



**Kimberly G. Krupka**

33 S. Seventh Street, P.O. Box 4060  
Allentown, PA 18105  
610/820-5450 • 610/820-6006  
kkrupka@grossmcginley.com

**ATTORNEYS**

MALCOLM J. GROSS  
PAUL A. McGINLEY  
HOWARD S. STEVENS  
DONALD LaBARRE, JR.  
J. JACKSON EATON, III  
MICHAEL A. HENRY  
ANNE K. MANLEY  
SUSAN ELLIS WILD\*  
VICTOR F. CAVACINI  
THOMAS E. REILLY, JR.  
STUART T. SHMOOKLER  
JAMES A. RITTER  
JOHN F. GROSS  
ALLEN I. TULLAR  
RAYMOND J. DeRAYMOND  
THOMAS A. CAPEHART  
KIMBERLY G. KRUPKA  
KIMBERLY A. SPOTTS-KIMMEL  
LOREN L. SPEZIALE\*\*  
CHARLES J. FONZONE  
SAMUEL E. COHEN\*  
JENNIFER L. WEED \*\*  
ADRIAN K. COUSENS\*  
GRAIG M. SCHULTZ\*  
MICHAEL J. BLUM\* \*  
ZACHARY R. FOWLER  
NICOLE J. O'HARA\*  
CHRISTOPHER W. GITTINGER  
CONSTANCE K. NELSON  
SARAH K. HART\*  
SARAH M. MURRAY  
RYAN L. STAUFFER\*

Of Counsel:  
PATRICK J. REILLY  
THE HON. JOHN P. LAVELLE (Ret.)  
MARIANNE S. LAVELLE

\*Also admitted in NY  
\*Also admitted in NJ  
\*Also admitted in DC  
\*Also admitted in MD  
\*Also admitted in MA  
\*Also admitted in TX  
\*Also admitted in NM

Allentown Office:  
33 S. Seventh Street  
P.O. Box 4060  
Allentown, PA 18105  
Phone: 610/820-5450  
Fax: 610/820-6006

Easton Office:  
101 Larry Holmes Drive, Suite 202  
Easton, PA 18042  
Phone: 610/258-1506  
Fax: 610/258-0701

Emmaus Office  
111 East Harrison Street, Suite 2  
Emmaus, PA 18049  
Phone: 610/967-1030  
Fax: 610/967-0622

Lehighton Office  
415 Mahoning Street  
Lehighton, PA 18235  
Phone: 610/377-0500

June 19, 2017

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**RE: John McGee v PPL Electric Utilities Corporation  
Docket No: C-2016-2549952**

Dear Ms. Chiavetta:

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

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

Very truly yours,

**KIMBERLY G. KRUPKA**

KGK/ejm  
Enclosure

cc: Edward Greco, Esquire (w/ enc.)  
Administrative Law Judge Conrad A. Johnson (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*

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOHN MCGEE,

COMPLAINANT,

VS.

PPL ELECTRIC UTILITIES CORPORATION,

RESPONDENT.

COMPLAINT DOCKET

NO. C-2016-2549952

**PPL ELECTRIC UTILITIES CORPORATION'S REPLIES  
TO EXCEPTIONS OF COMPLAINANT, JOHN MCGEE**

AND NOW, comes the Respondent, PPL Electric Utilities Corporation ("PPL Electric") by and through its attorney of record, Gross McGinley, LLP, and files the within Replies to Complainant's Exceptions, alleging in support thereof as follows:

I. Background:

Complainant, John McGee, is the owner of multiple rental properties, which are the subject of his underlying Complaint. While at one time he entered into an installment sale agreement for several of the properties with Steven Grebas, the properties were never formally transferred. (NT. at 12). At all times relevant to this Complaint, Mr. McGee was the owner of record, and as of the date of the hearing, remained the owner of record. (N.T. at 12). This was acknowledged by Complainant McGee and is not in dispute.

