

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held May 23, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr., Statement

Karen Feitt

C-2023-3040660

v.

Peoples Natural Gas Company LLC

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a document submitted to the Commission by Higinio Mendoza, Jr. (Mr. Mendoza), on behalf of Karen Feitt (Ms. Feitt or Complainant), and received by the Commission on September 5, 2023.¹ The document is referenced to the above-captioned Formal Complaint (Complaint) and is self-styled

¹ We note that the document submittal does not contain a Certificate of Service nor does it make any indication that it was served upon the Parties of Record. Accordingly, by Secretarial Letter dated September 5, 2023, the document was served upon the Parties of Record to constitute service for purposes of 52 Pa. Code § 5.533.

“Executor Letter;” “Higinio Mendoza Jr Estate Executive Order 1002” (hereinafter referred to as Executor Letter).² The Executor Letter was filed subsequent to the Initial Decision (I.D.) of ALJ Mary D. Long, which was issued on August 22, 2023, in the above-captioned proceeding.³ On September 20, 2023, Peoples Natural Gas Company LLC (Peoples or Company) filed Reply Exceptions.

Commission dockets further indicate that after the time period in which Exceptions and Replies to Exceptions are permitted in accordance with the Commission’s Rules of Practice, another document,⁴ referenced to this proceeding, was submitted to the Commission on September 22, 2023 by Mr. Mendoza, on behalf of the Complainant. The document submitted after the period of time for Exceptions and Replies to Exceptions is self-styled “Executor Letter;” “Higinio Mendoza, Jr. Executive Order 1004” and references the Replies to Exceptions of Peoples. While our Regulations at 52 Pa. Code §§ 5.533 and 5.535 set forth the procedure to file Exceptions and Reply Exceptions, such Regulations do not contemplate or permit the filing of a reply or response to Reply Exceptions in order to establish a sense of finality to a proceeding. As a result, the document submittal filed in response to Peoples’ Reply Exceptions are in violation of the Commission’s Rules of Practice and will not be considered.

For the reasons discussed below, we shall decline to treat the Executor Letter, filed by Mr. Mendoza, as Exceptions and adopt the ALJ’s Initial Decision, consistent with this Opinion and Order.

² We note that the Executor Letter is non-responsive to the issues in this proceeding, although the letter makes a reference to the presiding Administrative Law Judge (ALJ) assigned to this proceeding.

³ In the Commission’s case management system, the Executor Letter is identified as “Exceptions” to the Initial Decision of ALJ Long.

⁴ The document submittal is identified as “Reply to Reply Exceptions” in the Commission's case management system. The document does not contain a Certificate of Service nor does it make any indication that it was served upon the Parties of Record.

I. History of the Proceeding

On May 5, 2023, Ms. Feitt filed a Formal Complaint (Complaint) against Peoples. On the Complaint form, the Complainant checked the box for “Other” and alleged the following:

“Billing error.” This utility company statement of account (the bill?) reflects debt, but not the credit, so it is a billing error. It is our right, title, interest, and equity. Please send a true bill.

Complaint at 2. The Complainant did not specify in the Complaint which bill was incorrect. As for relief, the Complainant stated, in pertinent part, as follows:

The account is ours, therefore the interest (credit) is to be returned, since the inception of the account . . . it is certain that the “law” will allow the cost recovery, recoupment of the notes, interest, and anything that would rightfully be ours. The Peoples Gas bill, sent monthly reflects a “debt,” however hides the matching “credit”, and for any debt there must be a matching credit, and for this utility company to send the “bill” without consideration is a violation of law(s).

