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COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

----- X
Daleena Bagley v. PECO Energy : Docket No.
Company. Billing dispute. : C-20055009
: :
Initial Telephone Hearing :
: :
----- X

Pages 1 through 23

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Library
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania

Wednesday, November 16, 2005

Met, pursuant to notice, at 2:33 p.m.

Before:

WAYNE L. WEISMANDEL, Administrative Law Judge

APPEARANCES:

DALEENA BAGLEY
P.O. Box 64
1224 Curran Street, Apt. 4
Chester, Pennsylvania 19013
(Pro Se)

LISA A. LUTZ, Esquire
2301 Market Street, S23-1
P.O. Box 869
Philadelphia, Pennsylvania 19101-8699
(For PECO Energy Company)

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WITNESS INDEX

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
(None)				

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EXHIBIT INDEX

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
(None)		

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FORM 2

1 Commission.

2 I would note for the record that I have
3 contacted Lisa A. Lutz, Esquire representing PECO Energy
4 Company at area code 215-841-6841. I have also
5 contacted the Complainant, Ms. Daleena Bagley at area
6 code 610-494-7016. Both Ms. Lutz and Ms. Bagley have
7 indicated that they are able to hear each other and to
8 hear me satisfactorily.

9 (Very loud noise in the background)

10 MS. BAGLEY: Is her name Amy Lutz?

11 JUDGE WEISMANDEL: Lisa, L-i-s-a.

12 Before we go any further, Ms. Bagley --
13 and Ms. Lutz is aware of this, it is my practice in
14 these kinds of matters to offer the parties an
15 opportunity to see if they can discuss the matter off
16 the record and come to a resolution that they both can
17 live with, avoiding the necessity of proceeding with a
18 hearing.

19 Quite frankly, Ms. Bagley, you are a CAP
20 customer of PECO Energy Company and under the new
21 Chapter 14 of the Public Utility Code that went into
22 effect the end of last year we are -- we, the Public
23 Utility Commission, is not permitted under that statute
24 to alter or arrange payment arrangements for CAP
25 customers. So what I'm saying to you is there's not a

1 whole lot that I can do for you, whereas perhaps Ms.
2 Lutz can if the company is willing to. In light of that
3 are you willing to talk to Ms. Lutz off the record and
4 see if this matter can be resolved?

5 MS. BAGLEY: I've discussed this record.
6 I have discussed this issue numerous times with the PUC,
7 the Public Utility Commission, between February of 2005
8 to June 2005, which is why I wanted to go before a
9 Judge. I had a problem with my electric bill starting
10 in October --

11 JUDGE WEISMANDEL: Okay, wait a minute --

12 MS. BAGLEY: -- of 2005 --

13 JUDGE WEISMANDEL: Whoa, whoa, whoa, hold
14 it. Just answer the question.

15 MS. BAGLEY: No, I'll talk to her on the
16 record.

17 JUDGE WEISMANDEL: All right, no, if
18 you're going to talk settlement it's going to be off the
19 record.

20 MS. BAGLEY: I don't know -- I'm not
21 talking settlement --

22 JUDGE WEISMANDEL: Fine.

23 MS. BAGLEY: I'm proceeding with my
24 claim.

25 JUDGE WEISMANDEL: Fine, all right, fine.

1 Now, hold on a second. I have some other things I have
2 to explain to you.

3 As the Complainant in this matter you
4 have the obligation to prove by what is called a
5 preponderance of the evidence that PECO Energy Company
6 has violated a provision of the Public Utility Code or
7 an order or regulation of the Commission. If you are
8 not able to prove that by a preponderance of the
9 evidence I must render a decision in favor of PECO
10 Energy Company.

11 MS. BAGLEY: What are we discuss -- what
12 is it that your impression is why I am going to court?

13 JUDGE WEISMANDEL: Well, we're going to
14 get to that in a minute, but first I want you to listen
15 to what I have to say. How about you stop interrupting?
16 Clear?

17 (No response)

18 JUDGE WEISMANDEL: Ms. Bagley?

19 MS. BAGLEY: I'll try to stop
20 interrupting, Mr. Weis-endoll, so that you can proceed
21 with the case.

22 JUDGE WEISMANDEL: Good idea.

23 What is meant by a preponderance of the
24 evidence, the way that is often explained, is by an
25 analogy with a balance scale --

1 MS. BAGLEY: What are we trying to --
2 what do you mean "preponderance of the evidence"?

3 JUDGE WEISMANDEL: That's exactly what
4 I'm trying to explain to you and if you'd be quiet for a
5 moment and listen I will do my best to explain it to
6 you.

