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February 21, 2024

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Sang Choe v. PPL Electric Utilities Corporation**  
**Docket No. F-2023-3041321**

Dear Secretary Chiavetta:

Attached for filing are the Exceptions of PPL Electric Utilities Corporation to the Initial Decision in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully,



Nicholas A. Stobbe

NAS/dmc  
Attachments

cc: The Honorable Chad Allensworth (*via email; w/attachments*)  
Office of Special Assistants (*via email; w/attachments*)  
Certificate of Service

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

### **VIA EMAIL AND FIRST-CLASS MAIL**

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Date: February 21, 2024



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Nicholas A. Stobbe

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Sang Choe,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. F-2023-3041321
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

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**EXCEPTIONS OF PPL ELECTRIC UTILITIES CORPORATION TO THE  
INITIAL DECISION**

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Date: February 21, 2024

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## **I. INTRODUCTION AND BACKGROUND**

On June 16, 2023, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) was served with the Formal Complaint of Sang Choe (“Complainant”) filed with the Pennsylvania Public Utility Commission (“Commission”). In the Complaint, the Complainant alleged that PPL Electric had billed him incorrectly based on a defective meter. (Complaint ¶¶ 4–6.) As relief, the Complainant requested that the Company refund the “incorrectly calculated fare,” complete a detailed inspection of the meter, and compensate him for mental and physical time/stress.

On February 1, 2024, the Commission issued Administrative Law Judge Chad Allensworth’s (“ALJ”) Initial Decision (“ID”), sustaining in part and dismissing in part the Complaint. More specifically, the ID dismissed the Complainant to the extent that it claimed PPL Electric failed to provide reasonable service regarding a high-bill investigation. However, the ID sustained the Complaint to the extent that it alleged PPL Electric over billed the Complainant for electricity. As for relief, the ID ordered a refund for the August 2022 to August 2023 billing periods based on the difference between the Complainant's metered usage during those billing periods and the Complainant's metered usage during the August 2021 to August 2022 billing periods. The ID also directed the Company to perform a meter test, to waive any fee associated with such meter test, refund any late payment charges, and file the results of the meter test within 60 days of the PUC's Final Order. Lastly, the ID ordered the Company to pay a \$1,200 civil penalty, based on \$100 per month of alleged overbilling. (ID at 17-20)

PPL Electric files Exceptions to limited portions of the ID, namely: (1) the imposition of a civil penalty of \$1,200 against PPL Electric; and (2) the ordered refund. The ID’s purported justification for the \$1,200 civil penalty lacks evidentiary and legal support and should not be adopted by the Commission. Further, the ID’s method for calculating the ordered refund should

be corrected. Specifically, the ID ordered the Company to recalculate the Complainant's bills for the August 2022 to August 2023 billing periods using his electric usage for the August 2021 to August 2022 billing periods and then credit him the difference. However, the number of days in the billing periods are not always the same. For example, the January 2022 billing period consisted of 29 days, while the January 2023 billing period had 35 days. Yet, the ID directed PPL Electric to recalculate the January 2023 billing period's bill based on the total electric usage recorded for the January 2022 billing period. Thus, the method for calculating the ordered refund should be corrected by the Commission.

For these reasons, and as explained in more detail below, PPL Electric respectfully requests that the Commission grant these Exceptions and modify the ID accordingly.

## **II. EXCEPTIONS**

### **A. EXCEPTION NO. 1: THE COMMISSION SHOULD REVERSE THE ID'S IMPOSITION OF A CIVIL PENALTY BECAUSE THE ID'S PURPORTED JUSTIFICATION FOR THAT CIVIL PENALTY LACKS FACTUAL AND LEGAL SUPPORT**

The Commission should modify the ID to eliminate the imposition of a civil penalty of \$1,200 because the ID's alleged support of the civil penalty lacks factual and legal support.