Complaint at 3. Under the “Legal Representation” section of the Complaint form appears the notation “Invoking the Private Attorney General Act.” *Id.* at 4. Ms. Feitt executed the Complaint as the Complainant. *Id.* at 5. Below Ms. Feitt’s signature, in the space provided for “Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)” is Mr. Mendoza’s signature, where he identifies himself as “agent.” *Id.*

On June 5, 2023, Peoples filed an Answer and New Matter (Answer) to the Complaint, with a Notice to Plead. In its Answer, the Company denied that: (1) the Complainant’s bill(s) contained a “billing error;” (2) the Complainant was entitled to a

credit on her account; and (3) the Company’s billing practices for the Complainant’s account violated the Code, Commission’s Regulations and orders, or the Company’s tariff. Answer at 3-4. In New Matter, Peoples averred that the allegations, relating to Peoples’ provision of a “true bill,” raised in the instant Complaint, were previously raised by the Complainant and/or Mr. Mendoza in two prior complaint proceedings at Docket Nos. F-2018-3003833 and F-2019-3015189, which were fully litigated and dismissed by the Commission. *Id.* at 6. Accordingly, Peoples argued that the instant Complaint is barred by the orders entered in the prior complaint proceedings, pursuant to 66 Pa. C.S. § 316, and by the doctrines of *res judicata* and collateral estoppel and should, therefore, be dismissed. *Id.* at 7-10.

Also on June 5, 2023, Peoples filed Preliminary Objections, with a Notice to Plead. In its Preliminary Objections, Peoples sought dismissal of the Complaint, with prejudice, asserting that the Complaint is legally insufficient under 52 Pa. Code § 5.101(a)(4) because it is barred by *res judicata* and constitutes an abuse of administrative process. Preliminary Objections at 4-8.

On June 20, 2023, Mr. Mendoza filed with the Commission and served upon Peoples a document self-styled “Executor Letter;” “Notice of Occupancy of the Executor Office.”⁵

By Order of Motion Judge Assignment, dated July 24, 2023, the Parties were notified that the matter was assigned to ALJ Long for disposition and scheduling of a hearing, if necessary.

⁵ We note that while this document references the Answer and New Matter of Peoples, it is otherwise non-responsive to such pleading.

In the Initial Decision, issued on August 22, 2023, ALJ Long treated Peoples’ Preliminary Objections as a Motion for Judgment on the Pleadings (Motion), granted Peoples’ Motion, and dismissed the Complaint, with prejudice, as legally insufficient and an abuse of administrative process.

Also on August 22, 2023, Mr. Mendoza submitted a document with the Commission entitled “Warranted Bonded Property Claim.”⁶

As noted, *supra*, on September 5, 2023, Mr. Mendoza filed an Executor Letter.⁷ On September 20, 2023, Peoples filed Reply Exceptions.

II. Discussion

A. Legal Standards

1. Burden of Proof

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Public Utility Code (Code), 66 Pa. C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the Complainant must show that the Company is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 529 Pa. 654, 602 A.2d 863 (1992). That is, the Complainant’s evidence must be more convincing, by even the smallest amount, than that presented by the Company. *Se-Ling*

⁶ We note that this document does not contain a Certificate of Service nor does it make any indication that it was served upon the Parties of Record.

⁷ *See, supra*, notes 1-3.

Hosiery, Inc. v. Margulies, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, this Commission's decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980).

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the Complainant shifts to the Company. If the evidence presented by the Company is of co-equal weight, the Complainant has not satisfied the burden of proof. The Complainant now has to provide some additional evidence to rebut the evidence of the Company. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 501 Pa. 433, 461 A.2d 1234 (1983). While the burden of going forward with the evidence may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

2. Exceptions

Section 5.533 of the Commission's regulations, 52 Pa. Code § 5.533, sets forth the procedure to except to initial decisions, in pertinent part, as follows:

Each exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision. Supporting reasons for the exceptions shall follow each specific exception.

52 Pa. Code § 5.533(b).

B. The ALJ's Initial Decision

In the Initial Decision, ALJ Long made three (3) Findings of Fact and reached seven (7) Conclusions of Law. I.D. at 2-3, 12-13. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

As a procedural matter, ALJ Long exercised discretion, as the presiding officer, to treat Peoples' Preliminary Objections, raising the doctrine of *res judicata*, as a Motion for Judgment on the Pleadings pursuant to 52 Pa Code § 5.102. I.D. at 3-5. The ALJ then addressed Peoples' argument that the doctrine of *res judicata* should be applied to the instant Complaint because the claims are identical to the claims raised in two other complaints filed by the Complainant and/or Mr. Mendoza in 2018 and 2019. *Id.* at 6. The ALJ explained that for the doctrine to apply, all of the following four (4) requirements must be met: (1) identity of the issues; (2) identity of the causes of action; (3) identity of the persons and parties to the action; and (4) identity of the quality or capacity of the parties suing or being sued. *Id.* (citing, *In re Coatesville Area Sch. Dist.*, 664 Pa. 371, 244 A.3d 373 (2021)).