Beginning in 2014, PPL Electric began receiving concerns from tenants concerning the existence of foreign load within some of the multiunit rental properties owned by Complainant McGee. As a result of those complainants, and in accordance with the requirements of 66 Pa.C.S. §1529.1, PPL Electric, through its Customer Contact Representative, Ronald Hoffman,

performed in-person field investigations of the properties. (N.T. at 36). Such in-person investigations revealed the existence of foreign wiring. Upon confirmation of the foreign load, PPL Electric provided Mr. Greco with notice of the foreign wiring, an explanation of the tenant's account and balance being placed in his name as a result, and information on how to notify PPL Electric when the foreign load was removed.

II. Exceptions of Complainant:

1. Complainant McGee's Exception Number 1: Complainant McGee appears to except to ALJ's typographical error on pages 19-20 of the Initial Decision. Within the last paragraph of the "Ruling" on pages 19-20, ALJ Johnson writes: "Therefore, Mr. McGee failed to carry his burden of proving that PPL in some manner violated the provisions of the Public Utility Code, the Commission's regulations or an order in the course of billing him for the tenant's *gas* usage at the service address. 66 Pa.C.S.A. § 332(a)." (Decision at 19-20, emphasis added). PPL Electric clearly provided electrical, and not gas, services. When the Opinion is read in its entirety, it is clear that this was a simple typographical error on the part of the ALJ.

A fair reading of the Initial Decision makes it clear that the ALJ understood the billings at dispute were for electrical service. Specifically, Findings of Fact 2 and 3 specifically note that PPL Electric provides electrical service and provided the same to Respondent. (Opinion at 3). Moreover, the ALJ finds that the violations in wiring that created the foreign wiring conditions were related to lights. (FOF 6, 13, 19, and 36). The one word typo on page 20 of the Initial Decision does not alter the validity of the ALJ's Findings and Conclusions.

2. Complainant McGee's Exception Number 2: Complainant McGee excepts to any requirement being placed on a landlord in notifying a Utility that the landlord has fixed

foreign wiring above sending the written notification to the Utility by regular mail. Complainant McGee appears to except to any requirement that such written notice be returned via certified mail or that the correction of foreign wiring be confirmed by inspection.

At the outset, it is important to note that the ALJ did not impose any requirements on Complainant other than the duty to rectify the foreign wiring and notify the Utility of the fix. The Opinion is clear. “As the party seeking the assistance or a remedy from the Commission, Mr. McGee has the burden of proving that PPL has in some manner violated the provisions of the Public Utility Code (Code), the Commission’s regulations or an order . . .” (Opinion at 13). See also 66 Pa.C.S.A. 21 332(a). Further, as found by the ALJ, “[a]ny finding of fact necessary to support the Commission’s adjudication must be based upon substantial evidence.” (Opinion at 13). After reviewing the evidence in totality, the ALJ simply found that “Mr. McGee did not offer any documentary evidence to establish that the foreign loads have been corrected, and he admits he is the owner of the rental units.” (FOF 50, Opinion at 11, 19).

In support of his Exceptions, Complainant cites to Pages 19, 21 and 104 of the record, as well as Exhibit 3D-31 and appears to challenge the balances transferred from the tenant accounts of Mr. Hubler, Mr. Martin, Mr. Bakum, and Ms. Ennis, as well as the property located at 6 North 10<sup>th</sup> Street, Ashland, Pa 17921. (Complainant’s Exceptions at pg. 3). However, it must be noted that the Record does not contain an Exhibit 3D-31, and accordingly the same cannot be relied upon. Moreover, while the burden of production and proof rested with Complainant, Complainant never presented evidence of which tenants were associated with which accounts. Due to the number of inconsistencies in and vagueness of Complainant’s case, the ALJ acted within his discretion to find such testimony non-credible. (Opinion at 17).

