**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Harrisburg, Pennsylvania 17105-3265**

|  |  |
| --- | --- |
| **Lori Brickner and Peter Brickner**  **v.**  **PPL Electric Utilities Corp.** | **Public Meeting held April 22, 2010**  **2105583-ALJ**  **Docket No. C-2009-2105583** |

**MOTION OF COMMISSIONER WAYNE E. GARDNER**

On May 4, 2009, the Brickners filed a Complaint alleging that PPL’s elimination of the Residential Thermal Storage (RTS) rate was a violation of the Public Utility Code. As relief, the Brickners asked the Commission to require PPL to mandate continuance of the rate.

While I commiserate with the Complainants in this case, as well as the approximately 13,000 RTS customers faced with a substantial generation rate increase, this Commission is tasked with implementing the legislation which deregulated the electric industry in the Commonwealth. As such, an electric distribution company such as PPL must pass through the costs it pays to acquire electric generation for the class of customer using that commodity without permitting other rate classes to subsidize the cost, as was a common practice prior to the deregulation of the industry.

In this deregulated industry, electric distribution companies such as PPL are tasked with delivering electricity to retail customers in an adequate, efficient, safe, and reliable manner and providing reasonable customer service. I expect our distribution companies to carry out those tasks in a reasonable if not exemplary manner. My concern with this case is the poor customer service shown to the Brickners.

The Brickners purchased their home on June 23, 2008, with a special clause in their sales agreement providing that the electric heat program was transferable, and with the understanding that they could remain on the RTS rate as long as the electric thermal storage system was in use in their home. (ID at 2). PPL’s Competitive Bridge Plan was settled on May 22, 2007. The Brickners testified that they telephoned PPL just prior to closing on their home purchase to have general discussions about rates and were not informed by the customer service representatives of the pending changes to the RTS rate.

The ALJ denied the Brickners’ Complaint insofar as it sought to continue the thermal heating rate discount because to do so would be inconsistent with Commission orders approving the Company’s rate structure. However, the ALJ sustained the Complaint finding that PPL’s actions constituted inadequate service when it failed to provide accurate information in response to the Brickners’ inquiry in 2008 prior to the purchase of their residence.

I agree with the ALJ’s determination. Additionally, I believe that a civil penalty of $1,000 is merited for violation of PPL’s duty to provide adequate, efficient, and reasonable service under 66 Pa. C.S. § 1501. As noted by the ALJ, “[f]ailure of the Company to provide accurate information regarding the future of a rate class which has 13,000 customers pursuant to a specific inquiry is inadequate service within the meaning of Section 1501.” (ID at 12). Finally, while I recognize that the Complainants may have relied to their detriment on PPL’s representations, the Commission does not have the authority to award damages. In the event that the Complainants want to pursue a claim for damages from PPL, they would have to seek a remedy in a court of competent jurisdiction.

**Therefore, I move that**:

1. The Initial Decision of Administrative Law Judge Fordham be modified consistent with this Motion.
2. The Office of Special Assistants prepare an Order consistent with this Motion.

**April 22, 2010 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Date Wayne E. Gardner, Commissioner**