7 MS. BAGLEY: What evidence am I supposed
8 to be giving to you for what reason?

9 JUDGE WEISMANDEL: Did you hear --

10 MS. BAGLEY: The preponderance of
11 evidence, what evidence am I supposed to be giving to
12 you and for what reason am I giving it?

13 JUDGE WEISMANDEL: Did you --

14 MS. BAGLEY: What is the claim that I'm
15 disputing?

16 JUDGE WEISMANDEL: Did you not hear what
17 I said just a moment ago?

18 MS. BAGLEY: You said I was to provide a
19 preponderance of evidence.

20 JUDGE WEISMANDEL: I said you have to
21 prove by a preponderance of the evidence that PECO
22 Energy Company has violated a provision of the Public
23 Utility Code or an order or a regulation of the
24 Commission.

25 MS. BAGLEY: Can you tell me what the

1 Public Utility Codes are and Regulations --

2 JUDGE WEISMANDEL: That's what --

3 MS. BAGLEY: -- because I did not
4 petition to whether PECO Energy was violating any codes.

5 JUDGE WEISMANDEL: Well, that's the law
6 that governs Public Utility service --

7 MS. BAGLEY: I contacted the Public
8 Utility Commission because in July of 2004 I was dropped
9 from the CAP based program. When my first bill came --

10 JUDGE WEISMANDEL: Ms. Bagley --

11 MS. BAGLEY: I went --

12 JUDGE WEISMANDEL: Ms. Bagley --

13 MS. BAGLEY: Yes, sir.

14 JUDGE WEISMANDEL: If you don't stop --

15 MS. BAGLEY: What?

16 JUDGE WEISMANDEL: -- I'm going to end
17 this hearing right now. You stop interrupting.

18 MS. BAGLEY: First of all --

19 JUDGE WEISMANDEL: Do you hear me? Do
20 you hear me?

21 MS. BAGLEY: I hear you, I hear Ms. Lutz,
22 I hear myself and I hear Jesus Christ and I hear the
23 enemy speaking.

24 JUDGE WEISMANDEL: Um-hm. I'm telling
25 you, you interrupt me --

1 MS. BAGLEY: I hear the enemy speaking.
2 Do whatever you want to because I really don't want to
3 deal with satan today --

4 JUDGE WEISMANDEL: You keep interrupting
5 me --

6 MS. BAGLEY: I don't want to hear --

7 JUDGE WEISMANDEL: I'm going to --

8 MS. BAGLEY: -- in the name of Jesus and
9 I don't want to play this game of power and control. I
10 really truly have a case, but I don't want to deal with
11 fraud or a counterfeit. I don't feel like wasting my
12 time. I don't need to talk to you. You do what you
13 want to do cause I don't need to waste my time on this
14 conversation that's a hoax.

15 JUDGE WEISMANDEL: I'm merely trying to
16 explain to you --

17 MS. BAGLEY: Whatever. If you want to go
18 on the case now dismiss it because I already know it's a
19 lie and I don't feel like wasting my time.

20 JUDGE WEISMANDEL: Are you withdrawing
21 your complaint?

22 MS. BAGLEY: Pardon me?

23 JUDGE WEISMANDEL: Are you withdrawing
24 your complaint?

25 MS. BAGLEY: No. I would like to go

1 before another Judge.

2 JUDGE WEISMANDEL: Well --

3 MS. BAGLEY: Because what is my
4 complaint?

5 JUDGE WEISMANDEL: Well --

6 MS. BAGLEY: What is my complaint? Or
7 did you just call to start saying "Listen to me or I'm
8 going to hang up" Mr. Judge, Master, whatever, Weisen-
9 ball. You have not noted what my purpose was in
10 contacting you. You have not noted my complaint. You
11 said preponderance of evidence and you told me to shut
12 up and listen to you or you would dismiss it. What is
13 the case here? You have not noted why I contacted you
14 and why I'm talking this much.

