

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BRENDAN LAVIN,  
Complainant,

No. C-2020-3019103

v.

PPL ELECTRIC UTILITIES  
CORPORATION,  
Respondent.

**RESPONDENT PPL ELECTRIC UTILITIES CORPORATION'S REPLIES TO  
COMPLAINANT'S EXCEPTIONS TO THE INITIAL DECISION ISSUED BY  
THE HONORABLE BENJAMIN J. MYERS DATED OCTOBER 5, 2020**

AND NOW, comes Respondent PPL Electric Utilities Corporation ("Respondent PPL"), by and through its counsel, Gross McGinley, LLP, and replies to Complainant's Exceptions as follows:

**Introduction**

On October 5, 2020, the Honorable Benjamin J. Myers ("Judge Myers") issued an Initial Decision, which dismissed Complainant Brendan Lavin's ("Mr. Lavin" and/or "Complainant") Complaint due to his failure to satisfy his burden of proof at the time of the telephonic hearing which was held on July 28, 2020. On October 21, 2020, Judge Myers' Initial Decision dated October 5, 2020, was served upon the parties. By envelope post marked October 27, 2020, Complainant filed Exceptions but did not serve the same on counsel for Respondent. On December 9, 2020, counsel for Respondent was served with Mr. Lavin's Exceptions to the Initial Decision by the Public Utility Commission. These Replies are offered in response thereto.

## Replies to Complainant's Exceptions

The Pennsylvania Administrative Code (the "Code") provides that the proper way to except to an initial decision is by filing exceptions. *See* 52 Pa. Code. § 5.533. More specifically, exceptions may be filed by a party and served within twenty (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 an initial matter, the Exceptions filed by Mr. Lavin must be dismissed because they do not comply with the Code provisions cited above. The two pages submitted by Mr. Lavin fail to identify the finding(s) of fact or conclusion(s) of law to which each exception is taken. Additionally, Mr. Lavin's Exceptions fail to cite to the relevant pages of Judge Myers' decision to which each exception is taken. Further, Mr. Lavin's Exceptions fail to provide supporting reasons for each exception. In light of Mr. Lavin's failure to conform to the various Code provisions cited above, Respondent respectfully requests that his Exceptions be dismissed due to his lack of compliance with the Code. *See, e.g., Forward Township Municipal Authority v. Western Pennsylvania Water Co.*, No. C-882171, 74 Pa. P.U.C. 421, 1991 WL 476309 (Feb. 15, 1991) ("We note that the Complainant's Exception [] constitutes a bald assertion. Consonant with [Section 5.533(b)], we shall deny this Exception of the Complainant."); *Fulton v. PECO Energy Company*, No. C-2004-2502, 2005 WL 1838683, at \*3 (Pa.P.U.C. June 29, 2005) ("We will deny the Complainant's Exceptions....Nor does the Complainant cite to any error of the ALJ based upon the record evidence before her.").

The Exceptions filed by Mr. Lavin must also be dismissed, notwithstanding the aforementioned request for dismissal based upon nonconformity. That is to say, Mr. Lavin fails to explain the reasons for his disagreement with the Initial Decision, other than to generically state that he disagrees with his bills because he believes his overall usage must be less. At no point does Mr. Lavin state that he disagrees with any of Judge Myers' findings of fact or conclusions of law, or that Judge Myers committed an error of law and/or otherwise abused his discretion in reaching any one of his findings of fact and/or conclusions of law.

At the time of the July 28, 2020 telephonic hearing, Mr. Lavin failed to offer any competent evidence that his account balance is incorrect, or that there are otherwise incorrect charges (overbillings) on his account. Much to the contrary, the overwhelming evidence submitted by Respondent at the time of the telephonic hearing clearly demonstrated that Mr. Lavin's account balance accumulated to its current amount as a direct result of the fact that he neglected to pay in full his electric bill each month. *See generally* PPL Hearing Ex. 1. Further to this point, during the months when Mr. Lavin chose to make a payment toward his monthly electric bill, the amount of his payment was much less than the actual total amount of his monthly electric bill. For example, when analyzing Mr. Lavin's last twelve (12) payments to Respondent, the evidence reveals payments were made in the amount of \$85, even though her monthly electric bills totaled between approximately \$95 in the summer months and \$521 in the winter months. *See, e.g.*, PPL Hearing Exhibit No. 1.

Moreover, the evidence of accurate charges on Complainant's bill is substantial. PPL Electric presented, as Exhibit 5, a nearly nine (9) year monthly usage report. This report reveals that Complainant consistently utilizes substantially more electricity in the winter than in the summer. Moreover, this is consistent with his testimony that he has a one story A-frame home

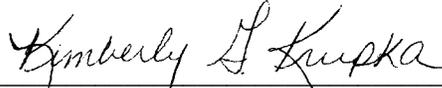
with electric baseboard heaters. (N.T. 7-8). However, not only is the historical usage of electricity for this residence consistent in time (year after year) and with regard to seasonal electric heat usage, a meter test taken on May 1, 2020 reveals the meter was working to an accuracy of 99.96%, well within the PUC regulations. (PPL Hearing Exhibit No. 6).

Complainant accordingly has failed to meet his burden of establishing a prima facie case that he was overbilled during any relevant time period. He has not shown a decrease in the number of occupants of the household, a low potential for energy utilization, or that the prior billing history contained abnormalities.

**Conclusion**

Based upon the foregoing reasons, Respondent respectfully requests that Complainant's Exceptions be denied in their entirety.

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Date: December 15, 2020

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

BRENDAN LAVIN,

Complainant,

vs.

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Respondent.

COMPLAINT DOCKET

NO. C-2020-3019103

**CERTIFICATE OF SERVICE**

This is to certify that the REPLIES TO COMPLAINANT'S EXCEPTIONS TO THE INITIAL DECISION ISSUED BY THE HONORABLE BENJAMIN J. MYERS DATED OCTOBER 5, 2020 on behalf of PPL ELECTRIC UTILITIES CORPORATION was mailed to counsel/complainant of record on behalf of Respondent by first class United States mail, postage on this the 15th day of December, 2020.

BRENDAN LAVIN  
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ADMINISTRATIVE LAW JUDGE BENJAMIN J. MYERS  
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