



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265
April 29, 1994

IN REPLY PLEASE
REFER TO OUR FILE

Z-223698

DAVID P BOYCE
5608 ELLSWORTH
AVENUE SEVEN APT 7
PITTSBURGH PA 15232

DAVID P BOYCE
VS
DUQUESNE LIGHT COMPANY

TO WHOM IT MAY CONCERN:

This is to advise that no timely filed exceptions and no requests for review from the Commissioners have been received within the specified time period to the decision issued in the subject case.

This means that the decision of the Administrative Law Judge is final without further Commission action.

A copy of the final order has been enclosed for your records.

Very truly yours,

John G. Alford
Secretary

DOCUMENT
FOLDER

JEP:las

Encls.
Certified Mail
Receipt Requested

COPY OF ORDER
SEE I.D. LETTER
DATED: March 22, 1994

DOCKETED

MAY 20 1994

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

David P. Boyce

v.

Z-00223698

Duquesne Light Company

O R D E R

In accordance with the provisions of Act 294 of 1978 (66 Pa. C.S. §332(h)), the decision of Administrative Law Judge Michael A. Nemec dated March 11, 1994, has become final without further Commission action; THEREFORE,

IT IS ORDERED:

1. That the complaint of David P. Boyce against Duquesne Light Company, docketed at Z-00223698, is sustained in part by entry of a payment schedule and by noting the potential financial responsibility of the owner of the building in which Mr. Boyce resides.

2. That Complainant David P. Boyce commence paying the budget amount for electric service each and every month when due plus the amount of \$5 each and every month until the accrued arrearage is satisfied.

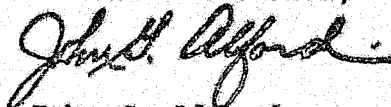
3. That in the event Mr. Boyce fails to comply with the payment schedule set forth above, Duquesne may suspend or terminate service in accordance with the regulations of this Commission and the provisions of the Pennsylvania Public Utility Code.

DOCUMENT
FOLDER

DOCKETED
MAY 20 1994

4. That in the event Mr. Boyce fails to comply with the payment plan and Duquesne then elects to proceed with suspension or termination of service, Duquesne will provide all required notice(s) to the owner of the property and the other affected tenants as well as to Mr. Boyce.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ENTERED: APR 29 1994

ORIGINAL

Response To:

Administrative Law Judge

'Exception' Decision

Z-00223698

David P. Boyce v. Duquesne Light

DOCKETED
MAY 23 1994

A Report
for

The Secretary:
Public Utilities Commission

by
David Paul Boyce

DOCUMENT
FOLDER

RECORDED
MAY 15 1994
PRO. UTIL. COM. DIV.
STB.

David P. Boyce
5608 Ellsworth Avenue #7
Pittsburgh, Pa. 15232
(412) 362-8362

May 6, 1994

Secretary of the Public Utilities Commission
Room B-18, North Office Building,
North Street and Commonwealth Avenue,
Harrisburg, Pa. 17105-3265

Dear Mr./Madam Secretary:

The following jurisprudential references relate to procedural and substantive points in the U.S. Constitution regarding my recent litigation with *Duquesne Light*.

"... An 'exception' operates to take something out of a thing granted which would otherwise pass or be included (*Christman v. Emineth*, N.D., N.W.2d 543, 552). Such excludes from the operation of conveyance the interest specified and it remains in grantor unaffected by conveyance (*Elrod v. Heirs, Devisees, etc.*, 156 Neb. 269, 55 N.W.2d 673, 675, 676). . . . [This is] implying that the party excepting does not acquiesce in the decision of the court, but will seek to procure its reversal, and that he [or she] means to save the benefit of his request or objection in some future proceeding. Under rules practice in the federal or most state courts, the need for claiming an exception to evidence or to a ruling to preserve appellate rights has been eliminated in favor of an objection" Henry C. *Black's Law Dictionary*, (St. Paul: West Pub. Co., 1990) p. 559.

