

**ORIGINAL**

ILLINOIS  
COMMERCE COMMISSION

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**ILLINOIS COMMERCE COMMISSION**  
STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

Delores Quinn :  
-vs- : 08-0088  
Peoples Gas Light and Coke Company :  
Complaint as to billing/charges :  
in Chicago, Illinois. :

**RESPONDENT'S DRAFT PROPOSED ORDER**

**Procedural History**

On February 4, 2008, Delores Quinn("Complainant") filed a complaint against The Peoples Gas Light and Coke Company ("Respondent" or "Peoples Gas") with the Illinois Commerce Commission ("Commission") alleging that Peoples Gas failed to properly restore gas service to her residence at 432 West 59th Street, Chicago, Illinois (the "Property"), and she has been improperly billed for gas service at the Property.

Pursuant to notice given in accordance with the law and the rules of the Commission, this matter came on for a status hearing on March 20, 2008 before a duly authorized Administrative Law Judge ("ALJ") of the Commission at its offices in Chicago, Illinois. Complainant appeared pro se. Respondent was represented by counsel. On May 12, 2008, this matter came on for evidentiary hearing. Complainant testified on her own behalf and John M. Riordan, a supervisor in Respondent's billing department testified on behalf of Peoples Gas. At the conclusion of the hearing on June 17, 2006, the record was marked "Heard and Taken," and the ALJ requested that Peoples Gas filed a Draft Proposed Order, which Respondent filed.

**Testimony of Parties**

Complainant testified that on November 27, 2006, the gas was turned on at the Property; however, her furnace was broken and only the gas stove and water heater was operating. Because her furnace was not working, Complainant had to buy an electric stove and over, hot plates and an electric blanket. The lack of heat at the Property caused damage to the walls and ceiling of the Property. Complainant contends that when a Peoples Gas service person came out to the Property on November 27, 2006, he did something to the furnace to cause it not to operate. As a result, Complainant contends that she should not be required to pay for gas service from November 2006 to June 2007.

Complainant testified that on December 2, 2006, a service person from Chatham Comfort Controls ("Chatham") came out to the Property. During the winter of 2006-2007, Complainant was using her stove and hot water heater to heat her kitchen and an electric space heater to heat the rest of the Property.

Mr. Riordan testified that on November 27, 2006, Robert Morin, Respondent's serviceperson went out to the Property to turn on gas service and that the serviceperson found that the pressure switch on the furnace was not operating. A second serviceperson came out an hour later opened the switch and lit the furnace and that it was operating. The service order information was set forth in Respondent's Exhibit 1A, 1B and 1C admitted in evidence. Respondent's Exhibit 2 (Complainant's Exhibit 7) were the service tickets left with Ms. Quinn indicating that she needed someone to service her furnace. Respondent's Exhibit 3 was a subsequent service order for the furnace later in the evening of November 27, 2006. Respondent's Exhibit 4 was a service order of Peoples Gas indicating that the furnace was working and the service order issued, Respondent's Exhibit 3, should be cancelled at Complainant's request

Mr. Riordan testified that an additional service order was initiated for December 2, 2006. At that time, Respondent's service people went out to the Property and found that the furnace was "okay," wire loose at the pressure switch." (Respondent's Exhibit 5A) Respondent's Exhibit 5B (Complainant's Exhibit 8) was the invoice issued by Chatham noting that the furnace's primary circuit board has to be replaced. He testified that on December 7, 2007, Marnya Rudolph, a Respondent's customer service representative noted a conversation with the Complainant in which the Complainant stated that she used her range and stove top to keep warm.

Mr. Riordan testified that Respondent's Exhibit 7 indicated that Complainant's gas meter was being read between November 27, 2006 and June 13, 2007 because the gas meter had an ERT device attached to it allowing Peoples Gas to read the meter remotely. Mr. Riordan noted that the initial turn on reading index of 4834 shown on Respondent's Exhibit 7 corresponded to the turn on index shown on Respondent's Exhibit 1. He further testified that based on usage in the subsequent winter months gas usage increased indicating that the stove was being used to heat part of the Property.

Mr. Riordan introduced Respondent's Exhibits 8A, 8B, 8C and 8D. He testified that on December 12, 2007 Complainant's gas meter was removed and tested by Peoples Gas on January 10, 2008. The test results showed that the meter passed. (Respondent's Exhibit 8A) A repair test on January 15, 2008 showed no repair of the meter was needed. On January 23, 2008, Peoples Gas also performed a leak test of the meter and no repair was required. (Respondent's Exhibit 8B)

Mr. Riordan introduced Respondent's Exhibit 9 that showed that Complainant's account was a final account on June 13, 2007 and that the balance owed on her gas account at that time was \$1,206.76.

