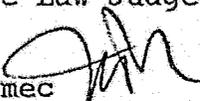


DATE: October 17, 1994

SUBJECT: David P. Boyce v.  
Duquesne Light Company  
Docket No. Z-00223698

TO: Allison K. Turner, Chief  
Administrative Law Judge

FROM: Michael A. Nemeck   
Administrative Law Judge

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Enclosed you will find an original and a copy of an Interim Order in the above-captioned case. Copies have been sent to the following persons:

David P. Boyce  
5608 Ellsworth Avenue  
Apartment 7  
Pittsburgh, PA 15232

Regina M. Sestak, Esquire  
Duquesne Light Company  
One Oxford Centre  
301 Grant Street  
Pittsburgh, PA 15279

Harold Haffner  
2723 Beechwood Blvd.  
Pittsburgh, PA 15217

Elizabeith Pereida  
5608 Ellsworth Avenue  
Apartment 1  
Pittsburgh, PA 15232

William Lloyd  
5608 Ellsworth Avenue  
Apartment 2  
Pittsburgh, PA 15232

Beth Enright  
5608 Ellsworth Avenue  
Apartment 3  
Pittsburgh, PA 15232

Yeon Bae  
5608 Ellsworth Avenue  
Apartment 4  
Pittsburgh, PA 15232

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Public Utility Commission

To: Allison K. Turner, Chief ALJ  
From: Michael A. Nemeč, ALJ  
Page: 2  
Date: October 17, 1994

Sandra Lenzi  
5608 Ellsworth Avenue  
Apartment 5  
Pittsburgh, PA 15232

William Combs, Jr.  
5608 Ellsworth Avenue  
Apartment 6  
Pittsburgh, PA 15232

If you have any questions, please do not hesitate to  
call me.

MAN:bjm

Enclosures (2)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

David P. Boyce

v.

Duquesne Light Company

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Docket No.  
Z-00223698

INTERIM ORDER

Before  
Michael A. Nemeo  
Administrative Law Judge

History of the Proceeding

The complaint of David Boyce, filed on November 29, 1993, asserted that he had been responsible for high summer electric bills because his meter was connected to an air conditioning unit that served two other apartments as well as his own. Duquesne Light filed a timely answer and a motion to dismiss for failure to join an indispensable party, the landlord. The initial hearing was held in Pittsburgh on February 7, 1994, and an initial decision issued on March 22, 1994. Mr. Boyce filed exceptions which were late and were dismissed. He then filed a document that in essence requested a review of the dismissal of the exceptions, a request this Commission granted.

Following its review, this Commission adopted an opinion and order that had the effect of adopting the findings of fact in the initial decision but remanding the matter " . . . solely for a determination of the responsibility for the arrearages, if

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any; . . ." Slip op. p. 4, Opinion and Order adopted June 30, 1994, entered September 1, 1994.

The initial hearing following remand was held on October 14, 1994, in Pittsburgh. Present were Mr. Boyce and counsel for Duquesne Light. Notice of the hearing was not given to the landlord. Counsel for Duquesne contended that the purpose of the remand was broader than simply determining the responsibility for the arrearages on Mr. Boyce's account; that in fact the issues were much broader given the language of the second ordering paragraph that provides for the placing of all of the services in the apartment building where Mr. Boyce resides into the name of the landlord until such time as each tenant is individually metered and is responsible only for electric service to their individual apartment.

#### Discussion

Duquesne's request for guidance extends to asking what should be the effective date for changing the accounts over to the landlord and what action should it take with payments already made on the accounts if the date is set at some time in the past. Duquesne asks for guidance with regard to the effective date for reviewing and adjusting the arrearage on Mr. Boyce's account.

This Commission's Order was entered on September 1, 1994, and specifically provided for the service of the Order on the landlord. The appeal period began to run on the day following the entry of the Order and expired on midnight October 3, 1994.

Pennsylvania Rules of Appellate Procedure Rule 906. The effective date for Duquesne to comply with paragraph 2 of this Commission's Order, then, is October 4, 1994. All payments received on each account up to and on October 4, 1994, from whatever source should be credited to that account. From October 4, 1994, onward all seven accounts become the responsibility of the landlord until such time as he complies with the requirements of this Commission's Order and the requirements of Section 1529.1 of the Public Utility Code, 66 Pa. C.S.A. §1529.1.

This Commission found in its Opinion and Order that Section 1529.1 of the Public Utility Code became effective August 31, 1993. Mr. Boyce testified both at the initial hearing and the initial hearing following remand that he had an understanding with his landlord that he was to split the electric bill for the air conditioner with the occupants of the other two apartments as of sometime in 1991. Whether that is an enforceable contract is a question beyond the jurisdiction of this Commission and is a matter between Mr. Boyce, the landlord and the other tenants. Further, some of the tenants paid all of their share and some none or only part. Some tenants have moved on and others have changed apartments since Mr. Boyce became a tenant. I conclude that the effective date for reaching a determination on responsibility for the arrearage on Mr. Boyce's account is August 31, 1993, and forward.

