

Mr. M. Hillman  
P.O. Box 27757  
Phila. Pa. 19118  
(215) 990-1155

~~CRX~~  
JUL 11 2023 PM 2:23

Att: Ms. Darlene Heep/Adm. Law Judge  
PA. Public Utility Commission  
801 Market Street 4<sup>th</sup> Floor  
Philadelphia, PA. 10107

RCVD PUC SEC BUR  
JUL 11 2023 PM 2:26

RE: HILLMAN v. AQUA Pa. Inc.....Doc# C-2023 3038201

RESPONSE TO AQUA'S MOTION FOR JUDGMENT ON THE PLEADINGS

- 1.) Admit yes, I filed a Formal Complaint approximately February 19, 2020, against Aqua regarding foreign load dating back to 2015.
- 2.) I admit that a (titled) Answer and New matter dated March 24, 2020 was served, Deny Aqua claims to having investigated the foreign load, in that filing. Well what date did Aqua begin investigating the foreign load? Aqua claims to have met me and the landlord to investigate the foreign load on April 22, 2019, which is not true. Also Aqua claims there are six water meters installed at the property is not true and is claiming that I first contacted them in 2018. No I contacted them shortly after moving in to the residence regarding the water issue. Aqua also refer to credit of \$130.00, (foreign load can not be measured) yet according to § 1529.1 (b) Aqua is to pursue collection from the bldg owner. Lastly, the Bureau of Consumer Services did not consult me prior to a decision rendered.
- 3.) Denied: Margaret Morris, Counsel for Aqua repeatedly interrupted my testimony (during hearing) to prevent the presentation of evidence...talking over my testimony. While Christopher Pell refused to accept the evidence that I presented, asking me the same question repeatedly (how do I prove foreign load?) even though I answered numerous times. He says to prove foreign load with only my apartment, which makes no sense. So, I was prevented from completing my testimony. Pell also claims I checked off a box indicating payment agreement, is not true and he claims PUC has nothing to do with Collingdale Boro (trans. p.83,84 attached) which is contrary to PA Title 66 §506.

1.)

4.) I was not served a copy of the Decision or the Order to properly appeal. PA Superior Court holds that the Commission is bound by due process provisions of the constitutional law which require notice and an opportunity to be heard. W.J. Dillner Trans co. v. Pa. Puc 186 Pa Supr. 526, 142.

5.) Denied: The timeline and order of events seem to be concealed. On December 9, 2022 I called Aqua to request that they discontinue billing me and to open a billing dispute (as I explained the utility shut-off and hot water heater).. I called them again on December 28, 2022 because no one from billing dispute dept responded and they hung up on me....So on December 30, 2022 I visited the aqua co. and I was referred to the PUC. Therefore, I filed a Formal complaint on February 2, 2023 after a short informal complaint process, In the formal , the gas shut-off on May 12, 2021 is mentioned, the foreign load safety and discrimination violations, Pa. 66 sections 1502, 1505 and 1529.1(b). Relief sought is to clear my name from the account, Aqua pursue collections from the owner of bldg., to be fully refunded for payments that were made and the pUC issue civil penalties. Thus, tenants are not permitted to accept utility service which is not exclusively to their home. *-A Realty 1Petitioner v. PUC Respondent 2013*

6.) Denied: I admit there is an answer New matter dated March 1, 2023. Pursuant to 66 PA 1529.1(b) there are incorrect charges on the account, there are not six water meters and beyond sixty days is not a timely investigation. Also, there is a safety issue, where gas boiler heaters/gas hot water heaters (by using gas &water) are both aqua and Peco's responsibility. Aqua claims to demand proof, but at the hearing Counsel would not allow an equitable, orderly, hearing.

7.) I admit to filing a response to new matter on March 18, 2023, clearly stating that gas feeding the hot water heater is coming from a foreign gas meter. The issues were not timely addressed nor corrected, with discrimination in safety & service, the prior complaint was judged in error (discrimination). The code §1529.1(b) instructs Aqua to pursue collections from bldg owner. The code allows the PUC to enforce its orders or regulations within its jurisdiction.

8.) I admit that there was a hearing scheduled for May 16, 2023.

