

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

MANDY BOTTS,

Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

Docket No. F-2017-2620661

**EXCEPTIONS OF PPL ELECTRIC UTILITIES CORPORATION
TO THE INITIAL DECISION (AS MODIFIED BY ERRATA NOTICE)**

AND NOW, comes the Respondent, PPL Electric Utilities Corporation (“Respondent” and/or “PPL Electric”), by and through its counsel, Gross McGinley, LLP, and files the within Exceptions to the Initial Decision, dated May 3 and served May 10, as Amended by an Errata Notice dated May 22, 2018¹, as follows:

Introduction

The Pennsylvania Administrative Code (the “Code”) provides that Exceptions may be filed by a party and served within 20 days after the initial, tentative or recommended decision is issued. 52 Pa. Code § 5.533(a). Exceptions must be “concise.” 52 Pa. Code § 5.533(c). Additionally, the Code provides that each exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision. 52 Pa. Code § 5.533(b). Further, supporting reasons for the exceptions shall follow each specific exception. *Id.*

As it pertains to the instant case, PPL Electric files the instant Exceptions due to the fact that the Administrative Law Judge (“ALJ” and/or “presiding officer”) modified her Initial

¹ The Errata Notice was mailed to Counsel of Record and not received until May 29, 2018.

Decision on May 22, 2018 to reverse the Initial Recommended Order and find that Household Income shall not include spousal and child support.

History of the Proceeding

On August 4, 2017, Mandy Botts (Ms. Botts or Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL Electric or Respondent) seeking a new payment agreement alleging her income had changed since October 28, 2016. Respondent, PPL Electric, filed its Answering confirming its agreement with the payment plan offered by the BCS. A hearing was conducted on January 23, 2018. On May 10, 2018, ALJ Dunderdale issued an Initial Decision finding “Complainant failed to prove the total monthly income available to her household should not include the spousal support and child support payments which her husband is court-ordered to pay. 66 Pa.C.S.A. § 332(a); 66 Pa.C.S.A. § 1403, and § 1405(b)(1)” and thereby denied the Complaint filed by Mandy Botts. (Initial Decision, pg. 11, Conclusion of law 6 and Ordering Paragraph 1). However, on May 22, 2018, ALJ Dunderdale issued an Errata Notice which changed the Conclusions of Law as well as the Ordering Paragraphs, and in fact reversed the ultimate Order in the case. Specifically, Conclusion of Law No. 6 was rewritten to state: “Complainant proved the total monthly income available to her household should not include the spousal support and child support payments which her husband is court-ordered to pay. 66 Pa.C.S.A. § 332(a); 66 Pa.C.S.A. § 1403, and § 1405(b)(1)” (Errata Notice dated May 22, 2018). Further, Ordering Paragraph number 1 was reversed to state: “That the Formal Complaint filed by Mandy Botts against PPL Electric Utilities Corporation and Direct Energy Services, LLC at Docket No. F-2017-2620661 is sustained as to the allegations against PPL Electric Utilities Corporation.” (Errata Notice dated May 22, 2018). Further, Complainant was provided

with a sixty (60) month payment arrangement. While PPL Electric does not specifically except to a payment arrangement being provided to Complaint, PPL Electric does take exception to the Conclusion of Law, and corresponding Ordering Paragraph, which finds that spousal support and child support shall not be included in household income.

First Exception

The Order and Opinion, as Amended by the Errata Notice, improperly fails to include spousal support and child support as “Household Income.” (Exception to Conclusions of Law 6 & 7, Ordering paragraph 1)

In the Initial Decision as amended by the Errata Notice, the ALJ found Complainant met her burden of proof regarding entitlement to a lower payment arrangement by proving that the total monthly income available to her household should not include the spousal support and child support payments which her husband is court-ordered to pay. *See* Errata Notice, pg. 1, Conclusion of Law 6, 7, and Ordering Paragraph 1. Complainant has confirmed that she is court ordered to receive \$752 per month in child support and \$752 per month in spousal support, in addition to \$130 per month in arrearage payments. (Initial Decision, Finding of Fact No. 10). Further, the ALJ found that “Complainant’s husband pays his monthly support obligation but often does not pay on a timely basis.” (Initial Decision, Finding of Fact No. 11). In addition, Complainant testified that she receives Social Security Disability of \$1,016 per month for herself, \$188 per month for her son and \$208 per month for her daughter. (Initial Decision, Finding of Fact No. 6). The BSC therefore calculated Ms. Botts’ income at \$2,933.85 per month. All of the income available to Ms. Botts, inclusive of social security disability, spousal support and child support should be included as “household income” for purposes of granting and calculating any payment arrangement.

