



Via Electronic Filing

October 14, 2020

Rosemary Chiavetta, Executive Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Docket Number C-2020-3016134
Jacquelyn N'Jai v. Peoples Natural Gas Company LLC

Dear Secretary Chiavetta:

On behalf of Peoples Natural Gas Company LLC (“Peoples”), please find enclosed for filing a Brief in the above-noted docket.

Please contact the undersigned at (412) 208-6834 should you have any questions or concerns regarding this matter.

Very truly yours,

Jennifer L. Petrisek
Senior Counsel

cc: All Parties listed on the Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JACQUELYN N’JAI)	
)	
V.)	DOCKET NO. C-2020-3016134
)	
PEOPLES NATURAL GAS COMPANY LLC)	

**RESPONDENT PEOPLES NATURAL GAS COMPANY LLC’S
REPLY TO COMPLAINANT’S EXCEPTIONS TO INITIAL DECISION**

Peoples Natural Gas Company LLC (“Peoples”) by and through its counsel, Jennifer L. Petrisek, hereby files this Reply to Complainant’s Exceptions to Initial Decision in Docket Number C-2020-3016134.

INTRODUCTION

In accordance with the Commission’s directive in the Secretarial Letter, dated September 13, 2021, and Section 5.535 of the Commission’s Regulation’s, 52 Pa. Code §5.535, Peoples Natural Gas Company LLC (“Peoples” or the “Company”) submits its Reply to the Exceptions of Jacquelyn N’Jai (the “Complainant”) to the Initial Decision of Administrative Law Judge Mark A. Hoyer (“Judge Hoyer”). As further explained herein, the Commission should deny the Complainant’s Exceptions, affirm the Initial Decision in its entirety, and sustain the dismissal of the Formal Complaint. The findings of facts and conclusions of law set forth in the well-reasoned Initial Decision are based on the record evidence and support the dismissal of the Formal Complaint.

PROCEDURAL HISTORY

On January 11, 2020, Jacquelyn N’Jai (the “Complainant”) filed a formal complaint against Peoples Natural Gas Company LLC (“Peoples” or the “Company”) which, among other things, averred that Peoples has improperly billed the Complainant due to incorrect meter readings at the Complainant’s residence located at 7801 Lloyd Avenue, Apartment #116 in Pittsburgh, Pennsylvania 15701. As relief, Complainant sought bill corrections, refunds, fine against the Company and assistance with locating a new natural gas distribution company. The formal complaint was served on Peoples on January 16, 2020.

On February 6, 2020, Peoples filed an Answer to the formal complaint denying the Complainant's allegations.

On, or about, April 15, 2020, Complainant filed a Brief in Support of Complainant & Outline for Hearing.

On June 10, 2020, a telephonic hearing was held to address the formal complaint at which hearing both parties were present. Due to technical issues with viewing Complainant's exhibits, the hearing was concluded early and a Further Telephone Hearing was held on October 5th, at which both parties were present. Complainant presented her own testimony and offered 11 exhibits, which were admitted into evidence. Peoples was represented by Jennifer L. Petrisek, Esquire, who presented testimony of one (1) witness, Ms. Denice Claudon, and offered 9 exhibits, which were admitted into evidence. A transcript of the telephonic hearing was prepared consisting of 143 pages. At the conclusion of the telephonic hearing, Administrative Law Judge DeVoe granted Complainant's request to file a Post Hearing Brief.

On October 27, 2020, Administrative Law Judge DeVoe issued a Briefing Order setting forth the briefing parameters, which permitted, but did not require, Main Briefs by November 30th, 2020 (noting the initial due date was November 26th, however the Commission was closed on the 26th and 27th, followed by the weekend) and Reply Briefs would be permitted, but not required, due within fourteen (14) days of service a Main Brief by the other party.

On November 16th, Complainant filed a Main Brief. On November 30th, Peoples filed a Main Brief in the proceeding. On December 7, 2020, Complaint filed a Reply Brief.

On June 15, 2021, an Interim Order Attaching Exhibits to Record and Closing Record was issued. On September 10, 2021, this matter was reassigned to the undersigned. A Judge Change Notice was issued on September 13, 2021, confirming the reassignment.