And there is a reason why George Mason¹ was so intent upon having a specific, Bill of Rights, much to the objection of Madison; and Hamilton who termed them redundant, since he felt that those rights were already covered - as naturally "understood" to be in the Constitution. However, Mason was wise enough to know that when something is not specifically enumerated it can be called into question, (hence our heated, present-day debate over "original intent"). Conversely, Patrick Henry and others also

realized that when certain things are enumerated, all else can be claimed by some as being *de facto*, devoid from consideration. Therefore the wisdom of the Ninth Amendment:

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." (See, *Griswold v. Connecticut*, 1965).

The key word here of course is **others** and - although its original intent is the subject of perennial contest - the term refers to other **rights**. Simply put, the framers left the door open to allow for more than just those rights which were "spelled out"; certainly *not* to the exclusion of all others. Madison finally acquiesced under pressure from Henry.

And this is how the foregoing relates to my protest of the judges finding:

In my anemic reply to Judge Nemeč's "Conclusion of Law," beginning on page six - specifically Order⁴ number 2: "That Complainant David P. Boyce commence paying the budget amount for electric service each and every month when due plus the amount of \$5 each and every month until the accrued arrearage is satisfied" - I neglected disability factors. Regarding that, I pathetically said near the end of my letter: '. . . am I to be punished and tormented further still, by inadvertently missing your, deadline?' [for not reacting within (twenty) 20 days, yet not citing anxiety, the lack of concentration and memory retention.] And I hope that I may also at long, last - 'rest in peace.' I made only the following plea:

'I ask only that I may be allowed to pay what I can, "in good faith" afford - as one the income of whom, is a few thousand dollars below the poverty line; and that I be allowed the respite of falling in arrearage and the privilege of applying, as in the past, for LIHEAP 1, and LIHEAP 2 - if necessary.' "Due consideration," (Black, 1990) p. 499.

Those were my sole requests or, meager *assertions* of my "enumerated" rights - and left it at that. However there was, and is implicit, much more to it than that. For example, I failed to mention or enclose - among other documents - for anyone's perusal what I *have* in this packet: the last three Duquesne payment statements, with their "Budget Amounts"

due - two of which exceed the total bill owed. I believe I have a valid right to question here, as to how this is so? And a right to follow the suggestion made by the Dollar Energy Fund's statement advising: "Be sure you make a payment even a small one, each and every month" - which I (as you will observe) then did. And I believe that I have a right to do that until an equitable payment schedule is proffered. Beyond that - with all due respect - I believe that as a person, the income of whom is well below the poverty line, which enables me to qualify for LIHEAP 1 and 2; that I have the right to make use of the program as I have for the last three years. To quote part of an addendum to my 'Exception of Relief' letter, that I wrote a few days subsequent to the first one written under extreme anxiety:

"Because of my disability and meager income I [believe that I] still have the right to use LIHEAP 1 & 2, to cover the electric, but in order to do that, I have to fall behind in payments; but how, under a court ruling am I supposed to pay the full amount [of the electric bill] each month (from household money, of which I would then have very little), and still qualify for LIHEAP assistance. The pension merely covers rent, transportation & other incidentals [such as the telephone, etc.]. That's why I get so upset about people running out on, or dodging bills - with which you and I end up - stuck. [However, I had informed everyone at my hearing that Mr. Harold Haffner (521-9359) helped me pay the bill of the first year].

"Since [the decision is] the only communication I've gotten from the court and nothing from *Duquesne Light* or P.U.C. officials since the phone calls during the immediate weeks following the hearing, I will have to call Susan Mosjer at *Duquesne Light* (412) 393-4604, and ask her about LIHEAP."