PPL Electric agrees that the PUC has the authority to establish payment arrangements between PPL and customers within the parameters set forth in 66 Pa. C.S. § 1405. Specifically,

Pennsylvania statutory law provides for four (4) income levels and corresponding time limits of the length of payment arrangement for each level ranging from six months to five years. 66 Pa.S.C. § 1405(b). In determining the length of payment arrangement, the PUC is to determine the ratepayer's "gross monthly household income." *Id.* Moreover, the Responsible Utility Customer Protection Act defines "Household Income" as the combined gross income of all adults in a residential household who benefit from the public utility service." 66 Pa.C.S. § 1403.

As a three person household, the applicable 2018 federal poverty guideline for Ms. Botts is \$20,780 per year, or \$17311.67 per month. When the disability payments, spousal support and child support paid to Ms. Botts is calculated, she is between 150% and 250% of the Federal Poverty Level. (150% of the Federal Poverty Level for a three person household is \$2597.50). It is only when spousal support and child support is removed from the calculation does Ms. Botts fall below the 150% of Federal Poverty Guidelines.

Household income must include the spousal support and child support paid to the adult resident of the household. Both forms of support are paid to the adult within the home. Child support is to be used for the reasonable expenses of raising a child, inclusive of food, shelter, childcare, education, as well as the recreational activities. *Litmans v. Litmans*, 673 A.2d 382 (Pa. Super. 1996). Child support is the transfer of money from the non-custodial parent to the custodial parent for very purpose of providing for items such as electricity. The entire goal of child support is for the child to be raised in as similar a financial manner as if the parents were married – so that the child benefits from the financial income of his or her parents. The support provided to Ms. Botts is paid by Ms. Bott's ex-husband and unquestionably would be considered income if Mr. and Ms. Botts had been living together. Accordingly, there is no basis upon which

to determine that monies paid pursuant to a child support and/or spousal support award should not be included as “household income.”

Further, to the extent the Order was issued due to Ms. Botts receiving the support late some months, such should not be a basis for exclusion. Ms. Botts clearly testified that she does receive the support payments. The calculation of household income is not performed weekly or even biweekly. In general, Ms. Botts is receiving both child support and spousal support, and both are available for payment of household expenses. An order eliminating occasional late support payments from the entire calculation of “household income” is fundamentally unfair. To the extent support payments are delayed, Ms. Botts have avenues for redress. Further, the entire exclusion of support payments from “household income” would potentially lead to many high income households² becoming eligible not only for extended payment arrangements but likewise Customer Assistance Programs wherein eligibility is determined on household income. As both spousal and child support is paid to the adult in the home to be used for the household needs, neither is intended to be excluded from “household income.”

Conclusion

In light of the foregoing, PPL Electric Utilities Corporation respectfully requests that the

² Many custodial parents receive substantial spousal and/or child support payments. When such payments are included, they become Level 4 households eligible for a six (6) month payment arrangement. However, when such support payments are excluded, they may fall into a Level 1 payment arrangement.

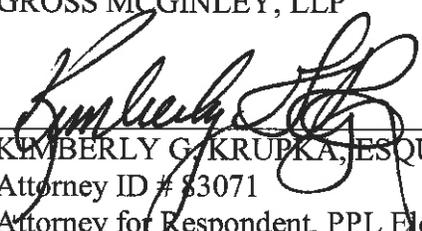
Public Utility Commission grant these Exceptions and not adopt the ALJ's Initial Decision.

Respectfully submitted,

DATE 06/04/2018

GROSS MCGINLEY, LLP

BY: _____


KIMBERLY G. KRUPKA, ESQUIRE

Attorney ID # 83071

Attorney for Respondent, PPL Electric
Utilities Corporation

33 S. Seventh Street; P O Box 4060

Allentown PA 18105-4060

Ph. (610) 820-5450; Fax (610) 820-6006

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MANDY BOTTS,

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COMPLAINT DOCKET

NO. F-2017-2620661

CERTIFICATE OF SERVICE

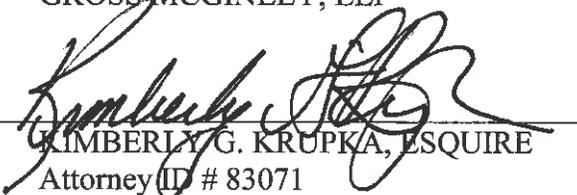
This is to certify that the EXCEPTIONS of PPL ELECTRIC UTILITIES CORPORATION to THE INITIAL DECISION was mailed to counsel/complainant of record on behalf of Respondents by first class United States mail, postage on this the 4th day of June, 2018.

MANDY BOTTS
9 SMOKEHOUSE LANE
SHAMOKIN DAM, PA 17876

ADMINISTRATIVE LAW JUDGE ELIZABETH BARNES
NORTH COMMONWEALTH KEYSTONE BUILDING
400 N STREET 2ND
HARRISBURG, PA 17121

GROSS MCGINLEY, LLP

BY:


KIMBERLY G. KRUPKA, ESQUIRE
Attorney ID # 83071

Attorney for Respondent, PPL Electric
Utilities Corporation
33 S. Seventh Street; P O Box 4060
Allentown PA 18105-4060
Ph. (610) 820-5450; Fax (610) 820-6006