet Louise Martin
1331 Oakdene Street, East Liberty
Pittsburgh Pa 15206-1949
Office of Special Assistants
Document Folder

YUKEVICH, MARCHETTI, LIEKAR & ZANGRILLI, P.C.

ATTORNEYS AT LAW

11 STANWIX STREET

SUITE 1024

PITTSBURGH, PENNSYLVANIA 15222-1324

RECEIVED

TELEPHONE 412/261-6777

FAX 412/261-6789

August 7, 2006

AUG 07 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ORIGINAL

James J. McNulty
Secretary of the Commission
Pennsylvania Public Utility Commission
2nd Floor, Keystone Building
400 North Street
Harrisburg, PA 17105

RE: Wallace E. and Janet Louise Martin v. Equitable Gas Company
No. C-20065801

Document to be filed: Reply to Exceptions

DOCUMENT
FOLDER

Dear Mr. McNulty:

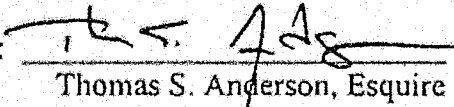
Enclosed is the original and three (3) copies of the above noted document to be filed, together with three (3) copies of this letter and one extra copy of the cover sheet.

Please file the original and then time-stamp and return the extra cover sheet to the undersigned in the enclosed self-addressed envelope as proof of filing. Thank you for your courtesy.

Yours truly,

Yukevich, Marchetti, Liekar & Zangrilli, P.C.

RECEIVED

By: 
Thomas S. Anderson, Esquire

AUG 6 7 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

TSA/nwj
Enclosures

cc: Wallace E. and Janet Louise Martin (w/enc) via Regular Mail
Administrative Law Judge David A. Salapa (w/ enc) via Regular Mail
Daniel L. Frutchey, Esquire (w/enc) via Regular Mail
Therese Nolfi (w/enc) via Regular Mail

122

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Wallace E. and Janet Louise Martin,

Complainant,

vs.

Equitable Gas Company,

Respondent.

) Complaint Docket
)
) No. C-20065801
)
) Type of Pleading:
)
) **REPLY TO EXCEPTIONS TO**
) **INITIAL DECISION and ORDER of**
) **DAVID A. SALAPA,**
) **ADMINISTRATIVE LAW JUDGE**
)
) Filed on behalf of:
)
) **Equitable Gas Company, Respondent**
)
) Counsel of record for this party:
)
) John P. Liekar, Jr. Esq.
) PA ID No.: 23161
)
) Thomas S. Anderson, Esq.
) PA ID No. 91016
)
) Lori Nolan Lindey, Esq.
) PA ID No. 66803
)
) YUKEVICH, MARCHETTI, LIEKAR
) & ZANGRILLI, P.C.
) Firm I. D. No. 891
) 11 Stanwix St., Tenth Fl., Suite 1024
) Pittsburgh, PA 15222-1324
) Phone: (412) 261-6777
) Fax: (412) 261-6789
) E-Mail: jliekar@ymtz.com
)

RECEIVED

AUG 07 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

DOCUMENT
FOLDER

DOCKETED
AUG 16 2006

RECEIVED

AUG 6 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Wallace E. and Janet Louise Martin,)	
)	
Complainant,)	Complaint Docket
)	No. C-20065801
vs.)	
)	
Equitable Gas Company,)	
)	
Respondent.)	

REPLY TO EXCEPTIONS TO INITIAL DECISION and ORDER of
DAVID A. SALAPA, ADMINISTRATIVE LAW JUDGE

TO: THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

AND NOW, comes the Respondent, Equitable Gas Company ("Equitable") by its attorneys Yukevich, Marchetti, Liekar & Zangrilli, P.C. and John P. Liekar, Jr., Esq. and files this Reply to Exceptions to the Initial Decision and Order of Administrative Law Judge David A. Salapa issued on June 26, 2006.