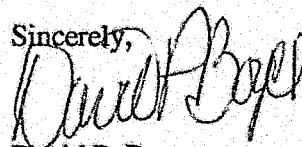
I didn't have a chance to call Susan Mosjer because I was too occupied foraging everyday for some liquid food to live on plus the fact that the school term was drawing to a close and I had several papers due, exams to take and all the readings for the above. I couldn't get that done so then I had to go around arranging to take incomplete, "G" grades, so as to be able to finish those for classes, as well as three from the fall term, over the

summer: seven classes, for a total of (twenty-one) 21 credits by September, or I fail out of school. Another very good reason to get this three-year-long monkey off my back!

So much for my "enumerated" and "non-enumerated" rights. Before I can proceed I need a new game plan, and I beseech you good people at the P.U.C., Duquesne Light and most of all, the Administrative Law Judge Offices - both state and local - to help me resolve this problem. And as I have said to you at the hearing and have told Mr. Haffner:

I would have the electrical cable moved to either the house meter, or preferably to apartment #1 which has the only thermostat control, and from which the over-usage problem has emanated in the first place. Even though the financial burden on me would be severe; it would be worth the expense just to have this "energy-monkey," off my back. Also, I said that if my landlord offered to split the cost, I certainly would not refuse his him.' But I can do nothing alone, without permission or guidance. I await of course, some sort of positive reply - from someone, while I follow Dollar Energy Fund's advice.

Sincerely,



David P. Boyce

P.S. In addition to the above phone number: my FAX number is (412) 362-2062; or better yet, my Internet address is: dpbst7+@pitt.edu

Those exist in part because one of my majors is media communications - otherwise - because I hope my life's work to be writing commentary on: political science, sociology, law, and economics. One cannot do anything anymore without real-time communications.

¹Surprized? See, Eugene W. Hickok, Jr. Ed., *The Bill of Rights: Original Meaning and Current Understanding*, (Charlottesville and London: University Press of Virginia, 1991) p. 1.



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

April 22, 1994

(CERTIFIED)

IN REPLY PLEASE
REFER TO OUR FILE

Z-00223698

DAVID P. BOYCE
5608 ELLSWORTH AVENUE #7
PITTSBURGH, PA 15232

Dear Mr. Boyce :

Your Exceptions in the above referenced proceeding were received by the Commission on April 13, 1994 . This was not within 20 days of the mailing to you of the Initial Decision of the Administrative Law Judge, as prescribed in the cover letter transmitting that Initial Decision, and the Commission's Rule at 52 Pa. Code §5.533.

Accordingly, your Exceptions were not timely filed and will not be considered by the Commission.

Very truly yours,

John G. Alford,
Secretary

BRJ:amh

cc: All Parties of Record
Office of ALJ
Office of Special Assistants
Chairman
Commissioners

1531, prohibits retaliatory action by the owner of affected property for a 6-month period. Section 1531 of the Public Utility Code, 66 Pa.C.S.A. §1531.

Finally, Duquesne has agreed to a payment plan requiring payment of the budget amount plus \$5 per month on the accrued arrearage. This very minimal amount demonstrates Duquesne's acknowledgment that Mr. Boyce has acted in good faith consistently in attempting to deal with the high bill problem.

Conclusions of Law

1. This Commission has jurisdiction over the parties to and subject matter of this matter.
2. Complainant David R. Boyce has the burden of proof under Section 332(a) of the Public Utility Code, 66 Pa.C.S.A. §332(a), which he has carried in part.

ORDER

In consideration of the foregoing, it is ordered:

1. That the complaint of David P. Boyce against Duquesne Light Company, docketed at Z-00223698, is sustained in part by entry of a payment schedule and by noting the potential financial responsibility of the owner of the building in which Mr. Boyce resides.

internal wiring and the allocation of expense in making any modifications and in splitting-up the resulting electric bill is a matter for Mr. Boyce, the other tenants and Mr. Haffner to determine; neither Duquesne Light nor I have any authority to do so.