After finding that the Company overbilled the Complainant, the ID applied the ten factors (the *Rosi* factors) set forth in the Commission's Policy Statement for evaluating whether a civil penalty should be imposed for violating a Commission order, regulation, or statute. (ID at 17-20.) These factors are: (1) whether the conduct at issue was of a serious nature; (2) whether the resulting consequences of the conduct at issue were of a serious nature; (3) whether the conduct at issue was deemed intentional or negligent; (4) whether the regulated entity made efforts to modify internal policies and procedures to address the conduct at issue and prevent similar conduct in the future; (5) the number of customers affected and the duration of the violation; (6) the compliance

history of the regulated entity that committed the violation; (7) whether the regulated entity cooperated with the Commission's investigation; (8) the amount of the civil penalty or fine necessary to deter future violations; (9) past Commission decisions in similar situations; and (10) other relevant factors. 52 Pa. Code § 69.1201(c).

The ID found that factors 1, 2, 3, 5, and 6 weighed in favor of a lower penalty, factor 7 did not apply here, factor 4 weighed in favor of a higher penalty, and factors 8 and 9 weighed in favor of imposing a penalty. On these points, the ID erred in applying factors 4, 8, and 9 and imposing, as a result, a civil penalty of \$1,200.

**1. The ID Erred in Finding that the Fourth *Rosi* Factor Weighs in Favor of a Highly Penalty, Because Undisputed Record Evidence Establishes that the Company Made Efforts to Rectify the Billing Issues Experienced by the Complainant**

When applying the fourth *Rosi* factor,<sup>1</sup> the ID found as follows:

The billing error in this case occurred over several months and PPL failed to find and correct the error during that period and has not made any efforts to rectify the overall billing error regarding Mr. Choe. Thus, I conclude a higher penalty may be warranted under this factor.

(ID at 19.) The ID's finding under the fourth *Rosi* factor is not supported by evidence of record for several reasons.

First, the record demonstrates that PPL Electric was in contact with the Complainant throughout the disputed bill period and tried to address his concerns. On February 9, 2023, the

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<sup>1</sup> In full, the fourth *Rosi* factor states:

Whether the regulated entity made efforts to modify its internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.

52 Pa. Code § 69.1201(c)(4).

Complainant contacted the Company to discuss the bills at issue, but ultimately hung-up on the Company. (Tr. 26; PPL Electric Exhibit No. 2.) Furthermore, on April 20, 2023, the Company offered to test the Complainant's meter, consistent with its Commission-approved tariff, but the Complainant declined. (Tr. 36; PPL Electric Exhibit No. 2.) Relatedly, on April 27, 2023, the Complainant once again contacted the Company to discuss the disputed bills. During that conversation, the Complainant declined any assistance from the customer service representative and requested to speak to a supervisor. (Tr. 36-37; PPL Electric Exhibit No. 2.) In response, a PPL Electric supervisor attempted to contact the Complainant on May 2, 2023. (Tr. 36-37; PPL Electric Exhibit No. 2.) The Complainant did not answer, and the PPL Electric supervisor left a voicemail with him which was never returned. (Tr. 36-37; PPL Electric Exhibit No. 2.)

Beyond the various attempts to speak to – and potentially resolve – the Complainant's concerns with his billing throughout the disputed billing periods, PPL Electric also presented un rebutted evidence that it changed internal procedures in response to the estimated billing issue experienced by the Company in late 2022 and early 2023 and affected the January 2023 bill(s) received by the Complainant. Specifically, PPL Electric witness Watkinson testified that “[t]he [C]ompany has changed the way the files are transferred from one system to another to prevent his specific issue from happening again,” has “developed response plans that if this [estimated billing] issue were to ever happen again” so PPL Electric can address that issue “more quickly,” and “is still currently evaluating existing estimation processes and ways to improve those processes.” (Tr. 37.) Moreover, PPL Electric explained that “estimated bills like [the Complainant's] were cancelled and rebilled. (Tr. 33.)

