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May 4, 2017

Rosemary Chiavetta, Secretary  
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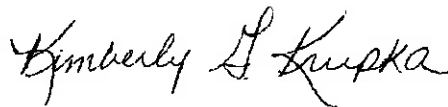
**RE: Jean Thoma v PPL Electric Utilities Corporation**  
**Docket No: C-2016-2549949**

Dear Ms. Chiavetta:

Enclosed for eFiling in the above-captioned matter are the Replies on behalf of PPL Electric Utilities Corporation, to Complainant's Exceptions.

Please note that this filing was eFiled with the Commission on the date indicated above.

Very truly yours,



KIMBERLY G. KRUPKA

KGK/jm  
Enclosure

cc: Jean Thoma (w/ enc.)  
Administrative Law Judge Darlene D. Heep (w/enc.); *via email only*  
Patricia L. Moore (w/enc.) *via email only*  
Kimberly R. Hanson (w/enc.) *via email only*  
Holly M. Groth (w/enc.) *via email only*  
Shelbie Frederick Bayda (w/enc.) *via email only*

PENNSYLVANIA PUBLIC UTILITY COMMISSION

JEAN THOMA,

Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

COMPLAINT DOCKET

NO. C-2016-2549949

**EXCEPTIONS OF PPL ELECTRIC UTILITIES CORPORATION TO THE  
INITIAL DECISION OF APRIL 14, 2017**

AND NOW comes PPL Electric Utilities Corporation ("PPL Electric"), by and through its attorneys of record, Gross McGinley, LLP, and files the within Exceptions to the Initial Decision of April 14, 2017, alleging in support thereof as follows:

1. On May 16, 2016, Complainant, Jean Thoma ("Complainant") filed a formal Complainant against PPL Electric Utilities ("Respondent") alleging a reliability, safety or quality problem with her utility service. Specifically, Complainant alleged property damage as the result of a failed neutral in a service line to her home.

2. Respondent PPL Electric filed a timely answer on June 29, 2016, denying all allegations.

3. An initial hearing was held on December 1, 2016, before Administrative Law Judge Darlene Davis Heep ("ALJ Heep"). Complainant testified on her own behalf. Respondent PPL Electric offered the testimony of two witnesses, a PPL Electrical Engineer, Andrew Redding, and a PPL Electric Claims Specialist, Andrea Martino.

4. On April 14, 2017, ALJ Heep issued an Initial Decision. The instant Exceptions are to such Initial Decision.

I. EXCEPTION #1

5. PPL Electric takes Exception to Finding of Fact (“FOF”) 3, on Page 3 of the Initial Decision, that provides: "On June 23, 2015, PPL Personnel entered a note in customer contact records concerning a PPL pole near Complainant’s home, indicating that the PPL pole was ‘Primary hanging real close to the neutral.’ Rather, the full entry notes “Wire Down Pole to Pole Comments: PRIMARY HANGIN REAL CLOSE TO NEUTRAL PER B THIEME FORRESTER HERE AT POLE 68633S40776 . . . PENN LINE TRIMMIN.” (PPL Exhibit No. 2.) Although such note exists within an exhibit offered into evidence by PPL Electric, the record is otherwise void of any testimony at all concerning this entry.

During the hearing, Complainant indicated she *first* phone called Respondent PPL Electric occurred on *July 6, 2015* to inquire about dimming lights and a possible “brown out.” (N.T. at pg. 9). As the downed wire of June 23, 2015, was not an issue within the case, there was no testimony concerning the same. No witness discussed the contact, and no questions were asked about what the comment meant. Accordingly, PPL Electric accepts to this FOF to the extent it was relied upon in any fashion to find a violation against PPL Electric. There is no evidence at all that such “wire down pole to pole” was not corrected. Moreover, there was no testimony to connect the June 23, 2015 note to the service issues experienced by Complainant. The burden of proof lies with the Complainant to prove a violation of the Public Utility Code, a Commission regulation, or Order of the Commission. 66 Pa. C. S. § 332(a); 66 Pa. C. S. § 701. Where Complainant presented no testimony of any witness concerning the June 23, 2015 entry,

Complainant cannot be found to have met the burden of proof that such event formed the basis for a finding of unreasonable service.

**EXCEPTION #2**

6. PPL Electric takes Exception to FOF 5, 6 and 7, on Pages 3-4 of the Initial Decision, which state:

(a) “5. A PPL representative told Complainant, over the telephone, that the problem was in her house. (Tr. 9)”

(b) “6. No PPL record states that PPL employees were sent out to Complainant’s home in July of 2015. (PPL 2).”