Another issue arises here as result of amendments to the Public Utility Code by Act 54 of 1993 which became effective on August 31, 1993. Section 1529.1 of the Public Utility Code as amended by Act 54, 66 Pa. C.S.A. §1529.1, places responsibility for non-payment of utility bills on the owner of a residential building containing more than one dwelling unit which are not individually metered. As a result, although Mr. Boyce is the ratepayer of record for the meter that records usage for his account, under the facts established here, Duquesne can also look to Mr. Haffner for payment. This new fact of life and law should encourage Mr. Haffner to finally act to either split the electric service or to otherwise develop a more equitable sharing of the payment of the resulting electric bill.

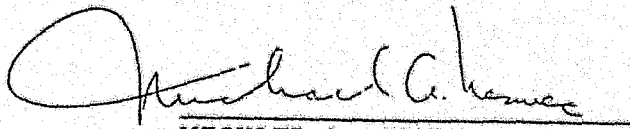
In future cases of this type, it would be appropriate for Duquesne to specifically move for joinder of the owner of the property citing the amendments of Act 54 as authority. In the present case, Mr. Boyce has indicated a desire to attempt to correct the situation with Mr. Haffner on his own. He should be aware that the very next section of Act 54, specifically Section

2. That Complainant David P. Boyce commence paying the budget amount for electric service each and every month when due plus the amount of \$5 each and every month until the accrued arrearage is satisfied.

3. That in the event Mr. Boyce fails to comply with the payment schedule set forth above, Duquesne may suspend or terminate service in accordance with the regulations of this Commission and the provisions of the Pennsylvania Public Utility Code.

4. That in the event Mr. Boyce fails to comply with the payment plan and Duquesne then elects to proceed with suspension or termination of service, Duquesne will provide all required notice(s) to the owner of the property and the other affected tenants as well as to Mr. Boyce.

Date: March 11, 1994


MICHAEL A. NEMEC
Administrative Law Judge



energy fund

\$1 Energy Fund • Box 8156 • Pittsburgh, PA 15217-0156

DAVID BOYCE
5608 ELLSWORTH AVENUE
PITTSBURGH, PA 15232

03/09/94

232-74-7698

DEAR DAVID BOYCE:

Your application for assistance with your bill at the DUQUESNE LIGHT CO. has been reviewed by the Dollar Energy Fund.

The Dollar Energy Fund has provided financial assistance as a credit on your utility bill in the amount of \$100.00. DUQUESNE LIGHT CO. has matched this amount for a total grant of \$200.00.

BE SURE YOU MAKE A PAYMENT EVEN A SMALL ONE, EACH AND EVERY MONTH.

ACCOUNT NUMBER
2000617607001

DUE	AMOUNT	DUE	ENCLOSED
MAY 25, 1994	\$255.10	\$189.20	

YOU MAY PAY EITHER AMOUNT

PLEASE RETURN
THIS PORTION
WITH YOUR
PAYMENT

ACTUAL
METER
READING
BILL

***** CAR-RT SORT ** CR54
DAVID P BOYCE
APT. 7
5608 ELLSWORTH AVE.
PITTSBURGH, PA 15232-1871

H

20006176070014 000000191579 000000255101 000000189206

DAVID P BOYCE
5608 ELLSWORTH AVE APT 7

RATE (RS) - RESIDENTIAL SERVICE

Please use your account number
2000617607001 when calling or
writing.

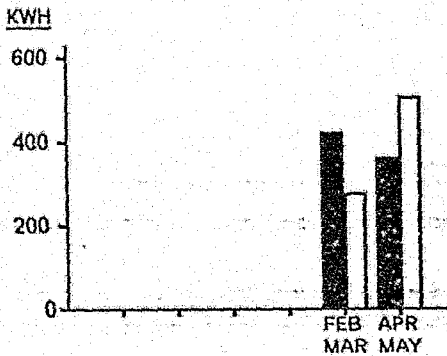
YOUR COMPARATIVE USAGE DATA

	MAY '93	MAY '94
AVG. KWH PER DAY	6	7
AVG. TEMPERATURE(°F)	54	55
YTD USAGE(KWH)	972	972

METER READING INFORMATION

PRESENT MAY 04, 1994 - ACTUAL READING	4933
PRIOR APR 06, 1994 - ACTUAL READING	4916
DIFFERENCE	17
YOUR METER MULTIPLIER	x 12
TOTAL KWH USED	204

ELECTRIC USAGE BI-MONTHLY



■ - PRIOR 12 MOS. □ - LATEST 12 MOS.

