

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MANDY BOTTS,

COMPLAINANT,

VS.

PPL ELECTRIC UTILITIES CORPORATION,

RESPONDENT.

COMPLAINT DOCKET

NO. F-2017-2620661

**MOTION OF PPL ELECTRIC UTILITIES CORPORATION FOR LEAVE, NUNC PRO
TUNC, TO FILE EXCEPTIONS**

Movants, PPL Electric Utilities Corporation, by their attorneys, Gross McGinley, LLP, hereby file this Motion for leave to file Exceptions *nunc pro tunc* to the May 10, 2018 Initial Decision, as modified and Order reversed by the May 22, 2018 Errata Notice, and in support thereof aver:

1. Movant is PPL Electric Utilities Corporation.
2. Respondent is Mandy Botts, ratepayer.
3. Complainant commenced an action against PPL Electric by filing a Complaint on August 4, 2017 in which she sought a new payment agreement.
4. Following a hearing held on January 23, 2018, ALJ Dunderdale issued an Initial Decision on May 10, 2018.
5. The Initial Decision of May 10, 2018 denied Complainant's Complaint against Respondent, PPL Electric and marked the docket closed. As the Complaint was dismissed, PPL Electric did not intend to file Exceptions. A true and correct copy of the Initial Decision is attached hereto as Exhibit "A" and incorporated herein.

6. On May 22, 2018, ALJ Dunderdale issued an Errata Notice which reversed the findings set forth in Conclusions of Law 6 and 7 and Ordering Paragraphs 1 through 3, which in essence sustained the Complaint against PPL Electric. A true and correct copy of the Errata Notice is attached hereto as Exhibit "B" and incorporated herein.

7. Counsel for PPL Electric did not receive the Errata Notice until May 29, 2018. (The Errata Notice was mailed, and due to the intervening holiday counsel's office was not open Saturday May 26 through Monday May 28).

8. As the Errata Notice reverses the Initial Decision, and holds that spousal support and child support payments should not be included as Household Income, Respondent seeks to have Exceptions to the Initial Decision considered by the Commission.

9. 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).

10. Although the Initial Decision was issued on May 10, 2018, the Errata Notice fundamentally changed the decision of the ALJ. Accordingly, it is the position of Respondent, PPL Electric, that the time period for filing Exceptions shall not expire until June 11, 2018. Accordingly, Respondent has filed its Exceptions.

11. However, in an abundance of caution, to the extent the deadline for filing Exceptions is deemed to have expired on May 30, 2018, Respondent, PPL Electric, seeks permission to the file Exceptions, attached hereto as Exhibit "C", nunc pro tunc.

12. As Respondent, PPL Electric, had no reason to file Exceptions to the Initial Decision (which dismissed the Complaint), and the Errata Notice reversed the Initial Order,

fundamental fairness would require that Respondent be permitted to file Exceptions within less than one week of the date it received the Errata Notice.

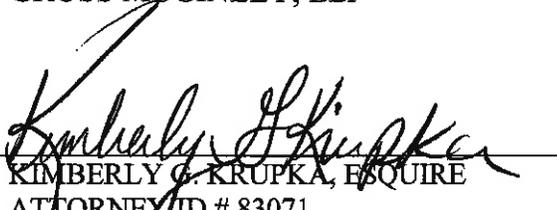
WHEREFORE, Movant, PPL Electric Utilities Corporation, prays Your Honorable Court to enter an Order granting it leave, nunc pro tunc, to Exceptions in the form attached to this Motion as Exhibit "A".

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,

Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

COMPLAINT DOCKET

NO. F-2017-2620661

CERTIFICATE OF SERVICE

This is to certify that the MOTION OF PPL ELECTRIC UTILITIES CORPORATION FOR LEAVE, NUNC PRO TUNC, TO FILE EXCEPTIONS 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 KATRINA L. DUNDERDALE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
PIATT PLACE, SUITE 220
301 5TH AVENUE
PITTSBURGH, PA 15222

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

EXHIBIT "A"



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

IN REPLY PLEASE
REFER TO OUR FILE

May 10, 2018

F-2017-2620661

Mandy Botts

v.