(c) “7. There is no record of PPL sending out a crew in response to Complainant’s calls until after an electrician called the company in September of 2015. (PPL 1-3)”

These Findings of Fact overlook the clear evidence of record, as provided by both Complainant and Respondent, that a PPL representative responded in person to Complainant’s home, performed a load test, and informed Complainant that she needed to contact an electrician which she thereafter did in August 2015.

Specifically, Complainant testified that a PPL Electric representative went to her home after the July 6, 2015 call, performed a test, and thereafter recommended she obtain the services of an electrician to check the wiring within her home. While there may have been one equivocal statement about PPL Electric’s response to the July 6, 2015 call, the overwhelming majority of testimony was clear concerning PPL Electric’s in-person response.

Initially, she testified “And so I guess they came to my house. I just don’t remember. I’m sure they did.” (N.T. at 10). When Complainant thereafter testified “But I was told that the

problem was in my house” the Court inquired “Who told you that.” (N.T. at 9). Complainant testified that she was told by PPL personnel, and the Court inquired “And was that by telephone?” (N.T. at 9.) Complainant initially responded “Yes”, but subsequently testified on several occasions of the repairman who came to her home and instructed her to consult with an electrician.

The evidence that PPL Electric responded to the July 6, 2015 telephone call in person is substantial. In follow up to Complainant’s response concerning a telephone call, ALJ Heep questioned Complainant regarding a May 13, 2016 letter attached to the Complaint which stated:

In actual fact, in **early summer of 2015 I first noticed problems with my lights.** I “assumed” they were doing brown outs in the area and the dimming, flickering or lights, etc was from that. Since it continued, **I called PPL on July 6, 2015** and reported the dimming, flickering of lights, etc. that was occurring in my house for a while. They explained they don’t do brown outs. PPL sent a work crew out to my house and told me that they checked their equipment and it was fine. The repairman stated the problem was within my house and that I would have to get an electrician to check my wiring.” (Emphasis in original).

This was Complainant’s own words in her own letter attached to her Complaint. ALJ Heep questioned Complainant specifically on this letter asking:

And in that letter you state that a work crew was sent to your house and told you that they checked their equipment and it was fine. Did you actually speak to the work crew, or was that told to you by telephone that a work crew had come out to the house?

(N.T. at 11). Complainant responded:

A. Well, I don’t remember now, but I’m reading my own letter. I’m looking at it. It says the work crew was sent to my house and they checked it out and it was fine. And the repairman stated that the problem was in my house, and that I would have to get an electrician to check the wiring.

(N.T. at 11). Complainant then confirmed that she acted on such advice and contacted an electrician in August, who then came to her home on August 17, 2015. (N.T. at 11-12).

Complainant later in her testimony again confirmed that someone from PPL Electric came to her home following her call of July 6, 2015. Specifically, Complainant was asked:

And after being refreshed by the letter that you wrote and attached to your Complaint, you believe that PPL sent a repair crew out that day and informed you that PPL believed that their equipment was working fine; correct.

(N.T. at 39). Complainant responded “Yes.” (N.T. at 39). Complainant then confirmed that during that in-person visit, PPL Electric advised Complainant to contact an electrician. (N.T. at 39).

Moreover, Complainant Thoma also testified that “When PPL came everything was working fine. I mean it was an on again, off again problem. But it was all in that time frame” (referring to June through mid-September). (N.T. at 34). Accordingly, once again, Complainant confirmed that PPL Electric had responded to her July 6, 2015 call in person. Complainant’s own testimony on three occasions confirms that PPL Electric responded in-person to her call of July 6, 2015.

Complainant’s testimony is consistent with that of PPL Electric witness and electrical engineer, Andrew Redding. (N.T. at 49). When questioned about PPL Electric’s response to Complainant’s July 6, 2015 concern, Mr. Redding testified: “On July 6<sup>th</sup>, 2015 we received a dim bright light call from the customer. A crew was dispatched and went on-site. They performed a load test and passed that test.” (N.T. at 50-51). Mr. Redding then explained a load test is when “We put a testing device on the meter base and outside the control load to determine whether or not our service is adequate.” (N.T. at 51). Complainant’s meter passed that load test. (N.T. at 51). Mr. Redding then testified that after the load test “[t]he crew recommended that the customer get an electrician to inspect inside the house.” (N.T. at 51). The testimony of Mr. Redding is completely consistent with both the testimony of Complainant and Complainant’s

own letter of May 13, 2016 as attached to her Complaint. Moreover, Complainant never challenged this testimony.