I. INTRODUCTION

Complainants filed a Formal Complaint with the Pennsylvania Public Utility Commission regarding the termination of gas service to their property and the reinstatement of the gas service. Complainants allege that Equitable refused to restore service until the outstanding balance was paid in full. The Complainants do not allege that Equitable failed to provide the requisite notice of termination and at the hearing, Complainant Janet Martin stated that Complainants were not alleging that the gas bills were inaccurate or that payments were not properly credited. Accordingly, ALJ Salapa properly limited his Initial Decision to the issue of whether Equitable acted properly after it terminated gas service.

Because the Findings of Fact and Conclusions of Law contained with the Initial Decision and Order are supported by the evidence and warranted under the law, Equitable files this Reply to the Exceptions filed by Complainants and respectfully requests that the Initial Decision of Administrative Law Judge David A. Salapa be upheld.

II. REPLY TO EXCEPTIONS

Equitable replies to the exceptions filed by Complainants as follows:

Exception #1.

Equitable is without any information or knowledge regarding the "cover letter" to which the Complainants refer or the address which they allege to be incorrect.

By way of further reply, Equitable states that Complainants have failed to specify what Finding of Fact or Conclusion of Law from which they take exception. Accordingly, Equitable is unable to respond to this Exception more fully except to state that Complainants have failed to set forth any reason whatsoever for reversing the Initial Decision of ALJ Salapa. Therefore, Equitable requests that the Initial Decision be upheld and affirmed in its entirety.

Exception #2.

Equitable is without any information or knowledge as to whether the Complainants ordered, paid for or received a transcript of the telephone hearing conducted in this matter.

By way of further reply, Equitable states that Complainants have failed to specify what Finding of Fact or Conclusion of Law from which they take exception. Accordingly, Equitable is unable to respond to this Exception more fully except to state that Complainants have failed to set forth any reason whatsoever for reversing the Initial Decision of ALJ Salapa. Therefore, Equitable requests that the Initial Decision be upheld and affirmed in its entirety.

Exception #3.

Once again, Equitable is unsure as to the nature of the Exception or to what specifically they take exception. To the extent Complainants allege that Equitable did not provide copies to them of those exhibits Equitable intended to introduce at the telephone hearing, the same is specifically denied. Equitable provided the hearing exhibits to Complainants on two occasions and each time, the mailing was returned to Equitable's counsel unopened by Complainants.

By way of further reply, Equitable states that Complainants have failed to specify what Finding of Fact or Conclusion of Law from which they take exception. Accordingly, Equitable is unable to respond to this Exception more fully except to state that Complainants have failed to

set forth any reason whatsoever for reversing the Initial Decision of ALJ Salapa. Therefore, Equitable requests that the Initial Decision be upheld and affirmed in its entirety.

Exception #4.

Complainants misstate the record. This matter was not referred to mediation by ALJ Salapa or by the PUC.

Complainants criticism of ALJ Salapa is unfair and misplaced. ALJ Salapa attempted to contact the Complainants at the telephone numbers provided by the Complainants. Complainant Janet Martin answered ALJ Salapa's telephone call and proceeded to attend the hearing without comment or complaint. If Complainants wished to be contacted at a different number, it was their obligation to so inform the PUC and/or ALJ Salapa.

By way of further reply, Equitable states that Complainants have failed to specify what Finding of Fact or Conclusion of Law from which they take exception. Accordingly, Equitable is unable to respond to this Exception more fully except to state that Complainants have failed to set forth any reason whatsoever for reversing the Initial Decision of ALJ Salapa. Therefore, Equitable requests that the Initial Decision be upheld and affirmed in its entirety.

Exception #5.

Most importantly, Complainants do not dispute the factual veracity of ALJ Salapa's Finding of Fact #14. They do not dispute that Equitable in fact did attempt to contact them on December 29, 2005 to inform them that grants may be available to assist them with their gas bills. Rather, they allege that Equitable should have done so sooner and that the Complainants made the determination themselves that they were not eligible for some unspecified grant.

Neither position provides any basis upon which to reverse Finding of Fact #14. The Finding of Fact is supported by credible evidence and Complainants have set forth no reason for its reversal. As the hearing testimony makes clear, Equitable attempted on numerous occasions to contact Complainants to provide assistance and every such effort was rebuffed by Complainants. Moreover, Complainants admitted that they did not even apply for any energy assistance or grants. They made the unilateral decision that they were not qualified and took no further action.