PRIOR BILLING INFORMATION

AMOUNT OF LAST BILL	159.29
AMOUNT YOU OWE FROM YOUR LAST BILL	\$159.29

CURRENT CHARGES

BASIC SERVICE	6.42
USE: 204 KWH @ 11.740¢	23.95
ENERGY COST RATE @ 0.2415¢/CR EACH KWH	-0.49
PENNSYLVANIA TAX ADJUSTMENT	0.03
CURRENT BILLING CHARGES	\$29.91

TOTAL ACCOUNT BALANCE \$189.20

Approximately 16.8% of your bill is for Federal, State, and Local taxes. This includes a Gross Receipts Tax of \$1.32

You may pay the "Total Amount Due" or join our budget plan by paying the "Budget Amount."

Your average daily cost for electric service is \$1.07
Electric energy is a good value.

Please donate to the Dollar Energy Fund to help people without heat or light by adding \$1 to either of the amounts shown below.

Estimated Pa. State Taxes included in this billing.
\$2.15

After May 25, 1994 a Late Payment Charge of 1.25% per month as shown below will be added to your balance.
\$2.37

PAYMENT DUE	BUDGET AMOUNT	AMOUNT DUE
MAY 25, 1994	\$255.10 OR	\$189.20

Duquesne Light Company

One Oxford Centre • 301 Grant Street • Pittsburgh, PA 15279-0001



ACCOUNT NUMBER
2000617607001

APR 27, 1994	\$174.10	\$159.29
--------------	----------	----------

YOU MAY PAY EITHER AMOUNT

PLEASE RETURN
THIS PORTION
WITH YOUR
PAYMENT

ACTUAL
METER
READING
BILL

***** CAR-RT SORT ** CR54
DAVID P BOYCE
5608 ELLSWORTH AVE.
APT. 7
PITTSBURGH, PA 15232-1871

H

20006176070014 000000161282 000000174101 000000159294

DAVID P BOYCE
5608 ELLSWORTH AVE APT 7

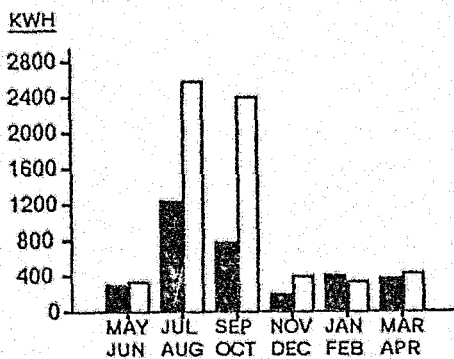
RATE - RS
RESIDENTIAL SERVICE

Please use your account number
2000617607001 when calling or
writing.

YOUR COMPARATIVE USAGE DATA

	APR '93	APR '94
AVG. KWH PER DAY	6	9
AVG. TEMPERATURE(°F)	39	40
YTD USAGE(KWH)	780	768

ELECTRIC USAGE BI-MONTHLY



■ - PRIOR 12 MOS. □ - LATEST 12 MOS.

METER READING INFORMATION

PRESENT	APR 06, 1994 - ACTUAL READING	4916
PRIOR	MAR 04, 1994 - ESTIMATED READING	4891
	DIFFERENCE	25
	YOUR METER MULTIPLIER	x 12
	TOTAL KWH USED	300

PRIOR BILLING INFORMATION

AMOUNT OF LAST BILL	330.45
PAYMENT RECEIVED MAR 21 - Thank You	-200.00
PAYMENT RECEIVED MAR 30 - Thank You	-15.00
AMOUNT YOU OWE FROM YOUR LAST BILL	\$115.45