Despite the record evidence to the contrary, the ID determined that PPL Electric has failed to modify its internal practices to “find and correct the error during that period and has not made

any efforts to rectify the overall billing error regarding Mr. Choe.” (ID at 19.) This finding overlooks the unrebutted evidence and should be reversed, such that the fourth *Rosi* factor weighs in favor of a lower penalty or no penalty.

**2. The ID Incorrectly Found that the Eighth *Rosi* Factor Weighs in Favor of a Penalty, Because the Record Demonstrates that a Civil Penalty Is Unnecessary to Deter Future Violations**

The eighth *Rosi* factor provides as follows:

- (8) The amount of the civil penalty or fine necessary to deter future violations, with consideration of the size of the utility.

52 Pa. Code § 69.1201(c)(8). In applying the eighth *Rosi* factor, the ID concluded:

PPL is a large utility with an extensive territory. In light of PPL’s size, the limited consequences from this error, the length of time over which the error occurred, the rejected efforts of PPL and the potential for repetition, I conclude that there should be a penalty imposed by the Commission.

(ID at 19-20.) The ID’s finding under the eighth *Rosi* factor is not supported by record evidence.

First, although PPL Electric is a large utility, the Company undertook several efforts to investigate and address the Complainant’s concerns and provide him with assistance for his bills. In fact, PPL Electric offered the Complainant various opportunities to: (1) enter into a payment agreement with the Company; (2) discuss why his usage may have become elevated; (3) be referred to and/or apply for assistance programs; and (4) have the Company conduct a meter test. (Tr. 36-37; PPL Electric Exhibit No. 2.) Ultimately, the Complainant declined to pursue or engage with any of the aforementioned options. With or without the civil penalty of \$1,200, PPL Electric will continue to work diligently with its customers to investigate their billing concerns, offer referrals to the Company’s assistance programs, and offer to conduct meter tests.

Further, the “potential for repetition” should not be used as an aggravating factor here. By the Complainant’s own admission, he does not dispute the bills rendered after October 2023, thus further negating the ID’s concerns regarding the opportunity for repetition. (Tr. 17.) Also, noted

above, PPL Electric “has changed the way the files are transferred from one system to another to prevent this specific issue from happening again,” has “developed response plans that if this issue were to ever happen again, it could be addressed more quickly,” and “is still currently evaluating existing estimation processes and ways to improve those processes.” (Tr. 37.) Thus, the Company has taken actions to address the issues raised by the Complainant and prevent them from happening again.

For these reasons, the ID erred in finding that the eighth *Rosi* factor weighed in favor of a civil penalty.

### **3. The ID’s Reliance on *Risser* to Support the Civil Penalty under the Ninth *Rosi* Factor Is Misplaced**

When addressing the ninth *Rosi* factor, the ID cited the Commission’s decision in *Risser v. PPL Electric Utilities Corp.*<sup>2</sup> as alleged support for a civil penalty of \$100 per month, which, in this case, amounted to a civil penalty of \$1,200.

The ID’s reliance on *Risser* is misplaced because the case is readily distinguishable. Below is a list summarizing the issues that were present *Risser* but are not present here:

- (1) The *Risser* complainants made modifications to their air conditioning system to be more energy efficient and switched from electric heat to propane heat prior to the disputed bills.<sup>3</sup>
- (2) The utility in *Risser* did not render a bill to the *Risser* complainants for two consecutive months and did not offer the *Risser* complainants an opportunity to amortize the subsequent make-up bill.<sup>4</sup>
- (3) The utility in *Risser* discovered a malfunction on the manual meter dials, which reported usage below the meter’s actual readings.<sup>5</sup>

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<sup>2</sup> *Risser v. PPL Elec. Util. Corp.*, Docket No. F-2017-2612481 (Initial Decision issued Mar. 5, 2018) (“*Risser*”) made final without further Commission action (Final Order entered Apr. 27, 2018).

<sup>3</sup> *Risser*, at 16.

<sup>4</sup> *Risser*, at 18.

<sup>5</sup> *Risser*, at 18.