This testimony of Complainant and Mr. Redding is confirmed by PPL Electric's Customer Contacts. Specifically, the entry of July 6, 2015 merely indicates that "Dim Bright Lights Comments lights and appliances dim but do not go completely out." (PPL Exhibit No. 2, entry of July 6, 2015). There is no indication that Complainant was informed that the issue was internal to her home or that she should call an electrician. Rather, the implication is that an electrical problem was reported to PPL Electric, and a repairman went to the home, performed the test, and notified Complainant of no found problem. Where Complainant herself admits in her written Complaint and then again at least three times during the hearing that a PPL Electric crew member came to her home, the substantial evidence of record is that PPL Electric responded to Complainant's call by sending a technician to her home, conducting a load test, and thereafter advising her to contact an electrician. Complainant cannot be found to established as facts otherwise.

### **EXCEPTION #3**

7. PPL Electric takes Exception to Finding of Fact ("FOF") 8, on Page 4 of the Initial Decision, stating that: "Complainant called PPL numerous times about the power surges and brownouts. (PPL 2, Tr. 35-36)." This FOF is contradicted by the clear evidence of record. Most notably, Complainant herself admitted that the first occasion on which she called PPL Electric was on July 6, 2015 and then not again until September 2015. Specifically, Complainant testified as follows:

(a) "I called PPL for the first time on July 6<sup>th</sup> of 2015, asking if there were brown outs." (N.T. at 9);

(b) When questioned whether the next time (after July 6, 2015) Complainant contacted PPL Electric was September 11<sup>th</sup>, Complainant responded “[t]he electrician contacted them.” (N.T. at 40); and

(c) When Complainant was presented with the following question by ALJ Heep “There was testimony that you did not contact PPL at any time between July of 2015 and September of 2015. Is that correct?”, Complainant responded “That is correct, because PPL told me to contact the electrician, so during that time frame I had the electrician come twice, so it was being worked on from my end, because PPL told me it was my problem. Until my electrician determines that it was not in the house that’s when he called PPL.” (N.T. at 75-76).

PPL Electric Claims Representative Andrea Martino also testified as to the contacts. When Ms. Martino was questioned “[a]nd when a customer calls into PPL to the customer service with a complaint as to service-related issues. Not damages, but service. Are those documented here?” she responded “Yes.” (N.T. at 63). Accordingly, PPL Electric established that any calls related to service issues would be recorded in the Customer Contacts log presented as Exhibit 2. However, this Exhibit reveals a call on July 6, 2015 and then not again until September 11, 2015. Ms. Martino also testified there were no other contacts by Complainant Thoma after July 6, 2015 and before September 11, 2015. (N.T. at 63).<sup>1</sup>

Accordingly, the overwhelming evidence of record is that Complainant Thoma first contacted PPL Electric about lights dimming (brownouts) on July 6, 2015 and then not again

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<sup>1</sup> While Complainant contends she called PPL Electric approximately 10 times between July and the end of December, this number included the calls to PPL Electric’s Claims Specialist reviewing her property damage claims, issuance of reimbursement, and second claim for damages. There is no evidence that such calls were related to the provision of service, but rather payment for the alleged damages. (N.T. at 38, 42, 69)

until her electrician called on September 11, 2015, when PPL Electric then came out to the property for the second time.

**EXCEPTION #4**

8. PPL Electric takes Exception to FOF 9, on Page 4 of the Initial Decision, stating that: “Each contact or discussion with PPL personnel is not individually recorded in the PPL contact record. (PPL 2, Tr. 24, Tr. 73-74).” PPL Electric provided uncontradicted testimony that all calls related to *service issues* are recorded. (N.T. at 63). However, calls to the Service Center concerning service issues are treated differently from calls to the PPL Claims department which may be made after a customer files a property damage claim. PPL Electric testified that with regard to Complainant’s damages (monetary claim) made to the individuals handling her property claim request, such contacts are not necessarily recorded in the Customer Contact, entered as PPL Exhibit 2. (N.T. at 63, 69-70). However, there was no testimony that calls concerning service are not maintained within the Customer Contacts. Accordingly, PPL Electric accepts only to the extent FOF 9 implies calls were made between July 2015 and September 2015 concerning service issues which were not recorded in the Customer Contacts.

