

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SILVER VALLEY APARTMENTS,	:	
	:	
Complainant,	:	No. F-2019-3008686
	:	
v.	:	
	:	
PPL ELECTRIC UTILITIES CORP.,	:	
	:	
Respondent.	:	

**PPL ELECTRIC UTILITIES CORPORATION’S REPLIES
TO COMPLAINANT’S EXCEPTIONS**

Respondent PPL Electric Utilities Corporation, by and through its attorneys of record, Gross McGinley, LLP, files the within Replies to Exceptions, alleging in support thereof as follows:

I. HISTORY AND BACKGROUND

On or about March 14, 2019, Silver Valley Apartments filed a Complaint against Respondent, PPL Electric Utilities Corporation (hereinafter “PPL Electric” or “Respondent”) pertaining to the electrical service provided to multiple rental properties located at 256 Silver Valley Road, Saylorsburg, PA 18353, which consisted of a house, garage apartment, and four addition apartments. (Notes of Testimony at 10). All rental properties were serviced by one well which was connected to the meter servicing the rental house. (Notes of Testimony at 13). The rental house was rented to two tenants. (Notes of Testimony at 11). When the foreign wiring situation was discovered in 2012, the account serving the house to which the water well was connected was transferred to Complainant, along with the tenant’s outstanding balance. Upon installation of a meter for just the well, the account was placed back into the name of the tenant,

but the balance remained with Complainant. Over the years, as Complainant continued to have active accounts with PPL Electric, Complainant's outstanding balance remained active.

As Complainant owns more than one rental property, Complainant filed a second formal Complaint in May 2019 at No. F-2019-3009942. However, as that case was never consolidated with the instant action, the allegations of that Complaint should be irrelevant to the Initial Decision issued by ALJ Meyers in the instant case.

II. COMPLAINANT'S EXCEPTIONS

1. Denied.¹ Complainant's first three (3) paragraphs appear to except to decision issued by the Bureau of Consumer Services in case number 3670962. As the above captioned appeal is a de novo decision on the formal Complaint filed by the Complainant, the reasoning and decision of the Bureau of Consumer Services cannot form the basis of Exceptions to the Initial Decision of ALJ Myers.² 52 Pa Code § 56.173(a) (Review of information complaint decisions will be heard de novo by a law judge or special agent).

2. Denied. Although Complainant's Exceptions are unnumbered, the second Exception appears to be disagreement with the results of Complainant's second formal Complaint, F-2019-3009942 which relates to service at 628 Route 715, Saylorsburg, PA 18353. The allegations set forth in F-2019-3009942 are independent of the allegations set forth in the instant action. As Complainant has filed two separate Complainants, which were never consolidated, the allegations set forth in action F-2019-3009942 cannot form the basis of Exceptions in the instant case.

¹ Initially, it must be noted that Complainant has not filed his Exceptions in numbered paragraph form and has not specifically identified any Findings of Fact or Conclusions of Law of the Initial Decision to which he excepts. For such reasons, the Exceptions should be dismissed. However, to the extent the Commission deems it appropriate to consider the Exceptions of Complainant, Respondent PPL Electric responds as set forth above:

² Respondent, PPL Electric, does not imply any errors in the decision of the BCS. Rather, on a procedural basis, Complainant's exceptions to the findings of the BCS are improper as the merits of Complainant's Complaint was reviewed de novo.

3. Denied. Judge Myers' Finding of Fact 5 is well-supported by the evidence of record. The ALJ properly found "After purchasing the property, the Complainant rented to house with the service address of 254 Silver Valley Road, Saylorsburg, Pennsylvania, to two tenants. N.T. 11." It appears that Complainant, even in his Exceptions, agrees he rented the property, but contends that the prior owner likewise rented the property to the same renter. However, whether the individual originally rented the property from Complainant or a prior owner is irrelevant for purposes of Act 54. At the time of the investigation, Complainant owned the property and admits to the existence of the foreign wiring. Act 54 directs the Utility to place the account for the tenant's property in the name of the landlord, along with the balance on the tenant's account. 66 Pa.C.S.A. § 1529.1; 1-A Realty v. Pa. Pub. Util. Comm'n, 62 A.3d 480 (Pa. Cmwlth. 2013), appeal denied, 74 A.3d 1033 (Pa. 2013). Complainant, on page 2 of Exceptions (last line) states that he does not dispute "the policy to put the meter in a proper owner's name once a foreign load is reported and charging the property owner for the electric usage during the period of foreign load." But does dispute the transfer of the tenant's balance to the landlord. However, Act 54 is extremely clear that the Utility holds no discretion in this action and **must** transfer any balance on the tenant's account to the landlord. It is also important to note that Complainant does not dispute the amount of the outstanding balance that has continued to be transferred to his new accounts with Respondent PPL Electric. Further to this point, the only argument advanced by Complainant at the time of the hearing is that he believes it is unfair for a property owner to be responsible for a tenant's balance once the foreign load is discovered, because Complainant believes that Act 54 is "harsh and penal in nature." *See* Complainant's Exceptions at p. 3.

4. Denied. Judge Myers' Conclusion of Law No. 2 is well supported by law. While Complainant may disagree that the burden of proof lies with a Complaint, the law is clear on this issue. The Complainant has the burden of proof to show that the Respondent Utility violated the Public Utility Code, a Commission Order, regulation of Commission approved tariff. 66 Pa.C.S.A. § 701; Patterson v. Bell Telephone Co. of Pa., 72 Pa.P.U.C. 196, 1990 WL 10702674 (Feb. 8, 1990). In the instant action, Complainant even admits to the existence of foreign wiring, but objects to the established legal interpretation that the tenant's account balance must be transferred to the landlord.

WHEREFORE, Respondent PPL Electric Utilities Corporation respectfully requests that Complainant's Exceptions be dismissed in their entirety.

Respectfully submitted,

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Date: October 7, 2019

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CERTIFICATE OF SERVICE

This is to certify that PPL ELECTRIC UTILITIES CORPORATION'S REPLIES TO COMPLAINANT'S EXCEPTIONS were mailed to counsel/complainant of record on behalf of Respondent by first class United States mail, postage on this the 7th day of October, 2019.

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