For these reasons, the Initial Decision should be upheld and affirmed in its entirety.

Exception #6.

At the hearing, Equitable presented evidence of numerous attempts to contact Complainants. See Findings of Fact Nos. 11-27. The Complainants seem to persist in their allegation that Equitable refused to restore service until the balance was paid in full. As set forth in ALJ Salapa's Initial Decision, Equitable was entitled to take such a position. Nevertheless, ALJ Salapa found Equitable's evidence credible that it made many attempts to contact the Complainant to determine their eligibility for assistance or a repayment plan. However, Complainants were consistently uncooperative.

Fortunately, ALJ Salapa provides the reasons why he finds that Equitable's evidence of attempts to restore service is entitled to more weight than Complainant's testimony. First, the exhibit marked EQ-3 shows numerous attempts to contact the Complainants. Complainant Janet Martin did not refute the information in EQ-3 and did not dispute that Equitable had contacted her personally several times. Each time, she refused to speak with Equitable's representative.

For these reasons, the Initial Decision should be upheld and affirmed in its entirety.

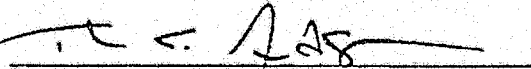
Exception #7.

Complainants take exception to ALJ Salapa's statement that Equitable may require the payment of a reconnection fee to restore service. However, ALJ Salapa merely recites the provision of 66 Pa.C.S. § 1407(c) which provides that a utility may require the payment of "any outstanding balance incurred together with any reconnection fees" prior to reconnection of service, unless certain income guidelines are met. ALJ Salapa then properly states that a customer may pay the balance in a payment plan, again depending on the customer's income and situation. Here, ALJ Salapa correctly notes that Complainants failed to cooperate with Equitable's efforts to determine Complainant's income and other relevant information. Accordingly, Equitable did not violate any provision of the Public Utility Code or the PUC's regulations.

For these reasons, the Initial Decision should be upheld and affirmed in its entirety.

WHEREFORE, for the above reasons, Equitable respectfully requests that the Complainants' Exceptions be denied and the Initial Decision of David A. Salapa, Administrative Law Judge be upheld and affirmed.

Yukevich, Marchetti, Liekar & Zangrilli, P.C.

By: 
Thomas S. Anderson, Esquire
Attorney for Equitable Gas Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the attached document was served as follows:

ATTACHED DOCUMENT: **REPLY TO EXCEPTIONS TO INITIAL DECISION OF DAVID A. SALAPA, ADMINISTRATIVE LAW JUDGE**

DATE OF SERVICE: August 7, 2006

BY: FIRST CLASS U.S. MAIL

TO: Wallace E. Martin, Jr.
 Janet Louise Martin
 1331 Oakdene Street
 Pittsburgh, PA 15206-1949

Complainant

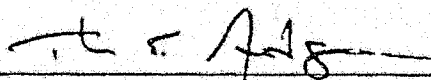
Administrative Law Judge David A. Salapa
Pennsylvania Public Utility Commission
2nd Floor, Keystone Building
400 North Street
Harrisburg, PA 17105

RECEIVED

AUG 07 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Yukevich, Marchetti, Liekar & Zangrilli, P.C.

By: 

Thomas S. Anderson, Esquire
Attorney for Equitable Gas Company

DATE: August 16, 2006

SUBJECT: C-20065801

TO: Cheryl W. Davis, Director
Office of Special Assistants

FROM: James J. McNulty
Secretary
nvl

**DOCUMENT
FOLDER**

WALLACE E. AND JANET LOUISE MARTIN
V.
EQUITABLE GAS COMPANY

Copies of the Initial Decision have been served upon all parties of interest.

