

September 27, 2019

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SEP 26 2019

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Keystone Bldg. 2<sup>nd</sup> Floor W  
400 N. Street  
Harrisburg, PA 17120

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

RE: Kindsvater v. Duquesne Light Company  
Docket No. C-2018-3006809

Dear Secretary Chiavetta:

Enclosed please find my response to Duquesne Light Company's New Matter to the Formal Complaint filed by myself. A copy of this document has been mailed to Ms. Emily M. Farah, Esq.

Please contact me with any questions, comments or concerns.

Sincerely,

  
Kenneth Kindsvater

325 Squire Circle

Pittsburgh, PA 15212

412-481-6000 Office

[Kenneth.kindsvater@verizon.net](mailto:Kenneth.kindsvater@verizon.net)

September 27, 2019

Emily M. Farah, Esquire

Mail drop 15-7

411 Seventh Avenue, 15 Fl.

Pittsburgh, PA 15219

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SEP 26 2019

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Kenneth Kindsvater, Complainant,

Vs

Re: Docket No: C-2019-3012351

Duquesne Light Company, Respondent,

Dear Ms. Farah,

I am in receipt of your answer and new matter to formal complaint dated September 9, 2019. This letter is in response to your request for my written response to the "New Matter" within the 20 days that was introduced in your response.

#10 Admitted.

#11 Admitted, upon information and belief.

#12 Admitted, upon information and belief.

#13. Admitted.

#14. Admitted.

#15 Partially Denied. Duquesne Light transferred the affected tenant's account balance accrued at the property for Apartment 617A but did so incorrectly. Transfer should have been effective the date of discovery that foreign load existed on the tenant's meter. *Afshari v. PPL Electric Utilities Corporation*, Docket No. C-20055547 (April 9, 2008).

As stated below in the "Statements of Policy Pennsylvania Public Utility Commission (52 PA. Code Ch.69) & Annex A, Title 52, Subpart C, Chapter 69 regarding RESOLUTION OF GENERIC ISSUES INVOLVING 66 PA.C.S. § 1529.1

**§ 1529.1. Duty of owners of rental property.**

**(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 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.

Numerous complaints involving foreign load have been filed since the enactment of section 1529.1. Because the complaints involve recurring issues, we believe that it is appropriate to develop a policy statement to provide guidance to interested parties on these issues<sup>3</sup>.

## **Annex A**

### **TITLE 52. PUBLIC UTILITIES**

#### **PART I. PUBLIC UTILITY COMMISSION**

##### **Subpart C. FIXED SERVICE UTILITIES**

#### **CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES**

##### **RESOLUTION OF GENERIC ISSUES INVOLVING 66 PA.C.S. § 1529.1**

**§ 69.276. Responsibility for unpaid tenant balances on accounts; date for backbilling building owner/building owner.**

(c) Unpaid balances for utility service rightfully the responsibility of the building owner because of the presence of foreign load that accrued since the date the building owner received constructive notice of the foreign load should be transferred to the building owner.

**§ 69.278. Foreign load issues after restructuring of the electric and gas industries.**

(e) (1) The supplier may transfer to the building owner unpaid balances for electric generation or natural gas supply accrued since the effective date of an existing tenant-supplier agreement or contract, but no earlier than the date of constructive notice of the foreign load to the building owner.

#### **SEE EXHIBIT F of Keystone Connection Autumn 2007**

#16 Admitted.

#17 Admitted.

#18 Partially Denied. – See #15 above –McSorley v. PECO Energy Co., Docket No. C-2016-2565864 addressed only the fact that landlord was responsible for the foreign load AND could not have tenant through lease pay charges where foreign load exists.

The complainant accepts that the property owner is responsible for the foreign load, but only once the foreign load was discovered and brought to the attention of landlord AND only those charges accrued after the discovery date of the foreign load as per 1529.1.(b), 69.276(c), 69.278(e)(1).

- #19 Partially Denied – Complainant agrees to the responsibility of the landlord for the charges accrued on the tenant’s account prior to the correction of the foreign load, but only from the date of discovery and thereafter. See Afshari v. PPL Electric Utilities Corporation No. C-20055547 (April 9, 2008)

Ms. Farah based upon my interpretation of the PUC statutes as it is currently written, my position with regards to the responsibility for the electric charges incurred in the 617A apartment unit are only those charges incurred after the July 13<sup>th</sup>, 2018 date of foreign wiring discovery. If this is still not acceptable to your office and Duquesne Light, then I welcome the opportunity to discuss an amicable resolution to this matter with the Administrative Law Judge, Special Agent or mediator.

Sincerely,

A handwritten signature in black ink that reads "Kenneth Kindsvater". The signature is written in a cursive style with a large initial "K".