- (4) The utility in *Risser* did not explain the reason for estimated bills to the *Risser* complainants, and did not explain the reasoning for the estimated bills.<sup>6</sup>
- (5) Once the meter malfunction was suspected and/or discovered in *Risser*, the utility took several months to take corrective action.<sup>7</sup>
- (6) In *Risser*, the utility did not offer the *Risser* complainants an opportunity for a payment agreement until the Formal Complaint was filed.<sup>8</sup>
- (7) In *Risser*, the Complainants were “slammed” by an electric generation supplier (“EGS”).<sup>9</sup>
- (8) The *Risser* complainants were on a transformer rated account.<sup>10</sup>

Here, unlike *Risser*, there is no record evidence to suggest that the Complainant made modifications at the Service Address that would decrease his electric consumption before or during the disputed billing period. Indeed, the record indicates that “everything is electrical” at the Complainant’s Service Address. (Tr. 18.) Moreover, unlike *Risser*, there is no record evidence to suggest that PPL Electric was not maintaining accurate meter readings throughout the disputed period; in fact, the opposite is true. (Tr. 32-33.) Relatedly, in contrast to *Risser*, PPL Electric discussed – or attempted to discuss – the reason for the estimated bills with the Complainant. (Tr. 36; PPL Electric Exhibit No. 2.) Additionally, unlike *Risser*, the Company ultimately cancelled the single estimated bill and rebilled the Complainant within the same month that the estimated bill was rendered. (Tr. 28-29.) Again, in contrast to *Risser*, PPL Electric made efforts to engage the Complainant in discussions regarding a payment agreement, but those contacts were rejected or not reciprocated. (Tr. 36.) Lastly, there were no allegations of “slamming” by an EGS in this case, nor is the Complainant served on a transformer rated account.

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<sup>6</sup> *Risser*, at 31.

<sup>7</sup> *Risser*, at 20.

<sup>8</sup> *Risser*, at 25.

<sup>9</sup> *Risser*, at 22.

<sup>10</sup> *Risser*, at 27.

In addition, an important fact that supported the finding of overbilling in *Risser* is not present here. In *Risser*, the complainants alleged that there were incorrect high charges on their account with PPL Electric, given that one person was in the home in the summer months of 2015 and 2016, when the alleged billing errors occurred. *Risser* at 1. However, during the rest of the year(s), the complainants in *Risser* had more than one occupant in the house and, in some circumstances, as many as five occupants. *Risser* at 17. This fact contributed to the finding that there were errors in the billing. Here, in contrast, the record evidence demonstrates that the number of household occupants at the Complainant's Service Address remained unchanged throughout the disputed billing periods. (Tr. 17-18; ID at 4.) Therefore, unlike the facts in *Risser*, there is no evidence to demonstrate that the number of household occupants at the Complainant's Service Address decreased during the disputed billing period. (Tr. 17-18; ID, p. 4.)

Thus, the facts, issues, and purported violations in *Risser* were substantially different and more serious than the instant proceeding. As such, PPL Electric respectfully submits that the *Risser* decision actually warrants a lower civil penalty or no civil penalty at all.

Based on the foregoing, PPL Electric respectfully requests that the Commission grant Exception No. 1, reverse the imposition of the \$1,200 civil penalty, and modify the ID accordingly.

**B. EXCEPTION NO. 2: THE ID'S METHOD FOR CALCULATING THE ORDERED REFUND SHOULD BE CORRECTED**

The Commission also should correct the ID's method for calculating the ordered refund.

In Ordering Paragraph No. 3, the ID mandated that:

Within 30 days of the date of the entry of a final Commission Order in this proceeding, and consistent with the findings set forth herein, Respondent is directed to recalculate the bills issued to Complainant based on kWh usage from August 2022 to August 2023 using the kWh usage from the prior month and year and shall credit Complainant's account with the difference between the prior and current calculation. Respondent shall also file documentation certifying it completed this action at this docket number with the Secretary of the Commission.