### **Commission Analysis and Conclusions**

In summary, Complainant contends that for the disputed billing period November 27, 2006 to June 13, 2007 she should not be responsible for her gas bills because a Peoples Gas serviceperson broke her furnace.

In summary, Respondent contends that when its initial serviceperson went out to the Property on November 27, 2006, the furnace was not operating. Subsequently, that day, another serviceperson was able to clear up the problem and light the furnace and it was operating. On December 10, 2007, when Chatham came out to the Property, Chatham found that the furnace was in need of repair. No repair was made to the furnace and on June 13, 2007, after Complainant failed to pay \$1,206.76 in outstanding gas bills, gas service was terminated at the Property. Thereafter, when Complainant's gas meter was removed and tested, it showed that the meter was not in need of repair.

In conclusion, there is no evidence that any Peoples Gas serviceperson did anything to cause Complainant's furnace to malfunction. There is evidence that after the second service call by Respondent to the Property on November 27, 2006, the furnace was providing gas service. It is clear that as of December 10, 2006, the furnace was in need of repair; however, Complainant did not have the furnace repaired. Respondent was not obligated to repair Complainant's furnace. Complainant continued to use her hot water heater and stove to provide heat to the Property. All of the gas meter readings between November 27, 2006 and June 13, 2007 were actual readings and the meter was recording gas usage accurately. Complainant used the gas billed to the Property in the November 27, 2006 through June 13, 2007 billing period. Complainant owes Respondent \$1,206.76 for such gas usage. This complaint should be dismissed with prejudice.

#### **Findings and Ordering Paragraphs**

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) The Peoples Gas Light and Coke Company is a "public utility" as defined in the Illinois Public Utilities Act;
- (2) the Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (3) the findings of fact and conclusions of law reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and findings of law;
- (4) the complaint filed by Delores Quinn against The Peoples Gas Light and Coke Company on February 4, 2008 should be dismissed, with prejudice..

IT IS THEREFOR ORDERED by the Illinois Commerce Commission that the complaint filed by Delores Quinn against The Peoples Gas Light and Coke Company be, and is hereby, dismissed with prejudice.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final, its is not subject to the Administrative Review Law.

DATED:  
BRIEFS ON EXCEPTIONS DUE:  
REPLY BRIEFS ON EXCEPTIONS DUE:

David Gilbert  
Administrative Law Judge

Respectfully submitted,  
The Peoples Gas Light and Coke Company

By:   
Mark L. Goldstein, Its Attorney

Mark L. Goldstein  
Attorney for Respondent  
3019 Province Circle  
Mundelein, IL 60060  
(847) 949-1340

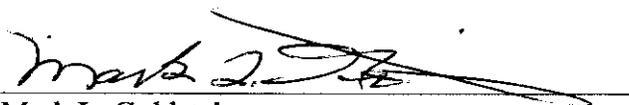
**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>Delores Quinn</b>	)	
-vs-	)	<b>08-0088</b>
<b>The Peoples Gas Light and Coke Company</b>	)	
	)	
<b>Complaint as to billing/charges in Chicago, Illinois.</b>	)	

**NOTICE OF FILING**

TO: Parties on Certificate of Service

PLEASE TAKE NOTICE that on June 24, 2008, I filed with the Chief Clerk of the Respondent's Draft Proposed Order, attached hereto, copies of which are hereby served upon you.

  
Mark L. Goldstein

Mark L. Goldstein  
Attorney for Respondent  
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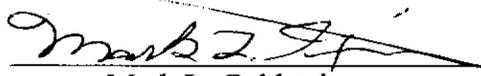
**CERTIFICATE OF SERVICE**

I hereby certify that on June 24, 2008, I served a copy of the attached Respondent's Proposed Draft Order, by causing copies thereof to be placed in the U.S. Mail, first class postage affixed, addressed to each of the parties indicated below:

Ms. Elizabeth A. Rolando  
Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

Ms. Delores Quinn  
432 W. 59<sup>th</sup> St.  
Chicago, IL 60621

Mr. David Gilbert  
Administrative Law Judge  
Illinois Commerce Commission  
160 N. LaSalle St., Ste. C-800  
Chicago, IL 60601

  
Mark L. Goldstein