Exceptions have been filed by:

WALLACE E. AND JANET LOUISE MARTIN

Reply Exceptions have been received from:

cc: Susan Hoffner

DOCKETED
AUG 18 2006

DOCUMENT FOLDER

ORIGINAL C-20065801
September 19, 2006

DOCUMENT
FOLDER

James J. McNulty, Secretary
PA. Public Utility Commission
Keystone Building
400 N. Street
Harrisburg, PA 17105

SEP 27 2006

SUBJECT: COPY OF ENVELOPE
(BOTH SIDES), RECEIVED IN
MAIL FROM LEGAL COUNSEL
FOR EQUITABLE GAS

Dear Mr. McNulty:

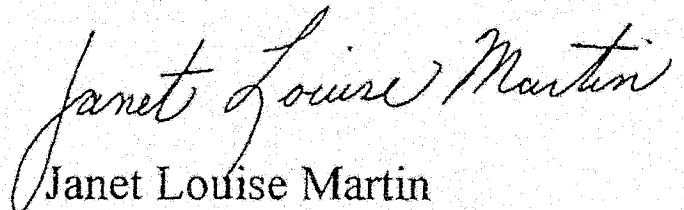
SIR, WOULD YOU KINDLY INSTRUCT
EQUITABLE GAS TO SEND ME THE CONTENTS OF
WHAT THEY REFUSED TO DO IN THIS ENVELOPE.

44

AND SIR, I DO NOT BELIEVE IT IS ANYTHING THE
POST OFFICE DID WRONG.

THANK YOU.

Sincerely,

A handwritten signature in cursive script that reads "Janet Louise Martin". The signature is written in black ink and is positioned above the typed name.

Janet Louise Martin
1331 Oakdene Street
East Liberty
Pittsburgh, PA
15206-1949

Attachment

Thursday, December 7, 2006

DOCUMENT
FOLDER

RECEIVED

DEC 07 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

James J. McNulty, Secretary
Commonwealth of Pennsylvania
PA Public Utility Commission
2nd Floor, Keystone Building
400 N. Street
Harrisburg, PA 17105-3265

David A. Salapa
Administrative Law Judge
Commonwealth of Pennsylvania
PA Public Utility Commission
2nd Floor, Keystone Building
400 N. Street
Harrisburg, PA 17105-3265

ORIGINAL

SUBJECT: OUR CONVERSATION OF 12/6/2006 WITH
EQUITABLE GAS AND
CASE C-20065801

Gentlemen:

You will recall our complaint where our gas service was shut-off by Equitable Gas in October of 2005 and it still remains off to this date, even though we have paid the bill in full.

Because of concerns of bitter cold temperatures in January and February, my brother and I have decided for now we wish to restore service. My brother called on Wednesday, December 6th and was told by the Service Department that not only would we have to pay \$50.00 for service re-connect but a charge of \$336.00

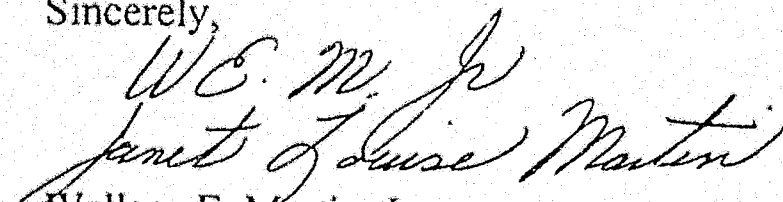
60

Security Deposit Charge. This comes as a surprise, because in Initial Decision of Administrative Law Judge David A. Salapa of June 29, 2006, it says nothing in it about a \$336.00 Security Deposit Charge. This \$336.00 Security Deposit Charge is expressly contrary to the contents of his initial decision. I don't agree with the \$50.00 rec-connect fee, but if I have to, I will pay it. But I certainly do not agree with a \$336.00 Security Deposit Fee, especially when the Law Judge did not include it in his initial decision. We have had in the past and even in the present have been given serious grief by Equitable Gas, and this latest quote of \$336.00 is yet another reason why our disgust for them grows.

Please review our above case again and help us get our service restored without this outrageous, unreasonable charge that as I stated was not in the Judges' Initial Decision.

And by the way, what ever became of the outcome of this case, as my brother and I did file EXCEPTIONS TO C-20065801.

Sincerely,



Wallace E. Martin, Jr.
Janet Louise Martin
1331 Oakdene Street
East Liberty
Pittsburgh, Pennsylvania 15206-1949