9.) I Admit that May 1, 2023 I filed a document "Argument" about being allowed to represent myself and do more than answer questions. By coincidence the Appeal in Federal Court that I was referring to was denied. Also, I object to Aqua using my certified letter return receipt as an exhibit. This is my property that I sent to PUC and it was not returned. 66 Pa §334(c). The code allows the PUC to enforce its orders or regulations within its jurisdiction.

10.) I admit may 8, 2023 I submitted proposed exhibits A and B. A is the high bill report from aqua dated may 2, 2019. Aqua did not respond to my high bill dispute on December 9, 2022, so I used the old Aqua report . B is the dispute report from Peco dated December 27, 2022, showing that gas and hot water are both Aqua and peco's responsibility.

2.)

11.) At the start of the may 16, 2023 hearing, Immediately Ms. Morris (counsel for aqua)disrupted the order of court (desperate to prevent me from testifying) she began to assume authority & control over the proceeding....talking over everyone claiming to have discussed 8 exhibits with me by telephone and I had not yet received exhibits in time for the hearing. So Ms. Heep decided to reschedule, so that documents will be exchanged hand in hand (in person). Ms. Morris disrupted the hearing to the point ..the court did not administer the oath. PA. 66 §1410 (3) All testimony must be under oath

12.) Denied: Yes there are material facts, this is a new complaint , foreign load, discrimination in service etc...Aqua never timely investigated either case and I was not present on April 22, 2019 an alleged investigation. The gas water heater being fed from a foreign gas meter is genuinely unsafe, especially after a gas shut-off. Also, the recent water service interruptions affecting different apts simultaneously, the three hot water heaters/ three boiler heaters heating five apartments. Our water pressure dropping when other tenants turn their water on, where thousands of gallons of water on the water bill (when we were rarely home at all.

13.) There are plenty of genuine material facts in dispute , this being a breach of duty. Aqua ignored my December 9, 2022 dispute by assuming the position of judge and jury, contrary to Public Utility Dispute procedures §§ 56.151 and 56.381 among others. The code instructs the utility companies to immediately respond to disputes whether it involves only their utility service or if it their utilities merge with another company's utilities (as water and gas). 52 Pa code §56.1141, §56.372(1), §56.451, §65.3, §65.7, §65.10. And 66 pa code §701, §1402(1), §1501, §1502,§1505, §3302 and §3309

14.) The Commission will grant a motion for judgment on the pleadings only if the pleadings show there is no genuine issue as to a material fact and that the movant is entitled to judgment as a matter of law. Darrel Ross v. Peco Energy Docket C-2008-2060301

15.) Only in a case where the moving parties right to prevail is so clear that a trial would be fruitless exercise, should judgment on the pleadings be granted. Williams v. Lewis, 466 A.2d 682 (Pa Super 1983): Service Employees International Union, Local 69, AFL-CIO v. The Peoples natural Gas company d/b/a Dominion Peoples Docket C-20028539

16.) Factual dispute exists ...aqua decided to ignore my dispute and assume a position as judge and jury....they also ignored the PUC regulations.

17.) There are plenty of genuine material facts

18.) The public is very much interested since the recent catastrophic fire that killed 13 people in phila, the house explosions killing 5 people in Pottstown, pa., and the other in Phila. Leveling approximately 5 homes.

19.) Pa Supreme Court holds ...an agency may revise its policies and amend [such] regulations in interpreting its statutory mandates. Further...past interpretation of a statute though approved by the Judiciary, does not bind the PUC to that particular interpretation “ quoting—Elite Industries, Inc. v. Pennsylvania Pub, Util Comm’n 832 A.2d 428, 431-32 (Pa 2003)

20.) No, this only appears clear to the guilty parties that both complaints are identical. This is a new complaint and Aqua is tied to the gas hot water heater, as well as Pa 66 §1501, §1502, §1505 (Discrimination in Service)

Numbers 21, 22 and roman numeral III appear to be missing on my copies.

