



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

IN REPLY PLEASE  
REFER TO OUR FILE

ISSUED: December 15, 2005

C-20054905

DONNA M RAGONE  
225 SOUTH PARKWAY AVENUE APT B  
BROOMALL PA 19008

DOCUMENT  
FOLDER

Donna M. Ragone  
v.  
PECO Energy Company

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Cynthia Williams Fordham. This decision is being issued and mailed to all parties on the above specified date.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Specifically, an original and nine (9) copies of your signed exceptions **MUST BE FILED WITH THE SECRETARY OF THE COMMISSION 2<sup>ND</sup> FLOOR, KEYSTONE BUILDING, 400 NORTH STREET, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17105-3265**, within **twenty (20) days** of the issuance date of this letter. The signed exceptions will be deemed filed on the date actually received by the Secretary of the Commission or on the date deposited in the mail as shown on U.S. Postal Service Form 3817 certificate of mailing attached to the cover of the original document (52 Pa. Code §1.11(a)) or on the date deposited with an overnight express package delivery service (52 Pa. Code 1.11(a)(2), (b)). If your exceptions are sent by mail, please use the address shown at the top of this letter. A copy of your exceptions must also be served on each party of record. 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of exceptions/reply exceptions. A certificate of service shall be attached to the filed exceptions.

If you receive exceptions from other parties, you may submit written replies to those exceptions in the manner described above within **ten (10) days** of the date that the exceptions are due.

Exceptions and reply exceptions shall obey 52 Pa. Code 5.533 and 5.535 particularly the 40-page limit for exceptions and the 25-page limit for replies to exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

If no exceptions are received within **twenty (20) days**, the decision of the Administrative Law Judge may become final without further Commission action. You will receive written notification if this occurs.

Very truly yours,

James J. McNulty  
Secretary

Encls.  
Certified Mail  
Receipt Requested  
SS  
LISA A LUTZ ESQUIRE  
PECO ENERGY COMPANY  
2301 MARKET STREET S23-1  
PO BOX 8699  
PHILADELPHIA PA 19101-8699

RJP

Billing dispute.

DONNA M RAGONE  
225 SOUTH PARKWAY AVENUE Apt. B  
BROOMALL PA 19008

LISA A LUTZ ESQUIRE  
PECO ENERGY COMPANY  
2301 MARKET STREET S23-1  
PO BOX 8699  
PHILADELPHIA PA 19101-8699

Corrected  
Thanks!  
Sue H.

TD 20/10

NOV 18 2005

## Milletics, Lisa

---

**From:** Fordham, Cynthia  
**Sent:** Thursday, December 15, 2005 10:13 AM  
**To:** Hoffner, Susan  
**Cc:** Milletics, Lisa; Regazzi, Joanna  
**Subject:** RE: Ragone v. PECO C-20054905

Good Morning Sue:

Thank you for correcting the docket number. You can copy my signature on the corrected ID.

Judge Fordham

---

**From:** Hoffner, Susan  
**Sent:** Thursday, December 15, 2005 9:53 AM  
**To:** Fordham, Cynthia  
**Cc:** Milletics, Lisa  
**Subject:** Ragone.v. PECO C-20054905  
**Importance:** High

Good Morning Judge Fordham!

Through the review process in OALJ, the incorrect docket number was never picked up until I took the ID to the Sec. Bur. for service and they caught it there. (C-20044905) I have corrected the docket number, one was in the caption, and the other in the Ordering Para. If it is ok with you, I can copy your signature onto the corrected ID, or we can wait until you send a corrected signature page. Please advise.

Sue

**SUSAN I HOFFNER**  
**CASE CONTROL OFFICER**  
**PA PUBLIC UTILITY COMMISSION**  
**OFFICE OF ADMINISTRATIVE LAW JUDGE**  
**PH: 717-787-5408**  
**FAX: 717-787-0481**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Donna M. Ragone

v.

PECO Energy Company

:  
:  
:  
:  
:

C-20054905

**INITIAL DECISION**

**DOCKETED**  
DEC 19 2005

**DOCUMENT  
FOLDER**

Before  
Cynthia Williams Fordham  
Administrative Law Judge

**HISTORY OF THE PROCEEDING**

On June 17, 2005, Donna M. Ragone ("Ragone" or "Complainant") filed a formal complaint with the Pennsylvania Public Utility Commission ("Commission") against PECO Energy Company ("PECO" or "Respondent") alleging the following: that from November 2003 to October 2004, the Complainant was billed for her neighbor's electric usage; that she lives in a duplex; that when the Respondent sent a representative out to check the meters, the representative found that her meter and her neighbor's meter were labeled incorrectly; that she had been paying her neighbor's bill which was higher than her bill; that the Respondent initially credited her account in the amount of \$768.00; and that the Respondent changed the credit to \$351.95. The Complainant wants the Commission to find out why her credit was reduced. She stated that she is entitled to the higher credit because she paid \$50.00 to \$80.00 a month more than her bill each month.

The Respondent, through its counsel, filed an Answer on September 8, 2005. The Respondent admitted that on August 3, 2004, its representative determined that there was an error with the accounts for Apartment A and the Complainant's apartment, Apartment B. The Respondent's representative corrected the error on August 3, 2004. The Respondent averred that

the Complainant was incorrectly given a \$768.06 credit. The Respondent stated that the correct credit was \$351.95. With the business credit of \$70.01, the Respondent gave the Complainant a total credit adjustment of \$421.96. The Respondent referred to the Bureau of Consumer Services decision, dated May 10, 2005, which indicated that the revised credit was correct. The Complainant was ordered to pay \$258.00 each month beginning in June 2004. The \$258.00 payment includes a budget of \$197.00 plus \$61.00 on the outstanding balance. The Respondent stated that the Complainant's last payment was made in June 2004.