CURRENT CHARGES

BASIC SERVICE	6.76
USE: 300 KWH @ 12.566¢	37.70
ENERGY COST RATE @ 0.3536¢/KWH EACH KWH	-1.06
PENNSYLVANIA TAX ADJUSTMENT	0.44
CURRENT BILLING CHARGES	\$43.84

TOTAL ACCOUNT BALANCE

\$159.29

Approximately 16.8% of your bill is for Federal, State, and Local taxes. This includes a Gross Receipts Tax of \$1.93

You may pay the "Total Amount Due" or join our budget plan by paying the "Budget Amount."

Your average daily cost for electric service is \$1.33
Electric energy is a good value.

Please donate to the Dollar Energy Fund to help people without heat or light by adding \$1 to either of the amounts shown below.

Estimated Pa. State Taxes included in this billing.
\$3.16

After Apr 27, 1994 a Late Payment Charge of 1.25% per month as shown below will be added to your balance.
\$1.99

PAYMENT DUE	BUDGET AMOUNT	AMOUNT DUE
APR 27, 1994	\$174.10 OR	\$159.29

Duquesne Light Company

One Oxford Centre • 301 Grant Street • Pittsburgh, PA 15279-0001



Duquesne Light

ACCOUNT NUMBER
2000617607001

MAKE CHECK PAYABLE TO DUQUESNE LIGHT

PAYMENT DUE	BUDGET AMOUNT	AMOUNT DUE	AMOUNT ENCLOSED
MAR 30, 1994	\$304.10	\$330.45	

YOU MAY PAY EITHER AMOUNT

PLEASE RETURN
THIS PORTION
WITH YOUR
PAYMENT

ESTIMATED
METER
READING
BILL

***** CAR-RT SORT ** CR54
DAVID P BOYCE
5608 ELLSWORTH AVE.
APT. 7
PITTSBURGH, PA 15232-1871

20006176070014 000000334585 000000304104 000000330453

DAVID P BOYCE
5608 ELLSWORTH AVE APT 7

RATE - RS
RESIDENTIAL SERVICE

Please use your account number
2000617607001 when calling or
writing.

METER READING INFORMATION

PRESENT MAR 04, 1994 - ESTIMATED READING	4891
PRIOR FEB 03, 1994 - ACTUAL READING	4880
DIFFERENCE	11
YOUR METER MULTIPLIER	x 12
TOTAL KWH USED	132

Dear Customer,

Because we were unable to read your meter this month, this bill is an ESTIMATE. If you would like to arrange for an actual meter reading, please call 321-4525 or 322-8772.

Thank you,

Customer Relations Department

PRIOR BILLING INFORMATION

AMOUNT OF LAST BILL	556.98
PAYMENT RECEIVED FEB 22 - Thank You	-250.00
AMOUNT YOU OWE FROM YOUR LAST BILL	\$306.98

CURRENT CHARGES

BASIC SERVICE	6.83
USE: 132 KWH @ 12.750¢	16.83
ENERGY COST RATE @ 0.3536¢CR EACH KWH	-0.47
PENNSYLVANIA TAX ADJUSTMENT	0.28
CURRENT BILLING CHARGES	\$23.47

TOTAL ACCOUNT BALANCE \$330.45

Approximately 15.5% of your bill is for Federal, State, and Local taxes. This includes a Gross Receipts Tax of \$1.03

You may pay the "Total Amount Due" or join our budget plan by paying the "Budget Amount."

Your average daily cost for electric service is \$0.81
Electric energy is a good value.

Please donate to the Dollar Energy Fund to help people without heat or light by adding \$1 to either of the amounts shown below.

Estimated Pa. State Taxes included in this billing.
\$1.69

After Mar 30, 1994 a Late Payment Charge of 1.25% per month as shown below will be added to your balance.
\$4.13

PAYMENT DUE	BUDGET AMOUNT	AMOUNT DUE
MAR 30, 1994	\$304.10 OR	\$330.45