15 JUDGE WEISMANDEL: If you would wait --

16 MS. BAGLEY: Go ahead and get off
17 (unintelligible) this court case, Mr. Administrator or
18 whatever you are.

19 JUDGE WEISMANDEL: If you would wait
20 until I finish --

21 MS. BAGLEY: You have not -- I don't want
22 no extra conversation with you, I just need to know the
23 rules and how the case goes.

24 JUDGE WEISMANDEL: And that's exactly
25 what I was --

1 MS. BAGLEY: Okay, now please proceed.

2 JUDGE WEISMANDEL: That's exactly what I
3 was trying to explain to you.

4 Now, are you prepared to listen for
5 awhile?

6 What I was saying is that you must
7 convince me by what is called a preponderance of the
8 evidence and that is illustrated or explained very often
9 by an analogy to a balance scale. That means that if
10 the evidence that you produce, whether in the form of
11 documents or testimony by yourself or other witnesses
12 tips the balance scale ever so slightly in your favor
13 then you are entitled to a decision in your favor.
14 However, if the balance scale ends up in perfect balance
15 then you have not carried your burden of proof and PECO
16 would be entitled to a decision in their favor. And
17 finally, just to complete the analogy, obviously, if the
18 scale tips ever so slightly in PECO's side they are
19 entitled to a decision. So you have the burden of proof
20 here.

21 You can meet your burden of proof by
22 introducing relevant evidence, as I said, either in the
23 form of documents, and you did not submit any documents
24 to me; is that correct?

25 MS. BAGLEY: I just looked in my file and

1 every single document that I had has been removed from
2 my file.

3 JUDGE WEISMANDEL: You did not send
4 anything to me in the form of documents.

5 MS. BAGLEY: I'm just telling you that
6 everything that is in my file is removed. The only
7 people who may have a copy is Children and Youth. Right
8 now in my file everything is removed.

9 JUDGE WEISMANDEL: I'm asking you a
10 question --

11 MS. BAGLEY: Okay, I'm just going to tell
12 you everything --

13 JUDGE WEISMANDEL: I am asking you a
14 question --

15 MS. BAGLEY: Everything is removed. I
16 had the record that PECO sent me of my payments and I
17 have these bills that were sent --

18 JUDGE WEISMANDEL: Ms. Bagley --

19 MS. BAGLEY: All my files --

20 JUDGE WEISMANDEL: Ms. Bagley --

21 MS. BAGLEY: -- are removed --

22 JUDGE WEISMANDEL: Ms. Bagley --

23 MS. BAGLEY: They are removed. I have a
24 problem with somebody who has been doing these things to
25 me, removing files, charging me for bills that's not

1 there and taking the evidence away. So I'm just trying
2 to let you know, the files is removed.

3 JUDGE WEISMANDEL: Would you listen and
4 answer my question, please? You did not send me any
5 documents --

6 MS. BAGLEY: I'm telling you right now
7 they did an interview with the person who
8 (unintelligible) -- the files are removed, but I would
9 like to proceed anyhow. Note that, that the files are
10 removed. They may be in possession of Children and
11 Youth, but I don't have them right here.

12 JUDGE WEISMANDEL: Could you --

13 MS. BAGLEY: They have been removed from
14 my home.

15 JUDGE WEISMANDEL: Ma'am, would you be
16 kind enough please to answer my question --

17 MS. BAGLEY: I just want to do things
18 judicially sound and not kindly or evilly or civilly but
19 legally.

20 JUDGE WEISMANDEL: Would you answer my
21 question?

22 MS. BAGLEY: What is the question?

23 JUDGE WEISMANDEL: Well, if you'd listen
24 a minute you'd know. I asked you -- you did not send me
25 any documents, did you?

1 MS. BAGLEY: I have sent -- no, I don't
2 think I sent PECO anything. I don't remember.

3 JUDGE WEISMANDEL: I'm not PECO.

4 MS. BAGLEY: I don't remember. Yes, I
5 sent Public Utility Commission several documents. Now,
6 let me see if I have in my form these communications
7 that I have with the Public Utility Commission, because
8 I had communication with the Public Utility Commission
9 in February, in April, in May and in June.