With regard to tenant, Mr. **Hubler**<sup>1</sup>, Complainant testified that he evicted the tenant on March 25, 2015 and notified PPL Electric of the same on June 6, 2015. (N.T. at 19-20). However, notification of the eviction of a tenant does not alter the bill being in the landlord's name. In fact, if the tenant has been evicted and no tenant called PPL Electric to establish service, the Landlord would remain the ratepayer of record. Complainant provided no evidence of how he fixed the foreign wiring, a copy of the fixed wiring form, or notification to PPL Electric that the wiring had been fixed and that a new ratepayer moved into the premises.

Complainant further testified that he submitted a fixed wiring form signed by Tenant **Martin**<sup>2</sup> on or about July 1, 2014. (N.T. at 21-22). However, Complainant failed to associate an

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<sup>1</sup> Complainant in his Complaint asserts objections to the transfer of an account servicing Tenant **John Hubler at 1100 Centre Street, Apartment 1 Fl. Rear, Ashland, Pennsylvania**, into his name. PPL Electric Customer Contact Representative Hoffman visited this property on June 3, 2015. (Exhibit 3A-1) At that time, he found the third floor light on this customer's meter for his first floor rear apartment. (Exhibit 3A-1). Upon confirmation of this foreign load, notification was sent to Mr. McGee on June 17, 2015 advising him of the nature of the load, the transfer of the account and balance into his name, and provided instructions for fixing the foreign load and having the account placed back into the name of the tenant. (N.T. 72, Exhibit 3A-3, 3A-4). Mr. McGee was also supplied with a copy of Act 1993-54, (Exhibit 3A-5, 3A-6), and a blank Foreign Load/Wiring Fixed Form (Exhibit 3A-7). At the time the account was removed from the name of Mr. Hubler, the outstanding balance was \$3702.01. (N.T. at 73, Exhibit 6). This balance was then transferred to Complainant as the owner. (Exhibit 7). The account was then removed from Complainant's name as of August 28, 2015, with an outstanding balance of \$3829.61. (N.T. at 76, Exhibit 7). Complainant continues to owe this amount to PPL Electric, although no further charges are being incurred.

<sup>2</sup> Complainant contends that he has corrected the foreign load in the property servicing **Robert Martin** on July 1, 2015, but the account remains in his name. (N.T. 21-22). It is believed by PPL Electric that this is the property located at **1001 Centre Street, Ashland, Pennsylvania** as PPL Electric has this address connected to tenant Heidi Martin. (Exhibit 3D-2). Mr. Hoffman also completed a foreign load investigation on this property on December 14, 2014, discovering that wiring for the light in a common use basement and two back rooms was connected to the meter servicing this tenant. (Exhibit 3D-1, 3D-2). Based on the tenant notifying Mr. Hoffman that Mr. Grebas was the landlord, (Exhibit 3D-2), notification of the foreign wiring and transfer of account was sent to Mr. Grebas on January 4, 2014. However, when it was discovered that the actual record owner was Complainant McGee, all notifications were then sent to him on June 27, 2014. (Exhibit 3D-5; 3D-6, 3D-7, 3D-8, and 3D-9). At the time the foreign wiring was discovered, tenant Martin had a balance of \$1357.09. (Exhibit 8). However, only \$848.40 was accumulated at that service address. Accordingly, the \$848.40 was transferred to Stanley Grebas (account number 98870-40056) (Exhibit 9) and then to John McGee upon discovery of his ownership (account Number 98870-40065) (Exhibit 10). This account remains in the name of Complainant and has an outstanding balance of \$13,433.03. PPL has no documentation of a fixed wiring form submitted on this account, and cannot take the account out of the name of Complainant until it receives the same. Although Complainant appears to contend he provided such a form, Complainant has provided no specifics concerning the provision of the form, copy of the form, or anything in support of his claim.

address or account number with Ms. Martin. Therefore, Complainant cannot meet his burden of proving that Complainant provided PPL Electric with notification of fixed foreign wiring or that the account remains in Complainant's name. Alternatively, PPL Electric believes that Complainant is referring to the property located at 1001 Centre Street, Ashland, Pennsylvania. However, as Complainant has provided no specifics as to how he fixed the foreign wiring or a copy of the form he submitted, it was appropriate for the ALJ to reject his testimony.