By notice dated October 5, 2005, a hearing was scheduled in this matter before Administrative Law Judge Herbert Smolen.

By hearing notice dated October 11, 2005, the hearing was reassigned to Administrative Law Judge Cynthia Williams Fordham. The time, date and location of the hearing were included in this notice also.

The prehearing order that was sent to the parties on October 19, 2005 included the time, date and location of the hearing.

A hearing was held in this matter on November 9, 2005 in the Philadelphia State Office Building before Administrative Law Judge Cynthia Williams Fordham. The hearing was scheduled for 1:30 p.m. as one of three cases assigned for that time. The other cases were canceled because settlements had been reached. The Complainant, Donna M. Ragone, did not appear. Therefore, the hearing in this matter was started at 1:35 p.m. Lisa A. Lutz, Esquire, represented PECO Energy Company. Teresa A. Ferrier, a regulatory assessor for the Respondent, testified on behalf of the Respondent.

The record consists of a transcript. The record in this case closed on November 9, 2005.

## DISCUSSION

Pursuant to section 332(a) of the Public Utility Code, 66 Pa. C.S. §332(a), the burden of proof is on the proponent of a rule or order. In this proceeding, the Complainant is the proponent of a rule or order. Therefore, the Complainant bears the burden of proving by a preponderance of the evidence that the Respondent has violated the Public Utility Code or a regulation or order of the Commission. Se-Ling Hosiery v. Margulies, 364 Pa. 45, 70 A.2d 854 (1950). The Complainant must show that the utility is responsible or accountable for the problem described in the complaint. Feinstein v. Philadelphia Suburban Water Company, 50 Pa. P.U.C. 300 (1976).

The Complainant did not participate in the November 9, 2005 hearing. The Complainant failed to call to request a continuance or indicate that she would not be able to attend the hearing. The hearing date, time and location were on the hearing notice, dated October 5, 2005, the judge change notice, dated October 11, 2005 and the prehearing order, dated October 19, 2005. The fact that these documents were mailed to the Complainant at her last known address creates a rebuttable presumption that the Complainant received the documents. Berkowitz v. Mayflower Securities, 455 Pa. 531, 317 A. 2d 584 (1974). The U.S. Postal Service did not return these documents to the Commission.

This was one of three call of the docket cases scheduled for 1:30 p.m. The prehearing order instructed the parties to arrive by 1:15 p.m. The Complainant, Donna M. Ragone, had not appeared by 1:30 p.m. Therefore, the hearing in this matter was started at 1:35 p.m.

Section 332 (f) of the Public Utility Code, 66 Pa. C.S. §332(f), provides in pertinent part:

Any party who shall fail to be represented at a scheduled conference or hearing after being duly notified thereof, shall be deemed to have waived the opportunity to participate in such conference or hearing, and shall not be permitted thereafter to reopen the disposition of any matter accomplished thereat....

Since the Complainant did not participate in the hearing, the hearing was held in accordance with 66 Pa. C. S. §332(f) and 52 Pa. Code §5.245 and the record was closed.

The Respondent's witness, Teresa A. Ferrier, testified that she contacted the Complainant by telephone on October 11, 2005. They discussed her billing. In response to her request for an explanation of her bills, Ms. Ferrier sent the Complainant information about her bills and the credit she received. In addition, she sent a cover letter reminding the Complainant about the hearing. The Complainant and Ms. Ferrier discussed the information on Friday, November 4, 2005 and resolved the billing issues. The parties were trying to establish a payment arrangement. Ms. Ferrier called the Complainant and left two messages on November 8, 2005 and one message on the morning of November 9, 2005. The Complainant failed to respond.

The Complainant failed to sustain her burden of proof. The Complainant failed to present evidence to support her allegations.

The Respondent's attorney moved to dismiss the complaint for failure to prosecute. The motion was granted.

Since the Complainant did not participate in the hearing, the complaint in this matter will be dismissed in its entirety with prejudice. See Martin Jefferson v. UGI Utilities, Inc., Z-00269892 (Order entered December 26, 1995).

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter in this proceeding. 66 Pa. C.S. §701.
2. That the Complainant has the burden of proof in this matter pursuant to 66 Pa. C.S. §332(a).

3. That the Complainant, by failing to be represented at the scheduled hearing, waived the opportunity to participate in the hearing. 66 Pa. C.S. §332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the complaint filed by Donna M. Ragone against PECO Energy Company at Docket C-20054905 is dismissed in its entirety with prejudice.
2. That the record in this case is marked closed.

Date: November 10, 2005

*Cynthia Williams Fordham*  
Cynthia Williams Fordham  
Administrative Law Judge

2. Article Number



7160 3901 9843 0830 0639

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

C-20054905 ID  
Lisa Lutz Esq.

COMPLETE THIS SECTION ON DELIVERY	
A. Received by (Please Print Clearly)	B. Date of Delivery 12/21/05
C. Signature X <i>Felma Rodriguez</i>	<input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee
D. Is delivery address different from item 1? If YES, enter delivery address below:	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

PS Form 3811, March 2005

Domestic Return Receipt

2. Article Number



7160 3901 9843 0829 3801

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

C-20054905 ID  
Domena Regone

COMPLETE THIS SECTION ON DELIVERY	
A. Received by (Please Print Clearly)	B. Date of Delivery 12/17/05
C. Signature X <i>[Signature]</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
D. Is delivery address different from item 1? If YES, enter delivery address below:	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

PS Form 3811, March 2005

Domestic Return Receipt