ALJ Long began her analysis by considering the “identity of the parties” requirement. I.D. at 6-7. First, she noted that the 2018 Complaint was filed by both Ms. Feitt and Mr. Mendoza and that the 2019 Complaint was filed by Mr. Mendoza. *Id.* at 7. Turning to the instant complaint, the ALJ explained that while such pleading was filed by Ms. Feitt, the Complainant did not dispute Peoples' averment, in New Matter, that “upon information and belief, Mr. Mendoza occupies the Service Address jointly with the Complainant.” *Id.* That coupled with other indicia on the instant Complaint, demonstrating that Mr. Mendoza is involved in the prosecution of the current billing dispute, led the ALJ to conclude that Ms. Feitt and Mr. Mendoza are in privity for the

purposes of determining that the 2018 Complaint, 2019 Complainant, and the instant Complaint involve the same parties. *Id.*

Next, the ALJ found that it is undisputed that the instant complaint is a “general challenge to the Complainant’s obligation to pay for service rendered by Peoples.” I.D. at 7. Noting Peoples’ argument that the instant Complaint is the third complaint filed by the Complainant and/or Mr. Mendoza challenging the Company’s billing practices, the ALJ highlighted the allegations in the prior 2018 and 2019 complaint proceedings. *Id.* at 8-11. The ALJ further noted that although the Complainants initially sought a payment arrangement in the 2018 Complaint, at the hearing in that complaint proceeding, Mr. Mendoza requested a “true bill of commerce” and contended that Peoples should present the amount it wanted the complainants to pay as a negative number instead of a positive number. *Id.* at 8. As for the 2019 Complaint, the ALJ stated that in that proceeding, Mr. Mendoza alleged that there were incorrect charges on his bill and requested as relief a “True Bill/State of Account. \$\$\$ returned.” *Id.* at 10. The ALJ concluded that the challenge in the instant Complaint is essentially the same claim as those in the 2018 and 2019 Complaints—“that Peoples is not correctly presenting its bill”—which, the ALJ found, was already considered and rejected by the Commission twice before. *Id.* at 11. Accordingly, the ALJ found that there is no need for another hearing on the instant Complaint. *Id.*

ALJ Long further noted Peoples’ argument that the instant Complaint constitutes an abuse of administrative process, relying on *Moyer v. PPL Elec. Utils. Corp.*, Docket No. C-2022-3031294 (Opinion and Order entered December 8, 2022) (*Moyer*). I.D. at 12. The ALJ agreed that the same conditions in *Moyer* are present in the instant case as the Complainant and/or Mr. Mendoza filed “a nearly identical complaint to two previous complaints that have been reviewed, denied and dismissed.” *Id.* As such, ALJ Long granted Peoples’ Motion for Judgment on the Pleadings and dismissed the

instant Complaint, with prejudice, consistent with the Commission’s order in *Moyer*.
Id. at 12, 14.

C. Executor Letter

As previously mentioned, on September 5, 2023, Mr. Mendoza filed a document with the Commission entitled “Executor Letter;” “Higinio Mendoza Jr Estate Executive Order 1002.” In the Executor Letter, Mr. Mendoza claims to be “executor, grantor of the estate” and requests that the Commission “grant the Estate relief to which all unearned portion of the interest charge to the estate is returned.” Executor Letter at 1, 5. The September 5, 2023 Executor Letter is reprinted below:

HIGINIO MENDOZA JR ESTATE EXECUTIVE ORDER 1002

From: The Office of Executor [Ex.: HIGINIO MENDOZA JR, Estate]

To: The Executive Office of the PENNSYLVANIA PUBLIC UTILITY COMMISSION (Et al)