Kenneth Kindsvater

325 Squire Circle

Pittsburgh, PA 15212

[Kenneth.kindsvater@verizon.net](mailto:Kenneth.kindsvater@verizon.net)

412-481-6000 Office

## Foreign Load Case Decided

PPL consumers reported that three light bulbs, which were located in a common area of the rental property where they lived, were being charged to their electric meter. When a ratepayer's meter registers usage for utility service provided for use in a common area of a building, such as hallway lighting, this is called "foreign load." Upon determining that the consumers/tenants were correct about the foreign load, PPL transferred their entire bill (including an unpaid balance) to the landlord's account. In this particular case (Docket No. C-20055547), the landlord corrected the foreign load problem a month after it was discovered and had the three light bulbs moved to their own meter. The landlord then filed a formal complaint against PPL objecting to the transfer of the tenant's entire household bill that accrued prior to the foreign load discovery.

After hearing, the PUC's administrative law judge (ALJ) determined that, under 66 Pa. C.S. § 1529.1(b), the transfer of the entire balance to the landlord's account was appropriate and that the landlord was responsible for paying the entirety. The ALJ also faulted PPL for allowing the tenants to accrue a balance exceeding \$1,000 and assessed the company a civil penalty of \$700.

PPL filed exceptions to the ALJ's decision, and by order entered on Aug. 15, 2007, the PUC reversed the ALJ's decision. In so ruling, the Commission determined that subsection 1529.1(b) of the Code is silent as to who has the responsibility for payment of any unpaid balance due for usage prior to the discovery of foreign load. Rather, the statute requires that once foreign load is identified, the utility must list the account in the name of the owner and "[t]he owner shall thereafter be responsible for the payment for the utility services rendered thereunto." 66 Pa. C.S. § 1529.1(b). The PUC interpreted this provision as limiting the scope of the owner/landlord's obligation for payment on the account after the discovery of foreign load.

The amount of electricity used by the three light bulbs was deemed inconsequential when compared with an arrearage accumulated over a 13-month period; therefore, the PUC found that holding the landlord responsible for a tenant's entire past due balance was insupportable. Permitting a tenant to walk away from thousands of dollars in utility service that he or she consumed was viewed by the PUC as inconsistent with Chapter 14 (Responsible Utility Consumer Protection Act) of the Public Utility Code, 66 Pa. C.S. §§ 1401, *et seq.*

Additionally, the Commission concluded that the civil penalty against PPL was not merited because the utility had properly pursued collection on the account.

Exhibit  
F



## Second Solicitation Held for Suppliers to PPL's Competitive Bridge Plan

On Aug. 2, 2006, PPL petitioned the PUC for approval of a plan for acquisition of Provider of Last Resort (POLR) supply service as a one-year "bridge" between the expiration of its POLR rate caps on Dec. 31, 2009, and a fully competitive, statewide market beginning Jan. 1, 2011.

Under the Competitive Bridge Plan (CBP), PPL proposed a three-year competitive procurement program beginning in 2007 for POLR supply in 2010. The CBP was approved by the Commission's final order entered on May 17, 2007.

The basic structure for residential and small commercial and industrial (C&I) POLR service is that PPL will undertake a series of six solicitations over three years to develop the POLR price separately for the residential and small C&I classes.

For large C&I customers that express an interest in a fixed rate option, PPL will conduct a single solicitation for fixed price service for the large C&I customers in October 2009. Those large C&I customers would then be given 30 days to "opt in" to the fixed price for 2010, or default to real-time hourly service for 2010.

On July 26, 2007, the PUC approved suppliers' contracts for 850 megawatts of generation PPL will need for 2010. The winning suppliers from this first solicitation were selected from seven competitive bidders.

The PUC approved suppliers' contracts for an additional 850 megawatts of generation PPL will need for 2010, on Oct. 4, 2007. The winning suppliers from this second solicitation were selected from nine competitive bidders. The average generation supply prices from the second solicitation, including gross receipts tax and adjustment for line losses, were \$105.08 per megawatt-hour for residential customers and \$105.75 per megawatt-hour for small C&I customers.

Combining the results of both solicitations, the average generation supply price for residential customers is \$103.43 per megawatt-hour (10.343 cents per kWh) and \$105.43 per megawatt-hour (10.543 cents per kWh) for small C&I customers. If these prices remain the same for the following four purchases, the average residential customer's monthly bill (1,000 kilowatt-hours per month) would increase by about 34.5 percent, while small C&I bills would increase approximately 22.8 percent to 42.2 percent.

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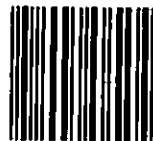
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Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Keystone Bldg. 2<sup>nd</sup> Floor W  
400 N. Street  
Harrisburg, PA 17120

EXPECTED DELIVERY DAY: 09/28/19

**USPS TRACKING NUMBER**



EP14H July 2013 Outer Dimension: 10 x 5