10 JUDGE WEISMANDEL: Right, right, right --

11 MS. BAGLEY: And each time I had sent
12 documents to the Public Utility Commission --

13 JUDGE WEISMANDEL: Yeah, but --

14 MS. BAGLEY: And I do have the files.
15 You should receive what I have faxed to you and mailed
16 to you. And here is part of it, right here. I mailed
17 to you all a shut-off notice that was for June of 2005.
18 I mailed that out to you in June. I've been sending --

19 JUDGE WEISMANDEL: Who did you send that
20 to?

21 MS. BAGLEY: This is all to the Public
22 Utility Commission.

23 JUDGE WEISMANDEL: I've never seen that.

24 MS. BAGLEY: Okay, this is to the Public
25 Utility Commission that I mailed to you all. I think

1 this is just the stuff from June that I had mailed.
2 Each time, now, when I tried to talk to the Public
3 Utility Commission my electric bills were already
4 questionable and the first time I (unintelligible) on
5 February 18, 2005 --

6 JUDGE WEISMANDEL: Ms. Bagley --

7 MS. BAGLEY: Yes?

8 JUDGE WEISMANDEL: I'm going to tell you
9 one more time, you have got to stop just going on and
10 on. We haven't even started the hearing yet. If you
11 would let --

12 MS. BAGLEY: I have the form --

13 JUDGE WEISMANDEL: -- if you would let --

14 MS. BAGLEY: I have the forms and I
15 mailed them.

16 JUDGE WEISMANDEL: If you would let
17 this --

18 MS. BAGLEY: Then go on to the next
19 question. I have the forms and I did mail them.

20 JUDGE WEISMANDEL: That wasn't the
21 question. You did not send me any documents to be used
22 as potential exhibits at this hearing.

23 MS. BAGLEY: No, I didn't.

24 JUDGE WEISMANDEL: That's right, thank
25 you.

1 Now, did you receive from Ms. Lutz
2 documents that she has marked for identification as
3 potential PECO Exhibits, 1, which is a three-page account
4 statement of your account?

5 MS. BAGLEY: That's what I have.

6 JUDGE WEISMANDEL: 2, which is a two-page
7 utility company report dated May 6th of 2005 and PECO
8 Exhibit 3, a two-page document, which is a Bureau of --
9 Commission Bureau of Consumer Services case closing
10 report, and PECO Exhibit 4, which is labeled Phone
11 Vender Account Inquiry Screen. Did you receive copies
12 of those documents?

13 MS. BAGLEY: I have the first one.

14 JUDGE WEISMANDEL: From Ms. Lutz?

15 MS. BAGLEY: Lisa Lutz.

16 JUDGE WEISMANDEL: Yes.

17 MS. BAGLEY: A copy of the PECO Energy
18 answer.

19 (Background noise getting louder)

20 JUDGE WEISMANDEL: Okay.

21 MS. BAGLEY: Number one, they said answer
22 with original three copies.

23 JUDGE WEISMANDEL: Did you receive these
24 exhibits?

25 JUDGE WEISMANDEL: I'm looking through

1 the paper to see if these statements you said I received
2 that I did receive. I have an answer of Respondent PECO
3 Energy Company page. I have PA Public Utility
4 Commission and (unintelligible) report page. I have a
5 verification page that says "Before Public Utility
6 Commission Verification page." I have "Before the
7 Public Utility Commission (unintelligible) page. I have
8 another thing from Lisa Lutz.

9 JUDGE WEISMANDEL: Do you have the
10 documents that I described that are marked as PECO
11 Exhibits 1 through 4?

12 MS. BAGLEY: Okay, this is the documents
13 that I have.

14 JUDGE WEISMANDEL: Can you just answer
15 the question yes or no?

16 MS. BAGLEY: I don't know so I want to
17 tell you what I have and see if you have it.

18 I have a "Before the Public Utility
19 Commission answer of Respondent PECO Energy page" do you
20 have that?

21 JUDGE WEISMANDEL: Ma'am --

22 MS. BAGLEY: Do you have that because I
23 don't --

24 JUDGE WEISMANDEL: -- I'm asking the
25 questions, you're not.

1 MS. BAGLEY: I don't know what --

2 JUDGE WEISMANDEL: Do you understand?

3 MS. BAGLEY: Sir, then go ahead and ask
4 me what I have. And do it slowly so I can look at the
5 pages to see if I have it.