Re: Replies to Exceptions, and prior Executor Notice of a “WARRANTED BONDED PROPERTY CLAIM”, from the Executor Office to the respondent, and the COMMONWEALTH OF PENNSYLVANIA PUBLIC UTILITY COMMISSION case number: C-2023-3040660 (Karen Feitt v. Peoples Natural Gas Company, LLC).
[account number redacted]

Greeting’s, Secretary of the Commission, Commission’s Office of Special Assistants (OSA), respondent attorneys for Peoples Natural Gas Company, and parties on the record:

This Executive Office sent notice of a warranted Bonded property claim, and a Acquirer Reference Number (ARN) to the Commission, and the respondents attorneys. Furthermore, I [Ex.: HIGINIO MENDOZA JR, Estate] occupy my lawful place as Executor (see attachment: Cestui Que Vie Act of 1666), grantor of the estate. I claim[ed] our rightful

inheritance being the Executor of the estate, and letter were sent requesting from the COMMONWEALTH OF PENNSYLVANIA PUBLIC UTILITY COMMISSION Executive Offices that within their capacity of authority, submit an order requesting enforcement to perform corrective actions. An estate, and the Executor Office is to be protected, defended, by the fiduciary. A fiduciary responsibility is the highest responsibility in law, therefore, an Executor Office would have no reason to ever consider a legal action in a court system, as the Office has authority to submit either an order or request from another Executive Office, because the estates are the authorities. The Executor Office is the highest office in trust law and the highest authority. Furthermore, it is agreed that your court [Administrative Law Judge(?), MARY D. LONG & initial decision] violate our rights in attempting to determine legal authority.

[“And be it further enacted. That no summons, writ, declaration, return, process, judgment, or other proceedings in civil cases in any of the courts or the United States, shall be abated, arrested, quashed or reversed, for any defect or want of form, but the said courts respectively shall proceed and give judgment according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects or want of form in such writ, declaration, or other pleading, returns process, judgment, or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially sit down and express together with his demurrer as the cause thereof. And the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects and wants of form, other than those only which the party demurring shall express as aforesaid, and may at any, time, permit either of the parties to amend any defect in the process of pleadings upon such conditions as the said courts respectively shall in their discretion, and by their rules prescribe (a) “Judiciary Act of September 24, 1789, Section 342, FIRST CONGRESS, Sess. 1, Ch. 20, 1789”.]

Therefore, it is the Executor Office being the highest office in trust law and the highest authority ORDERS, The COMMONWEALTH OF PENNSYLVANIA PUBLIC UTILITY COMMISSION enforcement holding the respondent

to perform corrective actions. The Executor Office is the “Court”, as the Sovereign is in equality. Definition of Court: Black’s Law. I claimed our rightful inheritance being the Executor of the estate. The PENNSYLVANIA PUBLIC UTILITY COMMISSION, officials are trustees and responsible for Respondent actions, and wither in part or whole liable for the trespass, defrauding that is committed to the estate. Executor Office [Ex.: HIGINIO MENDOZA JR, Estate] appoints the Executive Office of the PENNSYLVANIA PUBLIC COMMISSION as trustees to accomplish an important limited task, but never grants general power of attorney over Estate affairs. An estate is a contract and pursuant to USA Constitution, Article 1, Sec. 10, Cl 1, no state shall pass any law impairing the obligation of contracts. In essence our estate or trust (contract) is private law between the parties, and the Executor, Beneficiary was led astray to believe at a private meeting from the Respondent attorney that the Commission was an authority to review the matter. However, no one, not even the [Commissions Administrative Law Judges (Mary D. Long / *initial decision*) Courts, have the authority to look into the business of the estate. “Fraud vitiates the most solemn contracts, documents, and even judgments. (U.S. vs. Throckmorton, 98 U.S. 61. “documents”; (“Constitutions”))

WHEREFORE, Executor Office prays that the Executor Office of the PENNSYLVANIA PUBLIC UTILITY COMMISSION COURT grant the Estate relief to which all unearned portion of the interest charge to the estate is returned, and is entitled in this proceeding.