PPL Electric Utilities Corporation, and
Direct Energy Services, LLC

Enclosed is a copy of the Initial Decision of the Office of Administrative Law Judge.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Your signed Exceptions to the decision, if any, must be: 1) filed with the Secretary of the Commission, and 2) mailed or hand-delivered to each party of record, within twenty (20) days of the date of this letter.

To file Exceptions with the Secretary of the Commission, you must mail or hand-deliver them as follows:
If using U.S. Postal Service: If using Overnight or Hand Delivery Service:

Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Secretary
Pa. Public Utility Commission
400 North Street
Commonwealth Keystone Building, 2nd Floor
Harrisburg, PA 17120

Or, instead of mailing or hand-delivering your Exceptions, you may electronically file them with the Secretary of the Commission. To do so, you need to establish an account on the Commission's eFiling system, which may be accessed at <http://www.puc.state.pa.us/efiling/default.aspx>. Please note that Exceptions sent to the Commission by fax or e-mail will not be accepted for filing.

In addition to filing your Exceptions with the Secretary of the Commission, a courtesy copy of your Exceptions should be e-mailed to the Commission's Office of Special Assistants (OSA) at ra-OSA@pa.gov. If the document is too large to e-mail, please mail or hand-deliver a copy on CD-ROM or DVD (or other data storage media), in Microsoft Word 2010 format or other compatible format to either address noted above.

Replies to Exceptions, if any, must be filed with the Secretary of the Commission and served on each party of record and the Commission's OSA, in the manner described above. They are due within ten (10) days of the date when Exceptions are due.

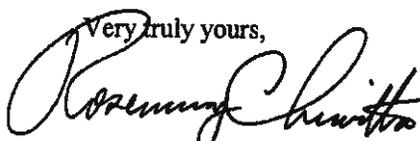
It is your responsibility to serve all the parties with your Exceptions and Replies to Exceptions. Failure to do so may render your filing unacceptable. A certificate of service (see format in 52 Pa. Code §1.58) shall be attached to the filed Exceptions or Replies to Exceptions.

Exceptions and Replies to Exceptions shall follow 52 Pa. Code §§5.533 and 5.535 particularly the 40-page limit for Exceptions and the 25-page limit for Replies to Exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)". Any reference to specific sections of the Administrative Law Judge's Initial Decision shall include the page number(s) of the cited section of the decision.

If no Exceptions are received, the decision of the Administrative Law Judge could become final without further Commission action. You will receive written notification if this occurs. However, even if no exceptions are received, the Commission may review and change the decision pursuant to Section 332(h) of the Public Utility Code, 66 Pa. C.S. § 332(h).

JF

Enclosures
Certified Mail
Receipt Requested

Very truly yours,

Rosemary Chiavetta
Secretary

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Mandy Botts

v.

PPL Electric Utilities Corporation, and
Direct Energy Services, LLC

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F-2017-2620661

INITIAL DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

This decision grants the request for a payment arrangement because Complainant proved her monthly income was calculated incorrectly and she was entitled to a lower payment arrangement.

HISTORY OF THE PROCEEDING

On August 4, 2017, Mandy Botts (Ms. Botts or Complainant) filed a timely formal complaint against PPL Electric Utilities Corporation (PPL or Respondent) and Direct Energy Services, LLC (Direct Energy).¹ Ms. Botts' formal complaint requests a payment

¹ On January 23, 2018, Direct Energy filed a Certificate of Satisfaction which indicated Ms. Botts no longer wished to pursue her formal complaint against Direct Energy. Ms. Botts did not object to the Certificate of Satisfaction. Direct Energy did not participate in the initial hearing.

agreement² because her income has changed since October 28, 2016 and she is only living with her two children since her husband was evicted on a Protection From Abuse (PFA) order.³

On September 11, 2017, Respondent filed an Answer and averred it provided Ms. Botts with the most advantageous payment arrangement to which she was entitled. PPL averred it agreed with the payment arrangement, as outlined by the Bureau of Consumer Services (BCS) at BCS No. 3511032, which directs Complainant to pay her currently monthly budget bill plus \$278 per month towards arrearages.

On October 31, 2017, Direct Energy filed an Answer in which Direct Energy admitted Ms. Botts had been a customer of its retail electric generation service but denied that Direct Energy had violated the Commission's statutes, regulations or provisions.