6 JUDGE WEISMANDEL: I asked you if you
7 received a letter from Ms. Lutz that has within it four
8 documents.

9 MS. BAGLEY: And what are the documents?

10 JUDGE WEISMANDEL: They are marked PECO
11 Exhibits 1,2,3 and 4. Do you have those documents?

12 MS. BAGLEY: Exhibit A.

13 JUDGE WEISMANDEL: No. This would have
14 been -- Ms. Lutz's cover letter was dated November 8th.

15 MS. BAGLEY: I have something dated
16 September 15th, 2005.

17 JUDGE WEISMANDEL: That's fine, but I'm
18 asking you about November 8th.

19 MS. BAGLEY: All I have is September
20 15th, 2005.

21 JUDGE WEISMANDEL: So are you telling me
22 that you did not receive those exhibits?

23 MS. BAGLEY: That's all I have in my
24 possession. The one page --

25 JUDGE WEISMANDEL: That's not what I

1 asked you. I asked you if you received them, not
2 whether you still had them.

3 MS. BAGLEY: I'm looking at one page that
4 doesn't have a date on it and this one is the rates, the
5 rates for residential electric and gas heat.

6 JUDGE WEISMANDEL: No.

7 MS. BAGLEY: It has a rundown of all that
8 I had paid, so as far as I know, what I have in my hand
9 is all I received. This one is it, so I guess I did not
10 get something dated November 8th. If I did get it I
11 don't have it right here.

12 JUDGE WEISMANDEL: All right, Ms. Lutz --

13 MS. LUTZ: Yes, Your Honor.

14 JUDGE WEISMANDEL: What we're going to do
15 is you're going to re-serve her with the Exhibits.

16 MS. LUTZ: Sure.

17 JUDGE WEISMANDEL: I want them served
18 Certified Mail, addressee only, to Daleena Bagley.
19 Return receipt requested so that there's no question
20 that it was delivered directly to Ms. Bagley, or you can
21 do it any other method, any other manner that requires a
22 receipt signed by Daleena Bagley to show that she
23 received those documents, understood?

24 MS. LUTZ: Yes, Your Honor.

25 JUDGE WEISMANDEL: When you let me know

1 that that has occurred we will reschedule this hearing.

2 MS. LUTZ: Thank you, Your Honor.

3 JUDGE WEISMANDEL: Thank you very much.

4 MS. BAGLEY: Who is supposed to let you
5 know, her or I?

6 JUDGE WEISMANDEL: Ms. Lutz.

7 MS. BAGLEY: Oh, when she receives the
8 receipt, notification that I have received it?

9 JUDGE WEISMANDEL: That you have received
10 the exhibits.

11 MS. BAGLEY: Okay.

12 JUDGE WEISMANDEL: Then we will schedule
13 another hearing.

14 MS. BAGLEY: Thank you, sir. Now, will
15 this mess me up with any LIHEAP or crisis funds if it
16 goes that far into the year?

17 JUDGE WEISMANDEL: I have no idea. I
18 can't give you legal advice.

19 MS. BAGLEY: Will it, Ms. Lutz?

20 MS. LUTZ: Ms. Bagley, I can't discuss
21 that at this time.

22 MS. BAGLEY: I'm just saying as far as
23 cases go does this case --

24 JUDGE WEISMANDEL: Ma'am, if you need
25 legal advice, get your own attorney.

1 MS. BAGLEY: Ms. Lutz, as far as --

2 JUDGE WEISMANDEL: Do you understand?

3 MS. BAGLEY: Ms. Lutz, as far as these
4 cases go will this mess up my LIHEAP or CRISIS? Does
5 this have anything to do with LIHEAP or CRISIS?

6 JUDGE WEISMANDEL: Ms. Lutz, I would
7 suggest that you not answer any questions since you're
8 representing the adverse party.

9 MS. LUTZ: That is true. Thank you, Your
10 Honor.

11 JUDGE WEISMANDEL: You're welcome.

12 MS. BAGLEY: Okay, I'm going to have it
13 noted that I asked what my rights are, what the rules
14 are, the protocol is and you decided to not tell me.

15 JUDGE WEISMANDEL: We will be in touch
16 with a notice --

17 MS. BAGLEY: There was nothing --

18 JUDGE WEISMANDEL: -- when this hearing
19 is rescheduled.

20 MS. BAGLEY: God bless you, God bless
21 you.

22 JUDGE WEISMANDEL: That will conclude
23 today's proceeding.

24 (Whereupon, at 2:50 p.m., the hearing was
25 adjourned.)

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C E R T I F I C A T E

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