

*Urac Corp.*

*119 N. Park Avenue, Rockville Centre, NY 11570*

*(516) 536-4545 - fax (516) 594-9413*

*ddiceglio@uraccorp.com*

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2002 DEC 23 PM 2:15

December 19, 2002

Ms. Janet Deixler, Secretary  
State of New York  
Department of Public Service  
3 Empire State Plaza  
Albany, NY 12223

Re: Petition for Declaratory Ruling  
Failure of Keyspan Energy Delivery d/b/a Brooklyn Union of Long Island  
to provide documents in billing complaint cases.

Dear Secretary Deixler:

Petitioner requests that Brooklyn Union of Long Island ("BULI") be directed to provide all materials related to a customers account, such as but not limited to the account diary, meter exchange and set reports, meter reading information, etc ("account specific information"), upon complaint or dispute or questioning regarding the billing of the account.

This petition is prompted by BULI's latest position that the information is "proprietary and confidential". (See attachment A). Petitioner has an interest in a ruling on this matter as it represents many complainants in BULI's service territory and the production of the documents are required for the fair and orderly resolution of billing disputes.

Though regulations are not specific regarding what and what is not required to be produced in order to resolve a billing dispute, case history and the intent of the dispute regulations require that a utility prove that its billing is correct. Petitioner is not requesting documents that would by a reasonable mind be considered "proprietary or confidential". Petitioner is seeking to overturn BULI's unsubstantiated position that documents relating to account specific information, which might shed some light on a defined dispute, are "proprietary and confidential". These documents do not contain any trade secret information that would place BULI in any harm on a business level and can not even be considered under the remotest of circumstances proprietary and confidential. They contain a customers account specific information.

Case law on this subject requires that a utility has an obligation to prove that its billing is correct. In Lever Realty v. Con Edison (97-E-1213, Rehearing December 2, 2002) the Commission found "...the utility does have the burden of showing that its billing was correct." (p.13). Petitioner in the instant proceeding is merely attempting to obtain account specific information to confirm that the billing is correct.

Petitioner could easily exercise its rights under the PSC complaint handling process to obtain this information. If BULI continues to maintain a position that account specific information is proprietary and confidential, Petitioner would seek PSC intervention in every case. Upon obtaining an informal hearing or review, Petitioner could implement 16 NYCRR 12.7.

16 NYCRR 12.7 (b), Informal review rights, states :

**The parties to an informal review shall have the following rights:**

**(4) to request information relevant to the complaint possessed by the other party be provided. The request can be made directly or through the hearing officer.**

Is it necessary for Petitioner to waste the PSC's time and taxpayer money by forwarding every case to the PSC for resolution? Merely because BULI has taken an unsubstantiated position that these types of documents are proprietary and confidential.

This information has always been provided. As an example, in Long Island Lighting Co. v. Janoff and Olshan (PSC case 93-E-0754, December 8, 1995) the utility was required to remove certain backbilled charges because the diary, that was provided, proved that LILCO was aware of the underbilling. Remarkably one of the cases submitted as an attachment herein parallels the Janoff and Olshan case. However, BULI is refusing to provide the diary under the pretext that it is "proprietary and confidential".

In summation, BULI's position on this issue lacks any legal merit and is inconsistent with the intent of the resolution process. It will only cause increased case load at the Public Service Commission. We request that the Commission order them to provide the records upon complaint and request by a consumer or its representative.

We await the Commissions ruling on this matter.

Ms. Janet Deixler  
December 19, 2002  
Page 4 of 4

Sincerely,

A handwritten signature in black ink, appearing to read 'Douglas DiCeglio', with a long, sweeping horizontal line extending to the right.

Douglas DiCeglio  
President

DDC:wp  
Enc.

C: Ms. Pamela Fitzgerald  
Keyspan Energy d/b/a Brooklyn Union Gas of Long Island

# **ATTACHMENT A**

**Urac Corp.**

119 N. Park Avenue, Rockville Centre, NY 11570-4166

(516) 536-4545 - fax (516) 594-9413

e-mail: ddiceglio@uraccorp.com

December 13, 2002

Department of Public Service  
Office of Consumer Services  
One Penn Plaza  
New York, NY 10119

Re: Suffolk County Forensics  
Old Willets Path  
670-98-0490-1

To Whom It May Concern:

Please be advised that we are filing a complaint on the above referenced account. It is our position that Keyspan violated 16 NYCRR 13.9 (b) (1) when it failed to render a backbill within six months of becoming aware of the under billing. Specifics of the complaint can be found in the enclosed correspondence.

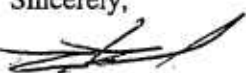
Unfortunately, we can not properly document the date Keyspan became aware of the underbilling because they have taken the unprecedented position that the Diary for this account is "proprietary and confidential". Attempts to resolve this issue directly with Keyspan have failed making it necessary for PSC intervention.

We are requesting that the PSC direct Keyspan to provide the Diarier as a customer is entitled to this information about their account. There is nothing within these documents that could remotely be considered proprietary or confidential. The failure of Keyspan to provide this information only enhances our concern that an over-billing exists. Should that be the case, the PSC should consider punitive damages under Section 25 of Public Service Law. The free exchange of information is necessary for the orderly resolution of billing disputes. Keyspan's adamant and legally unsupported position that a document containing specific customer information for the customer making the complaint is proprietary or confidential has no merit.