I declare under the penalty of perjury that the foregoing is true and correct by: Executor, /s/ Higinio Mendoza, Jr., estate. [Ex.: HIGINIO MENDOZA JR, [Beneficiary: Karen-Ann: Feitt (A.R.)] Estate.]

Executor Letter at 1-5.

D. Replies to Exceptions

As a preliminary matter, Peoples footnotes in its Replies to Exceptions that the Executor Letter filed in this proceeding appears to not have been authored or filed by the Complainant, but rather by Mr. Mendoza. Peoples R. Exc. at 1, note 1. Peoples asserts that while Mr. Mendoza is a member of Ms. Feitt's household, it is the Company's understanding that Mr. Mendoza is not a licensed attorney. *Id.* However, for the purposes of Peoples' Replies to Exceptions, the Company treated the Executor Letter as Exceptions authored and filed by the Complainant. *Id.*

In its Reply Exceptions, Peoples argues that the ALJ correctly dismissed the Complaint, with prejudice, and barred the Complainant and Mr. Mendoza from filing further informal and formal complaints regarding Peoples' billing presentation for the account at the Service Address. Peoples R. Exc. at 4. According to Peoples, this issue has already been adjudicated and the Complainant and/or Mr. Mendoza have now filed three (3) formal complaints disputing this issue since 2018. *Id.* Peoples references the Initial Decision's holding that:

[In considering the 2018 and 2019 Complaint Proceedings], the Complainants basically challenge Peoples presentation of the bill and contend that if the bill were properly presented it would be evident that they do not owe any debt to Peoples . . . [T]he Commission has concluded that the presentation of Peoples' bill complies with the Commission's regulations . . . The challenge in the current complaint is essentially the same claim . . . That claim has been considered and rejected by the Commission twice before. The Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest.

Id. at 4-5 (*quoting*, I.D. at 11). Peoples contends that this ruling is consistent with well-settled, Commission precedent that "the serial filing of the same or similar complaints can constitute an abuse of administrative process, with further complaints appropriately

dismissed with prejudice.” Peoples R. Exc. at 5. As such, Peoples argues that the Complaint is barred by *res judicata*, constitutes an abuse of administrative process, and is correctly dismissed. *Id.*

Lastly, Peoples asserts that to the extent the Complainant challenges the Initial Decision, she failed to identify any ALJ error and that it is unclear what findings or conclusions in the Initial Decision that she is disputing. Peoples R. Exc. at 6. Therefore, Peoples argues that the Executor Letter, that Peoples treated as Exceptions, be denied. *Id.*

III. Disposition

The Commission’s regulations govern the form and content of exceptions,⁸ generally requiring identification of the conclusions of law or findings of fact to which the exceptions object. The Commission routinely accommodates *pro se* parties and provides the best opportunity for those parties to raise their claims fully, despite lack of legal representation. This accommodation often includes treating a variety of post-initial-decision filings as exceptions if it at all appears the party is raising a legal, factual, or equitable objection to an initial decision. However, the Executor Letter does not warrant such accommodating treatment as the claims appear to be based on the types of false legal theories that circulate on the internet. The Executor Letter raises no possible claims that the Commission could reasonably characterize as exceptions.

Therefore, we shall decline to treat Mr. Mendoza’s Executor Letter as Exceptions.

⁸ 52 Pa. Code § 5.533(b).

IV. Conclusion

Based on the foregoing discussion, we shall decline to treat the Executor Letter, filed by Mr. Mendoza, as Exceptions, adopt the ALJ's Initial Decision, and dismiss the Complaint, with prejudice, consistent with this Opinion and Order;
THEREFORE,

IT IS ORDERED:

1. The Executor Letter filed on September 5, 2023, by Higinio Mendoza, Jr. on behalf of Karen Feitt, is not to be treated as Exceptions.
2. That the Initial Decision of Administrative Law Judge Mary D. Long, issued on August 22, 2023, is adopted, consistent with this Opinion and Order.
3. That the Formal Complaint of Karen Feitt, filed on May 5, 2023, against Peoples Natural Gas Company LLC at Docket No. C-2023-3040660 is dismissed, with prejudice.

4. That the proceeding at this docket be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: May 23, 2024

ORDER ENTERED: June 17, 2024