On November 29, 2017, the Office of Administrative Law Judge issued a Call-In Telephone Hearing Notice, which scheduled a telephonic initial hearing to be conducted on Tuesday, January 23, 2018. On December 1, 2017, the presiding officer issued a Prehearing Order which, *inter alia*, advised the parties concerning various procedural matters, including how to request a continuance, and that Complainant was responsible to prove the facts she alleged in her formal complaint.

On January 23, 2018, the presiding officer convened the initial hearing as scheduled. Complainant appeared *pro se*. Respondent was represented by Graig M. Schultz, Esquire. Complainant presented testimony from herself but did not offer any exhibits. Respondent presented the testimony of one witness, and offered four exhibits, marked and

² Complainant specifically requested a "payment agreement" because that is the term used in the Commission's formal complaint form. Pursuant to 66 Pa.C.S.A. §1401, *et seq.*, the appropriate term to use is "payment arrangement." For purposes of this Initial Decision, it is assumed Complainant wants a "payment arrangement."

³ On December 1, 2017, the presiding officer issued the Interim Order Directing Complainant to Produce Protection From Abuse Order. Ms. Botts' original filing indicated there was a PFA Order in place but it was unclear if the PFA Order remained in effect. Ms. Botts was directed to provide a true and correct copy of the Court-issued PFA Order that was currently in effect on or before December 15, 2017. At the initial hearing, Complainant advised that the PFA Order had expired.

admitted as PPL Exhibits 1 through 4. Complainant and Respondent issued final statements on the hearing record in lieu of filing briefs.

On March 2, 2018, the presiding officer issued the Interim Order Closing the Hearing Record after receiving the transcript of the hearing, containing 69 pages.

FINDINGS OF FACT

1. Complainant, Mandy Botts, resides with her two children in a detached, single-family ranch-style home located at 9 Smoke House Lane, Shamokin Dam, Pennsylvania (service address), which residence she has owned for approximately 12 years. (Tr. 13, 14, 32; PPL Exhibit 1).
2. Respondent, PPL Electric Utilities Corporation, provides electric distribution service to the service address. (PPL Exhibit 1).
3. Respondent Direct Energy Services, LLC provided electric generation supply services to the service address from October 2015 to July 2017. (PPL Exhibit 1).
4. Complainant has resided alone with her two minor children since October 28, 2016. (Tr. 5, 14, 44).
5. Complainant has qualified for disability benefits since 2008. (Tr. 38).
6. Complainant's disability benefits in 2017 typically were \$1,016 for herself, plus \$188 for her son and \$208 for her daughter each month. (Tr. 18, 19).
7. As of the date of the hearing, Complainant did not know if she would receive Social Security disability benefits for herself in 2018 totaling \$882 monthly (if Social Security paid her Medicare benefits), or \$1,036 monthly (if Social Security did not pay for her Medicare benefits. (Tr. 17, 18).

8. In addition to her 2018 monthly disability payments for herself, Complainant expects to receive additional monthly sums from Social Security totaling \$213 for her daughter and \$193 for her son. (Tr. 20).

9. Complainant sued her husband for spousal and child support on November 1, 2016 but did not receive any support payments until January 2017. (Tr. 28, 29).

10. Complainant's husband was ordered to pay \$752 per month in child support and \$752 per month in spousal support in addition to paying an additional \$130 each month to pay off arrears which arrears total approximately \$2,000. (Tr. 25, 26).

11. Complainant's husband pays his monthly support obligation but often does not pay on a timely basis. (Tr. 26-29).

12. Complainant's available monthly household income totals \$1,634 which includes \$882 in Social Security benefits plus \$752 in spousal support payment⁴ for a household consisting of one adult and two minor children. (Tr. 17-26).

13. Complainant pays \$845 monthly for the mortgage on the service address. (Tr. 31).

14. Complainant has electric heat at the service address and sets her thermostat at 65 degrees. (Tr. 30-32).

15. Complainant typically pays \$200 to \$300 per month for electricity during the winter months. (Tr. 31, 32).

16. Complainant pays \$160 per month for a car payment. (Tr. 33).

⁴ The spousal support obligation originally included an additional payment of \$130 monthly paid towards the \$2,000 arrearage. Those payments stopped after 16 months. A portion of those arrears payments were for spousal arrears but are not included here because the arrears payments were to stop after 16 months.