On September 11, 2021, Judge Hoyer issued an Initial Decision, which was served on both parties by the Commission, on September 13, 2021. On September 30, 2021, Complainant filed Exceptions to the Initial Decision.

In accordance with the Secretarial Letter accompanying the Initial Decision, Peoples submits the following Replies to Exceptions:

REPLIES TO EXCEPTIONS

Complainant Exception One: *Whether N’Jai’s exhibits, complaint, testimony, briefs and other parts of the record, prove that Peoples Natural Gas Company made inaccurate bills that they claimed to be actual, when in fact the actual pictorial meter readings etc. shows otherwise? (Yes)*

As evidenced on Peoples Exhibit F, for the period September 2012 to March 2019, Peoples obtained an actual meter reading from the meter located at Complainant’s residence at 7801 Lloyd Avenue, Apartment 116 in Pittsburgh, Pennsylvania (the “Premise”) on an every other month basis. Actual meter readings were obtained by an individual, either an employee or a contractor, visually observing the meter at the Premise, and recording said meter reading. On the months in which an actual meter reading was not obtained, the Company calculated an estimated meter reading, taking into account average temperatures and prior usage at the Premise. Section 56.12(2) of the Pennsylvania Code permits a utility that renders bills on a monthly basis to estimate usage on an every other month basis.

On or about, August 10, 2017, Peoples installed an encoder receiver transmitter (“ERT”) onto Complainant’s meter. The ERT allows the Company to obtain an actual meter reading by sending a signal from a handheld device to the ERT from a distance, such as from a vehicle driving by, and obtaining a response signal from the ERT with the actual meter reading at the time the signal is sent. Essentially, the ERT is automatic meter reading; it does not calculate or register gas usage, but instead transmits the data from the meter. ERTs have proven to have a very high accuracy rating. When the ERT was installed, the meter dials shown on the meter were correlated with the ERT such that the ERT would register and transmit the information on the dials – essentially, the actual meter reading. For the period August 2017 to February 2019, even though the ERT was installed, the Company continued to obtain actual meter readings and provide bimonthly estimated readings. Once all of the meters on the meter route on which Complainant is located, were installed, Peoples began using the ERT for a monthly actual reading. This occurred for Complainant’s March 2019 meter rearing.

When the ERT was installed by Peoples on August 10, 2017, the technician recorded an actual meter reading of 597.9. The ERT was set to correlate to said actual meter readings. Commencing on March, 2019, the ERT was utilized for monthly readings. In December, 2019, Complaint viewed her meter and felt that the reading obtained by the Company was inaccurate. She contacted the Company and provided what she believed was the accurate meter reading; Complainant’s reading was 610.7. The Company’s Customer Service Center noted the customer meter reading and requested a Company

technician be sent to the Premise to read the meter and investigate the meter reading discrepancy. On December 13, 2019, a Company technician visited the Premise and recorded a meter reading of 711.5, which was consistent with the ERT reading obtained on December 4, 2019 of 708.4. As such, the customer meter read was not utilized as it was apparent that the customer meter read was incorrect. On January 22, 2020, a Company technician again visited the Premise and recorded a reading of 724.2, which was consistent with the ERT reading obtained on January 3, 2020 of 717.9.

Complainant continued to dispute the Company's meter readings and recorded her own readings, which she submitted into evidence. Complainant's contention is that she has been overbilled an excessive amount as the far-left dial (the million hand) on her meter should be read as a six (6) and not as a seven (7), the number used by the Company in the meter readings. As evidenced by Peoples Exhibit F, if Complainant's argument was true, that would mean that Complainant has not utilized any gas since late 2017, when the fair left meter dial (the million hand) rolled over from the five (5) mark to the six (6) mark. It is simply unrealistic to expect, despite warmer winters, that Complainant utilized no gas for heating, cooking or heating water since 2017.

As Ms. Claudon explained in her testimony, the far left meter dial (the million hand), was lagging slightly and although in some photographs it appears that the dial mark is just below the seven (7), the fact that the other dials have rotated with usage and the dial immediately to the right of the dial in question (the hundred thousand dial), has passed over the zero (0) mark, the reading of the far left dial (the million dial) as a seven (7) is accurate.