In reaching this finding of fact, ALJ Heep relies upon the testimony of Claims Specialist Andrea Martino concerning the recording of contacts relative to the evaluation of a monetary damages claim. As explained by Ms. Martino, Complainant made a claim with PPL Electric and Deb Koch and Ms. Koch’s supervisor, Gil Degenhart handled the damages claim (claim for monetary reimbursement). (N.T. at 64). Ms. Koch handled only the monetary damages claim, and had no involvement prior to Claimant submitting a claim for reimbursement for property damages. (N.T. at 74). Ms. Martino then explained that the Customer Call Center makes a notation in the Customer Contact log each time a customer calls, but individuals handling claims

for damages (reimbursement) do not necessarily input contacts into the record. (N.T. at 63). Accordingly, while PPL Electric agrees that the Customer Contact log does not include communications with the claims department, it does include all information with the customer contact center regarding incoming and outgoing calls concerning service. (N.T. at 74). These are the only calls Complainant Thoma indicated were not recorded on the Customer Contact log, and were after the first property claim was already paid by PPL Electric. (N.T. at 24).

#### EXCEPTION #5

9. PPL Electric takes Exception to Conclusion of Law (“COL”) 9, on Page 15 of the Initial Decision, which provides: “Respondent did not provide reasonable or safe service, in violation of 66 Pa.C.S. § 1501.” A review of the “Discussion” section of the Decision makes it clear that such finding was based on (1) a finding that PPL Electric did not properly respond to the Complainant’s July 6, 2015 telephone call, (2) a finding that Complainant contacted PPL Electric concerning brownouts on numerous occasions between July 6, 2015 and September 2015, and (3) a finding that PPL failed to inspect the premises in June 2015 following the notation of a “wire down pole to pole”. However, such findings are inconsistent with the record evidence.

With regard to PPL’s response to the July 6, 2015 call of Complainant, ALJ Heep found:

It is arguable that Complainant should have contacted an electrician earlier during this ordeal. Mr. Redding testified that following PPL receiving a call from the Complainant in July of 2015, a crew was sent to Complainant’s home and she was advised to call an electrician. There is no PPL record that a PPL crew visited the residence or that Complainant was given this advice. Even if Mr. Redding’s testimony is accepted as true, other evidence presented supports a finding for the Complainant.”

(Decision at 10). Unfortunately, this statement overlooks substantial evidence of record as set forth in PPL Electric’s Exception 2, above and incorporated herein. Not only did Mr. Redding

testify that PPL Electric had a crewman visit the home and perform a load test, but testified that after the test “passed”, PPL Electric advised Complainant to contact her electrician. (N.T. at 50-51). Complainant Thoma agreed that such events occurred, and that upon the advice of the PPL repairman, she engaged the services of an electrician. (N.T. at 10-12, 34, 39) Accordingly, when all the evidence is reviewed collectively, the preponderance of evidence establishes that PPL Electric did respond to the July 6, 2015 telephone call.<sup>2</sup>

It is important to note that ALJ Heep’s finding of unreasonable service is based on a belief that PPL Electric simply did not respond to the Complainant’s call with an in-person visit. There was no finding that the load test performed by the repairman was inadequate or improper. Rather a failing neutral can fail only intermittently and actually function well for a period of time, thereby passing a test.

Second, the Initial Decision appears to base a finding of unreasonable service on a conclusion that Complainant contacted PPL Electric on multiple occasions between July 6, 2015 and September 2015 and PPL Electric failed to respond to such calls. However, this is inconsistent not only with the exhibits, but most importantly with Complainant’s own testimony. As detailed in Exceptions 3 and 4 above, as incorporated herein, Complainant herself acknowledged that the first time she contacted PPL Electric concerning “brownouts” was on July 6, 2015. Thereafter, she did not call PPL Electric again until her electrician placed a call to PPL Electric on September 11, 2015. (N.T. 40, 75-76). Accordingly, to the extent ALJ Heep found a violation of reasonable service due to an alleged failure of PPL Electric to respond to multiple

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<sup>2</sup> While PPL Electric contends the evidence overwhelming confirms PPL Electric’s response to the July 6, 2015 call of Complainant, the burden of proof by preponderance of evidence rests with Complainant. 66 Pa. C. S. § 332(a).

phone calls, the record is clear that multiple phone calls were never made to PPL Electric during the summer of 2015.