17. Complainant pays \$150 per month for cell phone service plus \$60 per month for internet service. (Tr. 33).
18. Complainant pays approximately \$60 per month for water and sewer service. (Tr. 36).
19. Complainant received \$377 monthly in food stamps until August 2017. (Tr. 37).
20. In February 2016, Complainant and her husband received a payment arrangement from the Bureau of Consumer Services which determined their household with 3 adults and 2 children qualified as a Level 2 household with income in excess of \$4000 per month. (Tr. 44).
21. On June 16, 2017, the Bureau of Consumer Services (BCS) determined (at Case No. 3511032) Complainant's household income included disability and support payments for both Ms. Botts and her two minor children. BCS calculated \$2,933.85 per month was the monthly income for the household. (Tr. 50-52, 54; PPL Exhibit 4).
22. BCS determined Complainant qualified for a Level 2 payment arrangement and required Ms. Botts to pay the budget bill (\$259) plus \$278 per month on the arrearage. (Tr. 39-43, 50-52; PPL Exhibit 4).
23. The last time Complainant made consistent payments on her PPL account was from March 2016 to August 2016 when Ms. Botts paid 5 out of the 6 months. (Tr. 64).
24. The last successful payment Complainant made on her PPL account was when she paid \$132 on October 21, 2016. (Tr. 50; PPL Exhibit 1).

25. Prior to the initial hearing, Complainant's account balance totaled \$11,571.88, her budget bill amount was \$224 per month and PPL expected her to pay an additional \$278 per month to reduce the outstanding account balance. (Tr. 49; PPL Exhibit 1).

26. A Level 1 payment arrangement to pay off an outstanding account balance totaling \$11,571.88 would require Complainant to make 60 equal monthly payments, or \$192.86 per month.

27. Complainant has received 13 Company payment arrangements since 2008. (Tr. 55; PPL Exhibit 3).

28. Complainant received three payment arrangements from BCS in the last four years but none since the PFA Order was issued in October 2016. (PPL Exhibit 3 & 4).

29. Complainant has defaulted on or failed to keep all prior payment arrangements. (Tr. 55; PPL Exhibit 3).

DISCUSSION

Complainant argues she should only have to pay what she can afford for her current electricity usage. Complainant contends she cannot afford to make payments routinely every month and she would like to pay more when she receives her divorce settlement. Complainant asks the Commission to order PPL to do an income verification that is correct and which does not include support payments from her husband.

Respondent contends it made many good faith efforts to work with Ms. Botts with many prior payment arrangements. PPL avers it correctly determined Ms. Botts' income was a Level 2 income, which income level Complainant confirmed in March 2017 during her informal complaint process. PPL asks that the Commission issue a payment arrangement for a Level 2 income if the Commission decides to provide Complainant with a payment arrangement.

Burden of Proof

As the party seeking affirmative relief from the Commission, Complainant bears the burden of proving by substantial evidence she is entitled to the requested relief. 66 Pa.C.S.A. § 332(a). To satisfy this burden, Complainant must show Respondent utility is responsible or accountable for the problem described.⁵ Complainant must show this fact to be true by a preponderance of the evidence, that is, by presenting evidence more convincing, by even the smallest amount, than that evidence presented by the other party.⁶ Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence.⁷ Furthermore, more evidence is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.⁸

Payment Arrangement

The Responsible Utility Customer Protection Act, 66 Pa.C.S.A. § 1401 *et seq.* (the Act or Chapter 14), applies to this proceeding because, although Ms. Botts had a PFA Order, that PFA Order has expired.⁹ This law provides strict guidelines that the Commission must follow in handling customer complaints. The issue presented by this complaint is whether Complainant is entitled to a Commission-ordered payment arrangement with monthly payments lower than the one outlined by the Bureau of Consumer Services, pursuant to Section 1405 of the Code. 66 Pa.C.S.A. § 1405.

⁵ Patterson v. Bell Telephone Co. of Pa., 72 Pa. PUC 196 (1990); Feinstein v. Philadelphia Suburban Water Co., 50 Pa. PUC 300 (1976).