Each month, the Company billed Complainant for gas usage at the Premise based upon the meter readings – either actual or estimated. Complainant contends her bills are too high and there must be a mistake in her usage. As evidenced on Peoples' Exhibit F, the Complainant's usage at the Premise is fairly consistent from year to year, taking into account weather (which is indicated by the DDD "Degree Day Deficiency" column on Exhibit F). As Mc. Clauson testified, since July, 2012, the yearly gas usage at the Premise has been between 41.6 MCF to 51.2 MCF and Complainant's annual average usage is about 47.0 MCF.

And again, if Complainant's assertions about her usage being far too high and the far-left meter dial (the million dial) being incorrectly recoded as a seven (7) and not a six (6) was taken as true, that would result in Complainant not using any gas (for heat, cooking or hot water) at the Premise since late 2017, which is wholly unrealistic.

Complainant Exception Two: *Whether N’Jai’s exhibits submitted multiple times to the PUC (from 1/14/2020-12/2020), by USPS Priority mail on 4/2020, [at the address the ALJ provided], by email, then on the record, were given prompt attention, any response to briefs for resolutions, and if they were used as a basis for the ALJ’s initial decision to dismiss, in accordance with Section 1.1, 1.2, and/or 4.2? In accordance with Title 66 (a), (b), (c), (d), (e) and (g).*

Similar contentions made by Complainant in Exception Two are also made in Exceptions Six through Eight. Please refer to Peoples’ response to those Exceptions.

Complainant Exception Three: *Whether the real inconsistencies of Peoples Natural Gas Company readings and testimony, [that are also in violation of PUC Section 56.12(1)-(2), 5(iii)-(6) and (9) regulations] constitute justifiable proof on the part of Peoples (NO)?*

As already discussed in response to Exception Two, the central issues in this Formal Complaint pertain to whether meter readings were properly obtained from the meter located at the Premise and whether Complainant was properly charged for natural gas service, specifically related/calculated by the actual consumption of natural gas within a billing period. Peoples witness, Ms. Claudon, in her capacity as a Customer Relations Specialist for Peoples, whose job responsibilities entail investigating customer complaints, explained in detail the manner in which Peoples’ reads meters, why the Complainant’s interpretation of the meter dials was inaccurate, how the ERT placed on the meter provides electronic meter readings, and when Peoples obtained actual meter readings after Complainant disputed her bill amounts. Complainant relies on a communication she had with the Peoples Customer Service Center (“CSC”) in which Complainant provided a customer meter read to the Company. Complainant contends the CSC employee agreed with Complainant that her utility meter read was incorrect and the customer meter read was accurate. As Ms. Claudon explained, the CSC employee recorded the customer meter read on the Complainant’s account – and then as there was a discrepancy in the two meter reads, a Peoples technician went the Premise to obtain an actual meter reading to investigate the discrepancy. At no time did the CSC employee tell Complaint that the Company was billing her to the meter read – or that the meter read was accurate – the CSC employee simply told Complainant she was recording the meter read on her account, which she did.

Complainant Exception Four: *Whether People's Natural Gas Company met its burden of proof pursuant to §315(c) and (d), by mere implicitly false statements of its one witness' hearsay, verse what the meter actually read? No*

As discussed in response to Exception Three, Ms. Claudon, witness for Peoples, is responsible to investigate customer complaints. She is experienced in accessing and reviewing the customer information retained in the Company's Customer Information System, which she described in her testimony, and she is responsible for understanding the Company's practices and procedures related to billing, meter reading, and disputes. As Ms. Claudon testified, the Company records meter readings in to the customer information system – as it does information about billing, payments, customer interactions, and other matters. Ms. Claudon, as a component of her job responsibilities, reviewed those business records held by the Company and provided testimony and exhibits supporting her testimony. There is nothing improper about Ms. Claudon testifying to the business records held by the Company – and further, there is no reason to question her explanation of Company practices and procedures related to billing and meter reading.