Complainant further testified that he submitted a fixed wiring form signed by Tenant **Bakum**<sup>3</sup> on or about July 1, 2014. (N.T. at 22). However, as noted by the ALJ, Complainant failed to ever provide a service address for Mr. Bakum (or account number). Accordingly, there is simply no evidence that this account is part of Complainant's Complaint or that Complainant is still receiving bills on the account.

Complainant testified that he notified PPL Electric of fixed wiring for the premises previously occupied by Linda A. **Ennis**<sup>4</sup>. (N.T. at 23). Complainant was unable to provide a date on which he provided PPL Electric with the fixed wiring form or a copy of the fixed wiring form. Accordingly, it was proper for the ALJ to reject this testimony as not credible.

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<sup>3</sup> Complainant contends that he has corrected the foreign wiring in the property serving **Steve Bakum** on January 1, 2014, but that he continues to receive bills for this property. (N.T. at 22). However, while Complainant has mentioned the name of Mr. Bakum, he has not identified an address or account number associated with this tenant's name. Without more information, there can be no finding of wrongdoing by PPL Electric. If Complainant is in fact still receiving bills for this account, he should have provided the same at the hearing.

<sup>4</sup> Complainant contends that he has corrected the foreign wiring in the property serving **Linda Ennis** at **1100 Centre Street, Apartment 2, Ashland, Pennsylvania**, but that he continues to receive bills for this property. Mr. Hoffman performed a foreign load investigation of this property on June 3, 2015. (N.T. at 37, Exhibit 3B-1). At such time, he found wiring for the first and second floor hallway light connected to the meter servicing Apartment 2. (N.T. at 38; Exhibit 3B-1). At this time, Ms. Ennis' total outstanding bill to PPL Electric was \$4,726.68. (N.T. at 39, Exhibit 13). However, of that amount, only \$1,757.44 was accumulated at this service address. Therefore, on June 17, 2015, PPL Electric sent notification to Mr. McGee that it was transferring the account into his name, as well as \$1,757.44 of Ms. Ennis' outstanding balance. (N.T. at 38; *see* Exhibit 3B-3). This account was last billed to Complainant on September 1, 2015, with a total outstanding balance of \$2080.81. (N.T. at 40; Exhibit 1D).

Finally, Complainant testified that he notified PPL Electric of fixed wiring in the premises on a vacant property located at 6 North 10<sup>th</sup> Street, Ashland, PA 17921<sup>5</sup>. (N.T. at 23-24). Mr. McGee testified that he “believes” the prior tenant for that property was Mr. Martinez. (N.T. at 24). However, Complainant was unable to provide a date on which he provided PPL Electric with the fixed wiring form or a copy of the fixed wiring form.

As is well established, the burden of proof rests with Complainant to present evidence to establish that PPL Electric violated a Rule, Regulation or Order of the Commission. Complainant was represented by well-respected counsel at the hearing, and had full rights to engage in discovery prior to the hearing if he required additional information to prosecute his case. Complainant failed to avail himself of any discovery, and rather provided no documents and relied only on vague testimony. The hearing commenced at 1:00 p.m. and concluded at 3:33 p.m. (N.T. at 6, 120). The burden rested with Complainant to present evidence of which specific accounts he was contesting, when and how he fixed the foreign wiring, when and how he notified PPL Electric of the fix, and that he was still receiving bills on the same. Complainant simply presented vague and general testimony and failed to establish such facts. Accordingly, the ALJ appropriately found he could not meet his burden.