Rather the only evidence of multiple calls was in reference to PPL Electric's decision on whether it would pay her first and second claims for damages. These communications referred to processing of a claim for damages reimbursement. It is clear that Complainant was dissatisfied with PPL Electric's decision on her second claim for damages, and several calls were made on such issue. However, no such "multiple" calls were made prior to September 2015 and none were related to service other than the call of July 6, 2015 and September 11, 2015.

Third, it appears that the violation of 66 Pa.C.S. § 1501 was based on PPL Electric failing to respond to the June 23, 2015 notation in the Customer Contact log, Exhibit 2. It is important to note that the testimonial record does not contain any information concerning this notation. Rather Complainant clearly stated that she first contacted PPL Electric on July 6, 2015. There is no testimony to explain the solitary notation in the Customer Contact log, and the June 23, 2015 notation was not an issue at the hearing. However, what is known is that the neutral within the service line to Complainant's home failed. The notation in the Customer Contact log states "Wire Down Pole to Pole Comments: PRIMARY HANGIN REAL CLOSE TO NEUTRAL PER B THIEME FORRESTER HERE AT POLE 68633S40776 . . . PENN LINE TRIMMIN." (PPL Exhibit 2) No questions were ever asked as to what action, if any, may have been taken in response to this notation. Moreover, there is no evidence that the primary line which was hanging close to the neutral on pole 68633S40776 was even the same line as the service line into Complainant's home.

It appears ALJ Heep concluded that the hanging primary line noted in the June 23, 2015 call was related to the bad neutral in the service line. However, the record does not support such

a finding by a preponderance of the evidence. Rather, the testimony of Mr. Redding as to the possible causes of the bad neutral was as follows:

Judge: What are some reasons that you could develop a problem with the neutral wire?

A: A loose connection at the secondary of the transformer, rubbing against trees if there were any. There are a number of things.

Judge: All right. So there's not one particular problem or one particular event that could occur to cause the problem; is that correct?

A. Correct.

(N.T. at 60). Accordingly, there is no evidence upon which to base a finding that the Complainant proved, by a preponderance of the evidence, that PPL Electric failed to provide reasonable service. Moreover, it must be noted that the testimony of both Complainant and Mr. Redding confirm that PPL Electric did have a service crew at the property in July 2015 when the load test was conducted. Accordingly, even if the June 23, 2015 note is somehow connected to the service issues experienced by Complainant, there was a response in July 2015.

#### **EXCEPTION #6**

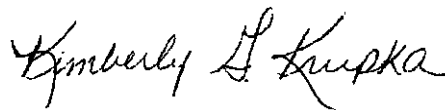
10. PPL Electric takes Exception to ALJ Heep's Conclusion of Law ("COL") 10, on Page 15 of the Initial Decision, that "Respondent should pay a civil penalty of \$1,000 after entry of a final order in this matter. 66 Pa.C.S. § 3301." In so much as PPL Electric contends that the ALJ erred in finding a violation of 66 Pa.C.S. § 1501, the Commission should reverse any imposition of a fine.

**II. CONCLUSION**

For all the foregoing reasons, PPL Electric's Exceptions to the Initial Decision should be granted, and the Commission should, therefore, overrule those aspects of the Initial Decision to which PPL Electric takes exception, and enter an Order dismissing Complainant's Complaint.

Respectfully submitted,

GROSS McGINLEY, LLP



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*Attorneys for PPL Electric Utilities  
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Dated: May 4, 2017  
at Allentown, Pennsylvania

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JEAN R. THOMA,

COMPLAINANT,

VS.

PPL ELECTRIC UTILITIES CORPORATION,

RESPONDENT.

COMPLAINT DOCKET

NO. C-2016-2549949

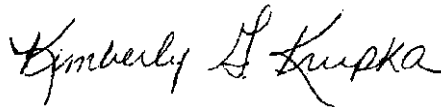
**CERTIFICATE OF SERVICE**

This is to certify that the Exceptions on behalf of PPL ELECTRIC UTILITIES CORPORATION was mailed to counsel/complainant of record on behalf of Respondents by First Class United States Mail, postage on this the 4<sup>th</sup> day of May, 2017

JEAN R. THOMA  
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ADMINISTRATIVE LAW JUDGE DARLENE D. HEEP  
PENNSYLVANIA PUBLIC UTILITIES CORPORATION  
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