Complainant Exception Five: *Does the 98%-99% weight of the ALJ decision, lean in favor of Peoples' non-credible statements, and lack of sufficient evidence (as listed below 1-8, constitute, impartiality as required by 301(f)(a), 319(a)(1)(2)(5) and (6)? Or, 332 (a)(b) and (c) regarding evidence?*

Complainant contends that the manner in which Ms. Claudon explained the Company's meter reading process is inaccurate. Ms. Claudon, in her job responsibilities, is charged with understanding this process in order investigate and resolve customer disputes. Ms. Claudon's explanations of the meter reading process is verified by the meter readings provided on Complainant's monthly bills. Complainant provides, in her Exceptions, for the first time in this proceeding, pictorials to explain the manner in which the Ohio and Kentucky Commission explain meter reading processes. With all due respect, those pictorials are irrelevant in this proceeding. In her testimony, Ms. Claudon explained how meters are read staring from the right, using the directional arrows (which change on each meter dial) to determine whether to read up or down if a dial is between two numbers. Ms. Claudon, using Complainant's pictures of her meter and the bills, walked through the reading process for several instances. Ms. Claudon further explained that an ERT was present on Complainant's meter and provided electronic readings, which are historically more accurate than manual meter readings. Ms. Claudon finally explained that the far left dial

of the meter was lagging slightly, but that the movement of the over dials – especially rolling over the zero point – demonstrate that the far left dial was recorded properly in ERT and manual reads.

Complainant Exception Six: *Whether the Judge’s unexplained alterations [of the quality of exhibits 1-11 series], in a way that was not originally submitted by N’Jai in 4/2020, through the 10/5/2020 hearing, and then put on the record]. Constitute suppression of the record or an abuse of discretion, in order to justify a dismissal? Are the ALJ’s actions in contradiction to Section 331(c), (d)(3)-(8); 332 (a) (b and (c)?*

and

Complainant Exception Seven: *Were the ALJ dilatoriness, statements and actions performed consistent with their duties and responsibilities as a ALJ with the PUC? How did it prejudice the outcome of Complainant’s Complaint?*

and

Complainant Exception Eight: *Whether the Judge’s accepting the offers of proof prior to and on 10/5/2020, were based upon the exhibits being relevant to prove that PUC made multiple errors? If not, why would the ALJ accept the irrelevant evidence?*

Nothing in the Initial Decision or the transcript indicates that Judge DeVoe altered any exhibits submitted by Complainant. Further, the Transcript evidences that Complainant was provided with adequate opportunity to introduce a series of exhibits – consisting of many pages – and no portions of the appendices were inappropriately omitted by Judge DeVoe. The Complainant seems to contend that because Judge DeVoe did not agree with her argument, Judge DeVoe must have not looked at, or given weight to, the exhibits submitted by Complainant. Complainant seem to further believe that by accepting the Complainant’s exhibits into the records, Judge DeVoe was indicating that the Judge agreed with Complainant’s argument. There is no substantiation to either of these assertions by Complainant. Complainant was given ample opportunity to present her arguments and submit exhibits to be considered by the presiding office. Judge DeVoe entered Complainant’s exhibits into the record, as she did with Peoples exhibits, and then in the course of evaluating the testimony and exhibits, Judge Hoyer rendered a decision.

Complainant alludes to an impropriety by Judge DeVoe as she was unable to access the documents in the format sent by Complainant at the onset of the proceeding. The original exhibits submitted by Complainant on April 14, 2020 included a brief and 78 pages of appendices (including a cover sheet and exhibit list) and were intended for a hearing scheduled for April 23, 2020. Prior to the

date Complainant's brief and appendices were submitted, Peoples' Counsel, on April 7, 2020, pursuant to direction from the Commission, contacted Complainant to advise that the April 23rd hearing was being cancelled due to the COVID-19 pandemic stay-at-home orders. The Commission advised that the Hearing would be rescheduled once arrangements for hearing access were resumed.

