

Copy - 2nd stamp

Roger McCall
PO Box 225
Reynoldsville, PA 15851

September 7, 2010

Secretary James J. McNulty
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Roger McCall v. Pennsylvania Electric Company
Docket No ~~C-2009-2105240~~

C-2009-2105240

Dear Secretary McNulty:

Enclosed for filing on behalf of Roger McCall, is an original of the Response to Opinion and Order by the Commission, in the above referenced matter. Copies have been served in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Very truly yours,



Roger McCall

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SECRETARY'S BUREAU

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

ROGER MCCALL
Complainant

v.

PENNSYLVANIA ELECTRIC COMPANY
Respondent

Complaint Docket
No: C-2009-2105240

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RESPONSE TO OPINION AND ORDER BY THE COMMISSION

On August 18, 2010 the Commission issued an Opinion and Order closing this case. This response is sent to the Secretary to highlight to inconsistency and clear bias of the PUC in favor of the regulated utilities.

In this case the Complainant and Penelec's (Utility's) counsel had reached an agreement at the beginning of June, 2010 to resolve all matters of dispute. Instead of acting as agreed the Utility's counsel (now an employee of the PUC), Mr Totino had agreed to all the matters approved on August 18, 2010 by the Commission , **but** the facts included in Mr. Totino's motion only include a small portion of truth. Knowing I was leaving town for an extended summer vacation he agreed to plant the replacement red maple tree in question immediately at the marked location on my property and not removing any other tree. That was our agreement and nothing else. He was not authorized to represent me on any matter or motions. We had an agreement that was to resolve any and all matters between myself and Penelec and any matter before the Commission.

This was the same agreement Mr. Totino and I had reached in November, 2009. The Utility at that point and every point along the way delayed, appealed and continue to act in bad faith. So the agreement of November,

2009 and June, 2010 was appealed through August, 2010 and will result in a pointless victory for myself as a tree will be planted hopefully in Septemeber, 2010 (*some ten months after we reached an agreement and 33 months after the acts of the Utility*). This late planting date will not allow for the tree to take root before freezing weather and the tree will be dead before spring. The bad faith of the Utility and the PUC's willingness to support their actions has left me with 1) a 60 year old tree that was permanently damaged 2) a decision that finds the Utility at fault 3) fails to compensate and does nothing to correct their fault 4) permits continued bad faith actions of the Utility to delay and plant a tree that will not live.

PUC Administrative Law Judge (ALJ) ordered the damaged tree be removed. This was done even though the Complainant had no interest in any further cutting to any trees and the Utility has never wanted to incur *additional expense of tree removal*.

The ALJ used the PUC Code and rules when convenient but does not hold the Utility to the same standard. When the Utility made a last second request to delay a hearing after the stated deadline, the ALJ granted a delay. When the Utility failed to appear at the rescheduled hearing, the PUC standards state a judgment will be entered against the non-appearing party. This was not followed by the ALJ.

A second case (C-2010-2150862) was filed after the Utility took retaliatory action against the Complainant. In this case the same ALJ was assigned. He denied the Complainant subpoena requests for witnesses and documents of the Utility's on unstated procedural missteps. The ALJ then used information from the first case during the second case, even though neither the Complainant or Utility entered such testimony during the second case. The ALJ allowed the Utility to have a witness recalled after closing arguments were completed by the Complainant. ALJ hung up and ended

the telephonic hearing prematurely after the Complainant questioned the testimony of the recalled witness which did not follow the procedure established by the ALJ for the telephonic hearing.

At this point there is no need for the PUC to continue hearings for consumer complaints. The PUC and utilities are not independent. The ALJ was biased to the Utility. The ALJ has not consistently followed the PUC's Codes and rules. The Utility was allowed to act in bad faith and delay corrective action even though their own counsel (now a PUC employee) reached an agreement in November, 2009 that mirrored the PUC decision of 2010.

Respectfully submitted,



Roger McCall
PO Box 225
Reynoldsville, PA 15851

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

ROGER MCCALL

Complainant

v.

PENNSYLVANIA ELECTRIC COMPANY

Respondent

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CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing document up the parties listed below in accordance with the requirements of 52 Pa. Code 1.54 (relating to service by a party).

VIA First Class U.S. Mail

John F. Povilaitis, Esquire, Esquire
Alan Michael Seltzer, Esquire
Jeffrey A. Franklin, Esquire
Ryan, Russell, Ogden & Selzer P.C.
800 North Third Street, Suite 101
Harrisburg, PA 17102-2025



Roger McCall

DATED: September 7, 2010

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COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

September 15, 2010

PENNSYLVANIA ELECTRIC COMPANY
C/O LEILA L VESPOLI
SR VICE PRESIDENT AND GENERAL COUNSEL
FIRSTENERGY CORP
76 SOUTH MAIN STREET
AKRON OH 44308-1890

Re: Roger McCall vs. Pennsylvania Electric Company
C-2009-2105240

Dear Ms. Vespoli:

On September 10, 2010, Complainant Roger McCall, filed a Response to Opinion and Order by the Commission deemed a Petition for Rescission or Amendment pursuant to 66 Purdons, Pa. C.S.A. §703(g). Our review of the Petition revealed that no certificate of service upon Pennsylvania Electric Company accompanied that filing. Accordingly, we have enclosed a copy of the Petition for your use.

← not included

Sincerely,

Rosemary Chiavetta
Secretary

RC/wjz

Enclosure

NONE included

cc: Roger McCall ✓
PO Box 225
Reynoldsville Pa 15851

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Pennsylvania Public Utility Commission
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