Please direct Keyspan to provide this document. Upon receipt we will elaborate on the merits of the billing dispute should the document prove to have information confirming an over-billing.

With regard to the generic issue presented in this case, it must be resolved in order to avoid additional complaints being filed with the PSC. Keyspan can not be allowed to withhold specific customer information under the pretext that it is proprietary or confidential. They have no basis in law or previous case precedents on this issue.

Sincerely,



Douglas DiCeglio  
President

DDC:wp  
Enc.

C: Jean Lowe  
Pamela Fitzgerald



PO Box 9083 Melville NY 11747-9083

December 4, 2002

Mr. Douglas DiCeglio  
Urac Corp.  
119 N Park Ave  
Rockville Centre NY 11570

Re: Suffolk City Forensics  
Old Willets Path  
670-98-0490-1

Dear Mr. DiCeglio:

This is in response to your letter of November 25, 2002.

As previously stated, a cancel and re-bill was completed on the above-mentioned account from December 22, 1999 to December 2, 2000 due to a wrong multiplier being set on the gas meter. The error was discovered and corrected within the appropriate time as indicated in the 6-year statement previously mailed to you, which indicated the month of February 2001.

We located the contract to start Rate 331, copy enclosed.

The Service Agreement Application signed by the customer states, usage for Rate 331 *should use in excess of 5,000 Dth annually*, however, usage from December 22, 1999 to December 2, 2000 was 13,643ccf. The customer should have known or reasonably should have known the original bills rendered were low.

The NYCRR 13.9 (4) (c) "... utility shall not bill a customer for services rendered more than 12 months before the utility actually became aware of the circumstance, error or condition that caused the underbilling, ...can demonstrate that the customer knew or *reasonably should have known that the original billing was incorrect*". Also 13.10 (2) "... a utility shall not bill a customer for service rendered more than 24 months before the utility actually became aware of the circumstances, error or condition that caused the underbilling...". Therefore, we consider the backbilling to be justified under the regulations.

We consider the diary to be proprietary and confidential. A low bill indication was generated in January 2001 which initiated a special reading, which verified the discovery of a wrong multiplier, of one, should have been ten.

Please call me if you have any further questions at (631) 755-6912.

Sincerely,

  
Ms. D. Rodriguez  
Billing and Regulatory Service



**Urac Corp.**

119 N. Park Avenue, Rockville Centre, NY 11570-4166

(516) 536-4545 - fax (516) 594-9413

e-mail: ddiceglio@uraccorp.com

December 13, 2002

Department of Public Service  
Office of Consumer Services  
One Penn Plaza  
New York, NY 10119

Re: Ivy Acres Inc.  
147 Sound Avenue  
954-98-3001-0

To Whom It May Concern:

Please be advised that we are filing a complaint on the above referenced account. We can not properly analyze the account because Keyspan has taken the unprecedented position that a meter set order is "proprietary and confidential". Attempts to resolve this issue directly with Keyspan have failed making it necessary for PSC intervention.

We are requesting that the PSC direct Keyspan to provide the meter set order as a customer is entitled to know this information about their account. There is nothing within these documents that could remotely be considered proprietary or confidential. The failure of Keyspan to provide this information only enhances our concern that an over-billing exists. Should that be the case, the PSC should consider punitive damages under Section 25 of Public Service Law. The free exchange of information is necessary for the orderly resolution of billing disputes. Keyspan's adamant and legally unsupported position that a document containing specific customer information for the customer making the complaint is proprietary or confidential has no merit.

~~Please direct Keyspan to provide this document. Upon receipt we will elaborate on the merits of the billing dispute should the document prove to have information confirming an over-billing.~~

With regard to the generic issue presented in this case, it must be resolved in order to avoid additional complaints being filed with the PSC. Keyspan can not be allowed to withhold specific customer information under the pretext that it is proprietary or confidential. They have no basis in law or previous case precedents on this issue.

Sincerely,



Douglas DiCeglio  
President

DDC:wp  
Enc.

C: Jean Lowe  
Pamela Fitzgerald



PO Box 9083 Melville NY 11747-9083

December 10, 2002

Mr. Douglas DiCeglio  
Urac Corp.  
119 N Park Ave  
Rockville Centre NY 11570

Re: Ivy Acres Inc.  
147 Sound Avenue  
954-98-3001-3

Dear Mr. DiCeglio:

This is in response to your letter of October 8, 2002.

The above mentioned account is now a Gas Interruptible, Rate 331, which previous to October 25, 1999, was combined with an electric meter. A Gas Service Agreement Application was signed on October 25, 1999, copy enclosed. The customer qualified and met all the requirements on October 25, 1999.

The gas had to be separated from the electric and given a new account number, however, the gas was cancelled and re-billed before the separation, which left a large credit on the electric account. The rate had to be changed from Rate 170 to Rate 331, however the setting of the new gas account, in error, was set on October 13, 2000, should have been October 25, 1999, thus the cancel and re-billing to correct the year and bill forward on the correct rate.

The credit left on the electric account of \$247,064.40 was transferred to the new gas account. Interest was given of \$11,732.65 for the gas billing on the correct rate from 10/25/99 to 11/13/00.



A six-year statement is enclosed from turn on the new gas account, a cash statement and an interest calculation form. We consider the change meter information to be proprietary and confidential. The meter was changed on October 27, 2000.

Please call me if you have any further questions at (631) 755-6912.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Rodriguez".

Ms. D. Rodriguez  
Billing and Regulatory Service