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<sup>5</sup> Complainant contends that he has corrected the foreign wiring in the property at **6 North 10<sup>th</sup> Street Second Floor, Ashland, Pennsylvania** as of February 1, 2014, but that he continues to receive bills for this property. This was an investigation performed by Mr. Hoffman on December 14, 2013. (N.T. at 43, Exhibit 3C-1). During this investigation, Mr. Hoffman was advised by a tenant that the owner of the property was Stanley Grebas. (N.T. at 43, Exhibit 3C-2). As a result, all information concerning the detection of foreign wiring and transfer of the account was sent to Mr. Grebas. However, upon receipt of information that Mr. Grebas was not the actual owner of the property, all foreign wiring information was sent to Mr. McGee on January 3, 2015. (N.T. at 44, Exhibit 3C-3; 3C-4, 3C-5, 3C-6, 3C-7). This account was then placed into Mr. McGee’s name. Unfortunately, PPL Electric has sent an access letter to Mr. McGee on January 3, 2015 to confirm whether or not the foreign wiring remains. However, Mr. McGee did not respond to PPL Electric and did not provide access to PPL Electric to confirm whether any foreign wiring has been fixed. (Exhibit 2A; see also contact of August 17, 2015 on Exhibit 2A). As Mr. McGee has not notified PPL Electric that the foreign wiring has been fixed and has failed to respond to requests to access the property, the account remains in his name with a balance of \$3695.92. (Exhibit 1A).

3. Complainant McGee's Exception Number 3 - Complainant excepts to being held responsible for billing at "one particular property" even though PPL Electric initially sent notice of discovery of the foreign wiring to an individual improperly identified by the tenant as the Landlord. This particular Exception displays the vagueness that permeated the entire case; Complainant does not even identify which property. However, in any event, the wording of the Act as well as the intent of the Act makes it clear that Complainant must be held responsible for charges incurred while foreign wiring existed.

ACT 54 and its Applicability:

The law on foreign load is established in 66 Pa.C.S. § 1529.1. Section (a) specifically provides "*It is the duty of every owner of a residential building or mobile home park which contains one or more dwelling units, not individual meters, to notify each public utility from whom utility service is received of their ownership and the fact that the premises served are used for rental purposes.*"(Emphasis added). Complainant clearly never complied with this burden, which the statute places on the Landlord.

Several cases interpreting the meaning of key words in this provision make it clear that Act 54 applies in the instant case. It cannot be disputed that the residences owned by Complainant are "residential buildings" under the statute. A "residential building is defined by a statute as "[a] building containing one or more dwelling units occupied by one or more tenants." 66 Pa.C.S. § 1521. So long as the structure itself contains more than one dwelling unit, whether or not occupied, it remains a "residential building." Equitable Gas Co. v. Schwartzmiller, 744 A.2d 277 (Pa. Super. 1999). Moreover, the Court in Equitable Gas Co. specifically addressed who the owner of a residential building in instances of installment agreement of sale. The Court

found that where the deed owner retains all ownership in the property until the sales installment contract is completed the deed owner is the “landlord” for purposes of Act 54. Id. Accordingly, in the instant case, the fact that Complainant may have entered into an installment agreement of sale with Steven Grebas is irrelevant; until such time as the installment agreement of sale was satisfied (which it never was), Complainant remained the landlord for purpose of Act 54.

Further, our Courts have found a “foreign load” exists when a tenant’s electric meter is registering usage not exclusive to the tenant’s home. 1-A Realty v. Pa. Public Utility Commission, 63 A.3d 480 (Pa. Cmwlth. 2013). Clearly, in the instant case, Mr. Hoffman has provided credible and substantial evidence of foreign load. Complainant did not even contest such.

Section (b) of the Act further provides “***(b) History of account.--Upon receipt of the notice provided in this section, if the mobile home park or residential building contains one or more dwelling units not individually metered, an affected public utility shall forthwith list the account for the premises in question in the name of the owner, and the owner shall thereafter be responsible for the payment for the utility services rendered thereunto. In the case of individually metered dwelling units, unless notified to the contrary by the tenant or an authorized representative, an affected public utility shall list the account for the premises in question in the name of the owner, and the owner shall be responsible for the payment for utility services to the premises.***”(Emphasis added).