⁶ Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n., 578 A.2d 600 (Pa.Cmwlth. 1990), *alloc. den.*, 602 A.2d 863 (Pa. 1992); Se-Ling Hosiery v. Margulies, 70 A.2d 854 (Pa. 1950).

⁷ Mill v. Pa. Pub. Util. Comm'n., 447 A.2d 1100 (Pa.Cmwlth. 1982); Edan Transportation Corp. v. Pa. Pub. Util. Comm'n., 623 A.2d 6 (Pa.Cmwlth. 1993); 2 Pa.C.S.A. § 704.

⁸ Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n., 413 A.2d 1037 (Pa. 1980); Erie Resistor Corp. v. Unemployment Compensation Bd. of Review, 166 A.2d 96 (Pa. Super. 1960); Murphy v. Dep't. of Public Welfare, White Haven Center, 480 A.2d 382 (Pa.Cmwlth. 1984).

⁹ See 66 Pa.C.S.A. § 1417.

By law, a public utility is entitled to receive payment for the service it provides.¹⁰ Otherwise, unpaid bills are included in the utility's uncollectible expenses, which all of its remaining customers must pay.¹¹ No public utility may receive a greater or lesser rate than the one set forth in its tariff on file with this Commission.¹² Neither may a public utility unreasonably discriminate for or against a particular customer by establishing a special rate for them.¹³

Any decision in this proceeding must be consistent with the provisions of the *Responsible Utility Customer Protection Act* (Act 201)¹⁴, which directs how the Commission must establish any payment arrangement. "Payment Arrangement" is defined as:

An agreement whereby a customer who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.¹⁵

Section 1405(a) in Title 66 of Pennsylvania Statutes Annotated authorizes the Commission to investigate complaints regarding payment disputes between a public utility (such as PPL) and its customers (such as Complainant). This statute authorizes the Commission to establish payment arrangements between a public utility and its customers.¹⁶ In addition, the Public Utility Code permits the Commission to grant one payment arrangement and dictates its

¹⁰ Scaccia v. West Penn Power Company, 55 Pa. PUC 637 (1982).

¹¹ Bolt v. Duquesne Light Company, Docket No. Z-8712758 (Order entered April 8, 1988).

¹² See 66 Pa.C.S.A. § 1303.

¹³ See 66 Pa.C.S.A. § 1304.

¹⁴ The Responsible Utility Customer Protection Act ("Act 201") became effective on December 14, 2004, and enacted Chapter 14 of the Public Utility Code, 66 Pa.C.S. § 1401 *et seq.* Per P.L. 2545, No. 155, § 8, Act 201 became effective to December 31, 2024.

¹⁵ See 66 Pa.C.S.A. § 1403.

¹⁶ 66 Pa.C.S.A. § 1405(a).

terms.¹⁷ Absent a change in income, the Commission cannot grant a second or subsequent payment arrangement, if the customer defaults on the first payment arrangement.¹⁸

Based on the evidence presented, Complainant proved that her monthly income from Social Security totals \$882 for herself and she receives an additional \$752 from her estranged husband for spousal support. A court ordered these support payments for her benefit in addition to child support payments for the minor children. Complainant alleged she often gets her support payments late but she acknowledged she received the support payments eventually. For that reason, it is appropriate to assume her monthly income includes the support payments she received.

Under 66 Pa.C.S.A. § 1403, household income is defined as the “combined gross income of all adults in a residential household who benefit from the public utility service.” Using that definition, Ms. Botts’ monthly income qualifies as a Level 1 income under the Federal poverty guidelines.

The evidence also showed Complainant does not have an excessive debt load, which might interfere with her ability to pay for her electric service, but she did experience a change in income. Pursuant to 66 Pa.C.S.A. § 1403, a change in income is defined as when a household experiences a decrease in household income of 10% or more when the customer’s household income level was 200% or less of the Federal poverty level. Prior to her husband leaving the household, Ms. Botts’ household income qualified as less than 200% of the Federal poverty level. However, now Ms. Botts’ household income qualifies as less than 135% of the Federal poverty level.

Under the Federal Poverty Income Guidelines, total monthly income of \$1,634 for a three-person household qualifies as Level 1 income, which gives Ms. Botts five years in which

¹⁷ 66 Pa.C.S.A § 1405(b).