Both Peoples and the Commission experienced issues opening the files send by Complainant due to the size of the files, which exceeded 75 pages and contained many photographs and graphics. A series of email from (a) from Peoples to Complainant and (b) from the Executive Secretary of the Commission to Complainant and Peoples evidencing discussions of errors in electronic delivery of the Complainant's appendices. Complainant ultimately mailed paper copies of her brief and appendices to Peoples and Judge DeVoe. While Peoples had some access to mail and was able to retrieve the mailing, due to the COVID 19 shut-down orders, the Commission did not have access to paper mail. Complainant was provided several emails from the Commission explaining the e-filing system and could have easily broken her appendices into multiple files so that the size limitation of the e-filing system (and email systems) could have been met. Complainant ultimately did so on April 30, 2020.

At the Rescheduled Initial Telephonic Hearing on June 10, 2020, Judge DeVoe advised Complainant that she had the electronic copies of the appendices, but was unable to print them. She explained on the record that she was unable to access any material physically mailed to the Commission and was unable to print large documents, such as that provided by Complainant. At the Initial Hearing, Peoples and Judge DeVoe both experienced problems following Complainant's references to her exhibits in her testimony as (1) the pages were not numbered and (2) the documents were not organized in a sequential order that followed Complainant's testimony. Instead, the Complainant separated her appendices by topic item while her testimony was in a manner that followed a timeline of dates. This resulted in Complainant jumping around the 75 page document while testifying. As the pages of the appendices were not numbered, it was difficult to follow ensure all parties were looking the same page of the appendices at the same time. This was compounded as the Judge was looking at four separate PDF files and not paper copies of the exhibits. Peoples expressed concern with following the manner in which Complainant was moving amongst her appendices and Judge DeVoe expressed the same concern. Judge DeVoe then suggested that the hearing be continued until such time that she was able to print the Complainant's appendices. The hearing was rescheduled for October 5, 2020 at which time the Complainant was given ample time to testify and present her case. Judge DeVoe did ask questions of Complainant during her testimony, as is evidenced in the transcript, however, the Judge's questions were clarifying in order to determine the exact page for an exhibit, or to further understand Complainant's

testimony and arguments. There is no evidence in the transcript that any questions asked by Judge DeVoe were improper.

Many of the pages of the appendices, which ultimately became the Complainant's exhibits, contained handwritten notes in the bottom which were placed by Complainant prior to sending the appendices. The notes often provided file names for photo files, dates & times, Complainant's understanding of meter reads, bill amounts paid, etc. In the transcript there are multiple references to discussion between Judge DeVoe and Complainant as to the specific page of the appendices being referenced in testimony and the writing identified on the particular page was used to help ensure all parties were looking at the same document.

In short, there is no evidence in the transcript or the Initial Decision that Judge DeVoe did not fulfill her obligations as an administrative law judge of the Commission. Complainant makes allegations that Judge DeVoe acted improperly by asking Complainant what she would do if the Judge dismissed the complaint. There is no evidence of this question in the October 5th transcript and no context provided by Complainant as to the purpose of the discussion. Complainant further expresses an opinion that the Judge Change Notice, issued on September 13, 2021, indicates there was improper conduct by Judge DeVoe. This opinion is again unfounded and not supported by any factual basis.

CONCLUSION

As there is no evidence of improperly or failure to follow procedure in this proceeding, and as the testimony of Peoples' witness has substantiated that the meter located at Complainant's Premise has been read on a regular basis, the meter readings have been verified with Technician re-reads and prior usage comparison, and Complainant has only been billed for usage utilized at the Premise, Peoples Natural Gas Company LLC respectfully requests that the Commission uphold the Initial Decision issued by Judge Hoyer and dismiss Complainant's formal complaint.

Respectfully submitted,



Jennifer L. Petrisek
Counsel for Peoples Natural Gas Company LLC

Dated: October 14, 2021

CERTIFICATE OF SERVICE

I hereby certify that I have on this 14th day of October, 2021 served a true copy of Peoples Natural Gas Company LLC's Brief upon the individuals listed below in the manner stated:

VIA REGULAR MAIL:

JACQUELYN N'JAI
7801 LLOYD AVENUE
APT 116
PITTSBURGH PA 15218



Jennifer L. Petrisek

Dated this 15th day of October, 2020