(ID at 23-24.) Specifically, the ID required PPL Electric to recalculate the Complainant’s kilowatt-hour (“kWh”) usage consistent with the below:

August 2022 – 701 kWh  
September 2022 – 503 kWh  
October 2022 – 451 kWh  
November 2022 – 786 kWh  
December 2022 – 944 kWh  
January 2023 – 1342 kWh  
February 2023 – 1022 kWh  
March 2023 – 713 kWh  
April 2023 – 666 kWh  
May 2023 – 552 kWh  
June 2023 – 568 kWh  
July 2023 842 kWh

(ID at 20-21.)

The ID’s “recalculation” of the bills fails to account for differences in the number of billing days in each of the billing periods. Specifically, the differences in billing periods and consumption are outlined in the table<sup>11</sup> below:

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<sup>11</sup> See PPL Electric Exhibit No. 1.

<b>Billing Period<sup>12</sup></b>	<b>Days in Billing Period</b>	<b>Average kWh/day in Billing Period</b>	<b>Billing Period</b>	<b>Days in Billing Period</b>	<b>Average kWh/day in Billing Period</b>
August 2021	29	24.17	August 2022	29	32.89
September 2021	32	15.7	September 2022	30	25.73
October 2021	29	19.61	October 2022	31	31.9
November 2021	30	26.2	November 2022	30	39.77
December 2021	33	28.6	December 2022	35	28.6
January 2022	29	46.28	January 2023	35	56.62
February 2022	29	35.24	February 2023	27	56.56
March 2022	29	24.59	March 2023	30	57.73
April 2022	32	20.81	April 2023	29	50.03
May 2022	30	18.4	May 2023	32	36.63
June 2022	29	19.59	June 2023	30	30.77
July 2022	32	26.31	July 2023	29	37.59
August 2022	29	32.89	August 2023	32	42.41

Clearly, the billing periods do not exactly correlate, year-over-year, thereby creating issues with the required refund. Therefore, PPL Electric respectfully submits that, should the Commission ultimately order a refund to the Complainant, the refund should be calculated by multiplying the average daily usage between August 2021 and August 2022 (*i.e.*, the undisputed billing period), by the number of billing days in each corresponding billing period between August

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<sup>12</sup> The ID’s designation of billing periods is slightly inconsistent with how the same periods are presented in PPL Electric Exhibit No. 1, which was unrebutted and admitted into the record. For simplicity and ease of reference, PPL Electric identifies each billing period here with how it appears to have been designated in the ID.

2022 and July 2023 (*i.e.*, the disputed billing period), and require the Company to bill the Complainant with that adjusted kWh consumption. If the Commission adopts this method, and modifies the ID as suggested, the following data reflected in the table below would be applied to the Complainant’s account:

<b>Billing Period</b>	<b>Days in Billing Period</b>	<b>Average kWh/day in Prior Year’s Billing Period</b>	<b>Total kWh to be Billed after Refund</b>
August 2022	29	24.17	700.93
September 2022	30	15.7	471
October 2022	31	19.61	607.91
November 2022	30	26.2	786
December 2022	35	28.6	1,001
January 2023	35	46.28	1,619.8
February 2023	27	35.24	951.48
March 2023	30	24.59	737.7
April 2023	29	20.81	603.49
May 2023	32	18.4	588.8
June 2023	30	19.59	587.1
July 2023	29	26.31	762.99
August 2023	32	32.89	1,052.48

For these reasons, PPL Electric respectfully requests that the Commission grant Exception No. 2 and modify the ID accordingly.

**III. CONCLUSION**

WHEREFORE, the Pennsylvania Public Utility Commission should grant PPL Electric Utilities Corporation's Exceptions and enter a Final Order consistent with these Exceptions that adopts the Initial Decision, as modified, to remove the findings, conclusions, and ordered relief related to: (1) the imposition of a civil penalty; and (2) the ordered refund.

Respectfully submitted,



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