¹⁸ 66 Pa.C.S.A. § 1405(d).

to pay off the outstanding account balance. The outstanding account balance Ms. Botts owed at the time of the hearing in January 2018 was over \$11,000. With five years in which to pay off that balance, Ms. Botts would have to pay an additional \$192.86 each month in order to pay down what she owes PPL, instead of the \$278 per month ordered by BCS at BCS No. 3511032.

Ms. Botts does not contest that she has to pay off the outstanding balance. Ms. Botts also does not deny she uses electricity for which she must pay. What is also notable is that Ms. Botts had not made a single payment on her account for over 14 months prior to the hearing. As noted in Scaccia v. West Penn Power Company, supra, and Bolt v. Duquesne Light Company, supra, PPL is entitled to receive payment for the electric service it provided and continues to provide to Ms. Botts and her children. When Ms. Botts does not pay towards the cost of her electric service, her unpaid bills are included in PPL's uncollectible expenses, which all of PPL's remaining customers must pay.

Complainant's request in this proceeding is that she thought her income was lower than the utility thinks her income is and she wants the Commission to order PPL to accept whatever she can afford. Complainant is correct.

Complainant bears the burden of proving she is entitled to a lower payment arrangement than the one established by BCS. She met that burden. Instead of paying the budget amount plus \$278 per month (as determined by BCS), Ms. Botts is entitled to pay the budget amount plus \$192.86 per month. Accordingly, the formal complaint is granted in the ordering paragraphs to follow because Complainant met the burden of proof that she is entitled to a new lower payment arrangement than the payment arrangement established at BCS No. 3511032.

CONCLUSIONS OF LAW

1. This Commission has jurisdiction over the parties to and subject matter of this case. 66 Pa.C.S.A. § 701.

2. Complainant has the burden of proving she is entitled to a lower payment arrangement than the one provided by the Bureau of Consumer Services. 66 Pa.C.S.A. § 332(a).

3. The Responsible Utility Customer Protection Act, 66 Pa.C.S.A. § 1401 *et seq.*, applies to this proceeding.

4. The Public Utility Code permits the Commission to grant one payment arrangement and dictate its terms. 66 Pa.C.S.A. § 1405(b).

5. “Household Income” is defined as the combined gross income of all adults in a residential household who benefit from the public utility service. 66 Pa.C.S.A. § 1403.

6. 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).

7. Complainant failed to prove she is entitled to a lower payment arrangement. 66 Pa.C.S.A. § 332(a); 66 Pa.C.S.A. § 1405(b)(1).

ORDER

THEREFORE,

IT IS ORDERED:

1. 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 denied as to the allegations against PPL Electric Utilities Corporation.

EXHIBIT

"B"

2. Complainant has the burden of proving she is entitled to a lower payment arrangement than the one provided by the Bureau of Consumer Services. 66 Pa.C.S.A. § 332(a).

3. The Responsible Utility Customer Protection Act, 66 Pa.C.S.A. § 1401 *et seq.*, applies to this proceeding.

4. The Public Utility Code permits the Commission to grant one payment arrangement and dictate its terms. 66 Pa.C.S.A. § 1405(b).

5. "Household Income" is defined as the combined gross income of all adults in a residential household who benefit from the public utility service. 66 Pa.C.S.A. § 1403.

6. 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).

7. Complainant proved she is entitled to a lower payment arrangement. 66 Pa.C.S.A. § 332(a); 66 Pa.C.S.A. § 1405(b)(1).

ORDER

THEREFORE,

IT IS ORDERED:

1. 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.

EXHIBIT

"C"

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.

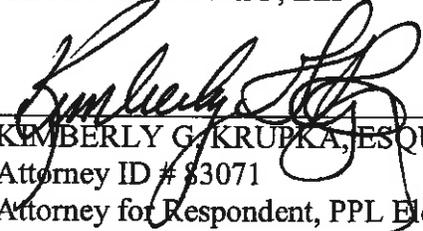
Public Utility Commission grant these Exceptions and not adopt the ALJ's Initial Decision.

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,

Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

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 KATRINA L. DUNDERDALE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
PLATT PLACE, SUITE 220
301 5TH AVENUE
PITTSBURGH, PA 15222

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