Duquesne has determined the base load usage for Mr. Boyce's apartment. By comparing the base load usage to the

usage for the cooling season it is possible to separate out the air conditioning usage that has appeared on his billing from 1991 onward. It is not necessary at this point to go into any more detail; that will be done in the Initial Decision Following Remand. Suffice it to state at this juncture the air conditioning usage portion of Mr. Boyce's bill from the beginning of September, 1993, to the present totals \$555.12. As his is only one of three apartments using the air conditioning, his responsibility is for, at most, 1/3 of that amount, or \$185.04. That is the amount that Duquesne should add to his bill if and when the service is separated into an individually metered account and the service is again returned into Mr. Boyce's name.

Another matter remains to be resolved here. The Commission's Order and this Interim Order directly affect the interests of parties who have not to date participated in this matter. As a result, this Interim Order will be served on all tenants and the landlord of 5608 Ellsworth Avenue. To the extent that anyone served desires an in-person hearing on this matter they may request one by writing to me within 20 days of the date of this Interim Order. Thereafter I will proceed to prepare an Initial Decision Following Remand incorporating the additional information developed at the initial hearing following remand and the conclusions expressed above.

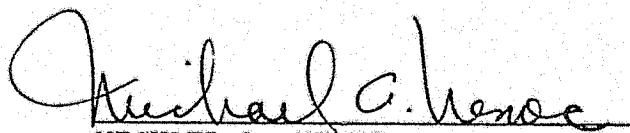
ORDER

In consideration of the foregoing it is ordered:

1. That Duquesne Light Company shall place all electric service for 5608 Ellsworth Avenue, Pittsburgh, PA 15232, in the name of Harold Haffner effective October 4, 1994, in accordance with paragraph 2 of this Commission's Order entered September 1, 1994, at Z-00223698, until such time as he shall comply with this Commission's Order and the provisions of Section 1529.1 of the Public Utility Code, 66 Pa. C.S.A. §1529.1.

2. That any person desiring an in-person hearing on the conclusions reached in this Interim Order may request a hearing by writing to the undersigned presiding officer within 20 days of the date of this Interim Order.

Date: October 17, 1994

  
MICHAEL A. NEMEC  
Administrative Law Judge

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TAE

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265  
November 2, 1994

In Re: Z-00223698

(See letter dated 09/06/94)

David P. Boyce v. Duquesne Light Company

Billing Dispute

NOTICE

This is to inform you that a further hearing on the above-captioned case will be held Tuesday, November 15, 1994 at 2:00 p.m. in the 11th Floor Hearing Room, Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania.

The presiding officer in this proceeding is Administrative Law Judge Michael A. Nemec. Judge Nemec can be contacted at 1103 Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania 15222; telephone (412) 565-3550.

Please mark your records accordingly.

pc: Judge Nemec  
John Frazier - BPL  
Consumer Advocate  
Law Bureau  
Norma Lewis  
Janice Zurat, Scheduling Officer  
Stephen Springer  
Beth Plantz

Certified Mail  
Receipt Requested &  
Reg. Mail to Complainant

~~Docket Section~~

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APPEARANCE SHEET

ALJ HEARING REPORT

Docket No. Z-00223698

Case Name David P. Boyce v. Duquesne

Light Company \_\_\_\_\_

Location Pittsburgh

Date November 15, 1994

ALJ Nemec

Reporting Firm SARGENT'S REPORTING

CHECK THOSE BLOCKS WHICH APPLY: BT

Prehearing held YES  NO

Hearing held YES  NO

Testimony taken YES  NO

Hearing concluded YES  NO

Further hearing needed YES  NO

Estimated add'l days \_\_\_\_\_

RECORD CLOSED YES  NO

DATE 12/15/94

Briefs to be Filed YES  NO

DATE \_\_\_\_\_

BENCH DECISION YES  NO

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OFFICE OF ALJ/PA PUC  
ELIZABETH L. PLANTZ

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Office of A. L. J.  
Public Utility Commission

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NOV 30 1994

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NOV 27 1994

PUBLIC UTILITY COMMISSION  
SECRETARYS BUREAU

REMARKS:

NAMES, ADDRESSES AND TELEPHONE NUMBERS OF PARTIES OR COUNSEL OF RECORD  
PLEASE PRINT CLEARLY  
INCOMPLETE INFORMATION MAY RESULT IN DELAY OF PROCESS

NAME and TELEPHONE NUMBER	ADDRESS	APPEARING FOR
REGINA M. SESTAK Telephone No. (412) 393-4113	DUQUESNE LIGHT COMPANY ONE OXFORD CENTRE (17-4) 301 GRANT STREET City Pittsburgh State PA Zip 15217	DUQUESNE LIGHT COMPANY
David P Boyce Telephone No. (412) 362-8362/4762	5608 Ellsworth Ave #7 City Pittsburgh State PA Zip 15232	David P. Boyce
Harald Hoffner Telephone No. 412-921-9359	2723 Beechwood Blvd City PGH State PA Zip 15217	For himself <b>DOCUMENT FOLDER</b>

CHECK THIS BOX IF ADDITIONAL PARTIES  
OR COUNSEL OF RECORD APPEAR ON BACK.

*Shannon C. Cooney*  
REPORTER