23.) The PUC is not bound by a prior court decision that interprets a statutory provision. In Popowsky v. Pennsylvania Pub Util Comm’n 910 A2d 38,53 (Pa. 2006), the PA Supreme Court Held that an agency may revise its statutory mandate. Further, past interpretation of a statute, though approved by the Judiciary does not bind the PUC to that particular interpretation

24.) The code allows the PUC to enforce its orders or regulations within its jurisdiction

25.) The code allows the Commission to enforce its orders or regulations within its jurisdiction

26.) Subject matter jurisdiction and personal jurisdiction are required to decide a controversy.

27.) Liability can not arise if a complainant is unaware of the liability. Wilson v. Pennsylvania American Water Co, Docket C-20066331

28.) The PUC has authority to waive procedural defects when they do not affect the substantive rights of the parties. Info Connections v. PAPUC 630 A.2d 498 (Pa Cmwlt 1993)

29.) Yes they are waivable.....The PAPUC has authority to waive procedural defects when they do not affect the substantive rights of the parties. Info Connections v. PAPUC 630 A.2d 498 (Pa. Cmwlt 1993)

30.) The Commission is not bound by a prior court decision that interprets a statutory provision. Seaboard Tank Lines v. Pennsylvania Pub Util. Comm’n, 502 A.2d 762 (Pa. Cmwlt 1985)

31.) I was not present at an alleged investigation of foreign load on April 22, 2019  
When did liability arise? Liability can not arise if complainant is not aware of it.  
Kovarikova v. PA American Water Co., 2018 Pa pUC LEXUS 303

4.)

32.) The Doctrine of Equitable Estoppel serves to toll the statute of limitations and is based on the theory of estoppel. *Ely v. Pennsylvania American Water Co.*, Docket C-20055616 (order entered July 10, 2006) it provides that a defendant may not invoke the statute of limitations if the defendant misleads the plaintiff or causes the plaintiff to relax his vigilance or deviate from his right of inquiry into the facts—through fraud or concealment. *Id* The Doctrine does not require fraud in the strictest sense but rather fraud in the broadest sense, which includes unintentional deception. *Battle v. Peco Energy Co.* Docket C-00003804 (Order entered July 16, 2001)

33.) In *Fine v. Checcio*, 870 A.2d 850 (Pa. 2005), the Pennsylvania Supreme Court Held that the law recognizes certain exceptions which Toll the statute of limitations, such as Discovery Rule and the Doctrine of Fraudulent Concealment. The Court further instructed that ‘a statute of limitations, like all statutes, must be read with Reason and Common Sense; that its application to a given set of circumstances, must not be made to produce something that the General Assembly could never have intended; and that its interpretation must be guided by the presumption in the Statutory Construction Act that the legislature does not intend a result that is absurd, impossible of execution or unreasonable.’ *Id* at 860

34, 35.) The code allows the PUC to enforce its orders or regulations within its jurisdiction

36.) Under the Continuing Violations Doctrine a complainant may recover for Misconduct that falls outside the limitations period on the theory that such misconduct is part of one continuing violation. See *Barra v. Rose Tree Media Sch. Dist.*, 858 A.2d 206, 213 (Pa. Cmwlth. 2004). The United States Supreme Court addressed the continuing violation doctrine in *U.S. v. ITT Continental Baking Co.*, 420 U.S. 223 at 231 (1975) where it held that in a regulatory setting, a violation should be construed as continuing where “the detrimental effect to the public and the advantage to the violator continue and increase over a period of time, and the violator could eliminate the effects of the violation if it were motivated to do so, after it had begun” The Supreme Court further emphasized in *ITT Continental* that the Federal Trade Commission Act should not be interpreted to convert penalties for violations into minor taxes that encourage non-compliance. *Id* at 232 See *Havens Realty Corp v. Coleman*, 455 U.S. 363 (1982) (where the U.S. Supreme Court Held that all violations are actionable, if any occur within the limitation period

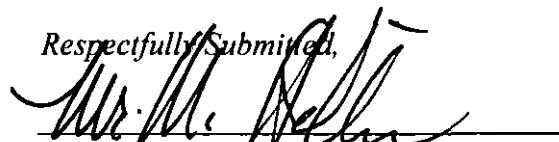
37.) The Public and I both agree that we are interested in the outcome, after the house explosions recently and the fatal, disastrous fire killing 13 people in Phila.