Our Commonwealth Court has explained the meaning of “individually metered” in 1-A Realty v. Pa. PUC as “the unit’s electric meter is registering foreign wiring. In other words, ‘the existence of foreign wiring precludes a premise from being considered ‘individually metered’ for

purposes of [Section 1529.1 of the Code].” Id. A residence is not individually metered when the unit has attached to it foreign wiring or is registering usage not exclusive to the dwelling unit or its occupants. Moreover, our Courts have consistently found that the term “shall” is mandatory, such that once foreign wiring is discovered the utility has no option but to place the account in the name of the landlord. *See Dep’t of Transp. v. McCafferty*, 758 A.2d 1155 (Pa. 2000).

Moreover, Section (c) provides “*Failure to give notice.--Any owner of a residential building or mobile home park failing to notify affected public utilities as required by this section shall nonetheless be responsible for payment of the utility services as if the required notice had been given.*” The words of this provision are clear. The duty rests with the landlord to notify PPL Electric of the affected public utilities, and the failure of the landlord to so notify PPL Electric does not relieve the landlord of responsibility. In the instant case, Complainant has alleged he should not be responsible for some of the balances as the initial notifications of foreign load and transfer of the account balances was sent to Mr. Grebas, rather than himself. However, this argument ignores the landlord’s responsibility, as a landlord, to comply with the law. There is zero evidence that Complainant ever notified PPL Electric of ownership of the buildings and the absence of individual metering. Rather, it was the tenants who notified PPL Electric. Unfortunately, several of the tenants provided the name and contact information of Mr. Grebas as their landlord. In initially transferring service with regard to two of the premises, PPL Electric relied on the tenants and sent the notifications to Mr. Grebas. It is reasonable for a utility to rely upon a tenant to know the identity of their landlord, specifically where the landlord has failed to notify the utility in compliance with Section 1529.1(a). Further, the Act 54 letter sent by PPL Electric clearly notifies the recipient “*If you are not the owner of this property,*

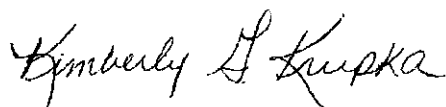
*please call us immediately.” See Exhibit 3A-3. The affirmative duty of notification rests with Complainant. Complainant clearly failed to comply with this notification requirement and now seeks to shift the responsibility to PPL Electric. Such is not permitted by the Statute.*

III. Conclusion:

PPL Electric respectfully requests Complainant’s Exceptions be denied.

Respectfully submitted,

GROSS MCGINLEY, LLP



BY: \_\_\_\_\_

KIMBERLY G. KRUPKA, ESQUIRE  
*Attorney for Respondent, PPL Electric Utilities Corporation*

Dated: June 19, 2017  
In Allentown, Pennsylvania

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOHN MCGEE,

COMPLAINANT,

VS.

PPL ELECTRIC UTILITIES CORPORATION,

RESPONDENT.

COMPLAINT DOCKET

NO. C-2016-2549952

**CERTIFICATE OF SERVICE**

This is to certify that the REPLIES 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 19<sup>th</sup> day of June, 2017

EDWARD GRECO, ESQUIRE  
660 CHESTNUT ST  
KULPMONT PA 17834

ADMINISTRATIVE LAW JUDGE  
CONRAD A JOHNSON  
PENNSYLVANIA PUBLIC UTILITY  
COMMISSION  
PIATT PLACE  
301 5TH AVENUE, SUITE 220  
PITTSBURGH PA 15222  
**VIA EMAIL ONLY**

GROSS MCGINLEY, LLP

*Kimberly G. Krupka*

By: \_\_\_\_\_  
KIMBERLY G. KRUPKA, ESQUIRE  
I.D. # 83071  
Counsel for Defendant, PPL Electric Utilities  
Corporation  
33 South 7<sup>th</sup> Street, P.O. Box 4060  
Allentown, PA 18105  
Phone (610) 820-5450