

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Robert and Cecilia Merritt
v.
PECO Energy Company

Public Meeting held May 6, 2010
2142888-OSA
Docket No. C-2009-2142888

MOTION OF VICE CHAIRMAN TYRONE J. CHRISTY

Before the Commission for consideration and disposition are the Exceptions of Robert and Cecilia Merritt, received on March 15, 2010, to the Initial Decision ("I.D.") of Administrative Law Judge ("ALJ") Susan D. Colwell, issued on February 26, 2010. Based on the facts of this proceeding, I believe the Commission should grant the Exceptions in the interest of efficiency.

This proceeding was initiated on November 20, 2009, when Robert and Cecilia Merritt filed a Complaint against PECO Energy Company ("PECO"). When the Merritts filed their Complaint, they checked the box on the complaint form to indicate that there were incorrect charges on their electric bill. They also provided numerous relevant documents relating to a foreign wiring issue to support their Complaint. Among these documents were a letter from PECO to the Merritts explaining that the Merritts would be responsible for an electric bill in the amount of \$697.45 based on foreign wiring that was discovered by PECO, as well as a bill from PECO reflecting the amount due.

On December 16, 2009, PECO filed an Answer and New Matter, in which PECO stated that it transferred the account in question from the tenant to the landlords, the Merritts, on April 14, 2009, after discovering foreign load. PECO also simultaneously filed Preliminary Objections based on insufficiency of the Complaint. The ALJ granted PECO's Preliminary Objections by Order, issued on January 25, 2010, and directed the Merritts to file an amended Complaint within ten days of the Order or the Complaint would be dismissed. Because the Merritts did not file an amended Complaint, the ALJ dismissed the Complaint without prejudice to the Merritts' ability to file another complaint on the same foreign load issue.

Although the Merritts did not file an amended Complaint, they did file the Exceptions currently before us. The Exceptions are in letter format, and they contain specific details about the Merritts' Complaint. Among other things, the Merritts aver that there is no evidence of foreign load, and the tenant who made claims about the existence of foreign wiring was evicted from her property by the Philadelphia Municipal Court because she did not pay any rent for an entire year.¹ All together, the Complaint, including the relevant documents attached to the Complaint, and the details provided in the Merritts' Exceptions, amount to more than sufficient information to which PECO can formulate a meaningful response.

¹ The decision of the Philadelphia Municipal Court and the Landlord and Tenant Complaint filed by the Merritts were attached to the Merritts' Complaint in this proceeding.

Based on this record and the information that the Merritts have provided related to their Complaint, it is in the public interest to reopen this Complaint proceeding and provide PECO with the opportunity to reply to the Merritts' averments. This is the most efficient course of action at this stage in the proceeding and will avoid any unnecessary duplication of the Commission's or the parties' resources that may occur if the Merritts have to re-file their Complaint.²

THEREFORE, I MOVE:

1. That the Exceptions of Robert and Cecilia Merritt are granted.
2. That the record in this Complaint proceeding at Docket No. C-2009-2142888 be reopened.
3. That PECO be provided with the opportunity to file an updated answer in response to the Merritts' averments.
4. That the Office of Special Assistants prepare the necessary Opinion and Order consistent with this Motion.

5-6-10
DATE

Tyrone J. Christy
TYRONE J. CHRISTY, VICE CHAIRMAN

² I also note that the Commission may apply our procedural rules in a liberal manner or disregard a procedural defect, particularly with respect to *pro se* litigants, such as the Merritts, in order to secure a just, speedy, and inexpensive determination in a proceeding. 52 Pa. Code §1.2(a),(d).