I Mr. Hillman request the Court Suspend Aqua’s Motion for Judgment on the Pleadings.

Date:

July 7, 2023

Respectfully Submitted,

  
Mr. M. Hillman, Plaintiff/Pro Per

5.)

Mr. Hillman and Christopher Pell

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1. question.

2                                    Hold on. Let me ask you this  
3 question. You're saying it still requires  
4 verification? That still needs to be verified that  
5 these pipes are servicing other areas of the  
6 apartment building?

7                                    THE WITNESS: Yes. The whole building  
8 needs to be verified by the -.

9                                    JUDGE: So does that mean -?

10                                   THE WITNESS: They need to be verified  
11 by the Borough of Collingdale and Aqua.

12                                   JUDGE: Okay.

13                                   ATTORNEY MORRIS: I'm going to object  
14 on the -

15                                   JUDGE: Go ahead.

16                                   ATTORNEY MORRIS: - on the basis of  
17 relevancy. A borough inspection by the borough  
18 where he lives has nothing to do with the  
19 Commission. The Commission doesn't have  
20 jurisdiction over local ordinances or building codes  
21 related to rental property.

22                                   JUDGE: That is correct. We don't  
23 have jurisdiction over the borough, sir.

24                                   THE WITNESS: But I believe - yes, but  
25 I believe that the utility companies, they have

Mr. Hillman and Christopher Pelt

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1 certain authority when they distribute service. And  
2 they are responsible. So that - that opens that up  
3 for the PUC as well to watch over -.

4 JUDGE: Well, no. No, it doesn't. We  
5 have no - no matter what decision I would render,  
6 it's not going have any impact on the borough.

7 THE WITNESS: All right. All right.  
8 Well, when we go further -.

9 JUDGE: Mr. Hillman, you're doing it  
10 again. I'm not finished.

11 THE WITNESS: Sorry. Go ahead.

12 JUDGE: The only - the only impact my  
13 decision will have will be on you and on Aqua,  
14 that's it. Potentially the landlord, if it's  
15 determined there is foreign load. That's it. It  
16 doesn't go any further than that.

17 THE WITNESS: Would you answer my  
18 question, Judge?

19 JUDGE: Would I what? I'm sorry.

20 THE WITNESS: What does it take to  
21 find out and to gain information about the foreign  
22 load? This is to Judge -.

23 JUDGE: Yes. Well, eventually you  
24 have to discover that there is a foreign-load issue,  
25 the utility company has to verify that there is an

SENT VIA CERTIFIED MAIL

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JUL 11 2023 PM 2:26

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Att: Ms. Darlene Heep/Adm. Law Judge  
Secretary Bureau  
PA. Public Utility Commission  
400 North Street  
Harrisburg, Pennsylvania 17120

RE: HILLMAN v. AQUA Pa. Inc.....Doc# C-2023 3038201

CERTIFICATION OF SERVICE

I Mr. M. Hillman certify that on this date a true and correct copy of the Respose to Aqua's Motion for Judgment on the Pleading was served upon the following:

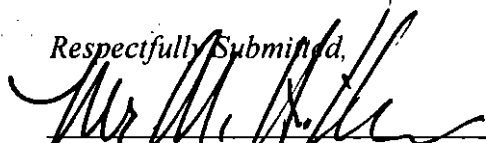
Ms. Darlene Heep  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Secretary Bureau  
400 North Street  
Harrisburg, Pennsylvania 17120

VIA U.S. First Class Mail  
Margaret Morris Esq.  
Cira Centre 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA. 19104

Date:

July 7, 2023

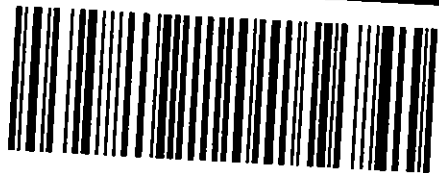
Respectfully Submitted,

  
Mr. M. Hillman, Plaintiff/Pro Per

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

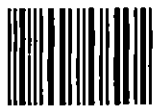
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Att: Ms Darlene Heep (Adm L. Judge)  
Secretary Bureau  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, Pennsylvania 17120

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