

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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DEC 17 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ALLIANCE OF YOUTH MISSION
MINISTRIES, INC.

Complainant

vs.

PECO ENERGY COMPANY

Respondent

No. C-2013-2358115

EXCEPTIONS OF COMPLAINANT

Complainant, by and through its attorney, Robert L. Simmons, Esquire, hereby take exception to the November 27, 2013 decision and order of the Honorable Christopher P. Bell, Administrative Judge ("ALJ"), and sets forth in support thereof the following:

1. The ALJ capriciously disregarded facts, which were admitted to by Respondent, that were necessary for proper consideration and determination of the issues presented during the hearing and thereby committed errors of law and abused his discretion, to wit:

a) that a third party entity, NPO International Nursing Services, Inc., occupied the premises for approximately five (5) years prior to January 2012 and Respondent billed that entity for electrical services provided to the premises for the benefit of that entity;

b) notwithstanding that the premises were sold to Complainant on January 17, 2012, the third party entity continued to occupy the premises and Respondent continued to bill the entity for electrical services provided to the premises for the benefit of that entity for the period January 17, 2012 through May 31, 2012 totaling \$8,292.92 a copy of said billing;

c) on or about June 27, 2012, Respondent transferred the electrical services

account from the third party entity, removed the \$8,292.92 bill for the period January 17, 2012 through May 31, 2012 from the third party entity's account and unilaterally billed Complainant the \$8,292.92. A copy of Respondent's account activity log evidencing said transactions is attached hereto, incorporated herein and marked Exhibit "A".

2. Complainant neither occupied the premises, carried on any business thereon nor used any electrical services during the period January 17, 2012 through June 27, 2012 and Respondent did not present any evidence to the contrary and, therefore, the ALJ erred and abused his discretion in holding that Respondent could, as a matter of law, reverse the charges for services that benefitted only the third party entity and append the obligation for payment of the \$8,292.29 for electrical services for the period January 17, 2012 through May 31, 2012 on Complainant.

3. The ALJ committed errors of law and abused his discretion in admitting inadmissible hearsay testimony and documents over the strenuous objections of Complainant and utilized same to fashion its findings, conclusions and the denial of Complainant's complaint.

4. The ALJ erred and abused its discretion in finding and/or concluding that Rule 5.1 of Respondent's Tariff was properly admitted, over the objections of Complainant, in the first instance, Complainant's complaint fell within purview of said Tariff in the circumstances presented and said Tariff authorized Respondent, as a matter of law, to reverse the billing off the account of the third party entity and retroactively bill Complainant therefor.

5. The ALJ erred in allowing the double hearsay testimony of Respondent's witness, Michelle Browne-Cathey, who admittedly had no first-hand knowledge of the matters and issues surrounding Dominique Dixon's interaction with representatives of Respondent, which testimony the ALJ predicated his findings, conclusions of law and order.

6. The ALJ erred and abused his discretion by placing a greater burden of proof upon

Complainant than the well established preponderance of the evidence standard, as stated in the ALJ's Initial Decision (Pg. 6).

7. The ALJ erred and/or abused his discretion in affixing the burden of proof on Complainant to prove that Respondent improperly billed it for electric services during the period January 17, 2012 through May 31, 2012, as Respondent did not bill Complainant for any such services during that period.

8. The ALJ erred and/or abused his discretion in finding and/or concluding that Complainant failed to prove that Respondent improperly billed it for services provided to the premises during the period January 17, 2012 through May 31, 2012, when the record patently demonstrated and Respondent did not dispute the fact that the third party entity was billed for these very services.

9. The ALJ's Initial Decision is not supported by credible substantial evidence.

10. The ALJ's decision is contrary to law.

WHEREFORE, Complainant respectfully moves the Commission to reject the ALJ's November 27, 2012 Initial Decision and to enter an order granting Complainant's request that the \$8,292.29 Respondent retroactively billed it for electrical services during the period January 17, 2012 and May 31, 2012 be reversed.

RESERVATIONS

11. Complainant reserves the right to amend and/or supplement the above Exceptions for the following reasons:

- a) the Initial Decision of the ALJ is dated November 27, 2013;
- b) said decision is postmarked December 4, 2013—seven days later; a copy of which mailing is attached hereto, incorporated herein and marked Exhibit "B";

e) said decision was mailed to Complainant's attorney via certified mail-return receipt only;

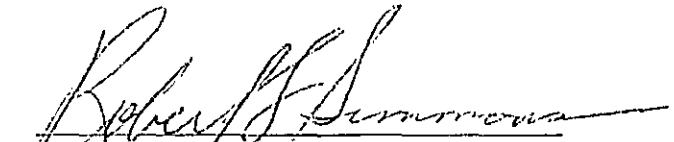
d) said decision was delivered to Complainant's attorney by the U.S. Postal Service on December 9, 2013 [Exhibit "B"];

e) twelve (12) of the twenty ((20) days within which Complainant had to file exceptions had already elapsed when the decision was received by Complainant's attorney;

f) by virtue of the foregoing, Complainant has been deprived of adequate time in which to review the ALJ decision and file appropriate exceptions thereto.

WHEREFORE, Complainant respectfully moves the Commission to extend the time for the filing of exceptions or, in the alternative, to allow Complaint to amend and/or supplement the above exceptions.

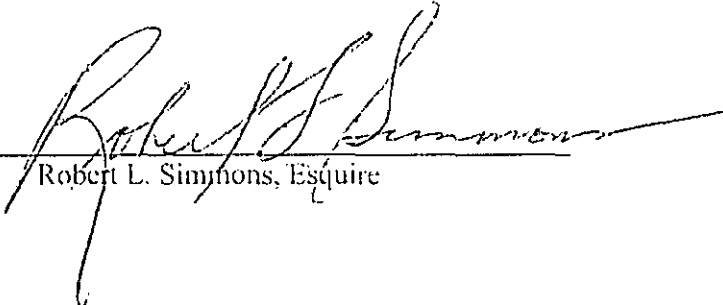
Dated: 12/17/2013


Robert L. Simmons, Esquire
3700 Gateway Drive, Suite 324
Philadelphia, PA 19145-5948
(215) 462-4577

Counsel for Complainant

VERIFICATION

I, Robert L. Simmons, Esquire, hereby deposes and say that I am the attorney for Alliance for Youth Mission Ministries, Inc. and has been authorized by it to make this verification on its behalf, because of its inability to do so within the time allowed for the filing and do further verify that the statements made herein are true and correct to the best of my knowledge, information and belief and upon information provided to me. I understand that any false statements made are subject to the penalties of 18 PA.C.S.A. §4904 relating to unsworn falsification to authorities.


Robert L. Simmons, Esquire

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EXHIBIT "A"

*** Account Information ***

*** Current Account Status ***

Account Number: 62477-07068
 Account Status: Active
 Requested By: SCOTT HAWES
 (267)629-0432 Extension:

Mail To: ALLIANCE YOUTH MISSION
 3040 N 22ND ST
 PHILADELPHIA PA 19132

Current Bill: \$2611.08
 Billed Prior: \$12021.70
 Balance Due: \$14632.78
 Service Address: 3040 N 22ND ST
 PHILADELPHIA PA 19132

Credit Amount: \$0.00
 Deposit Requested: \$3705.00
 Deposit On-Hand: \$3405.00
 Meter Bill Grp: 02
 Rate: Supplier Electric Commercial Serv 0-100KW

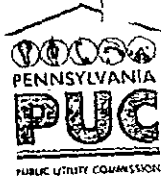
DATE	CHARGE TYPE	BILLING PERIOD	READ	METER #	CHARGE AMOUNT	CREDIT AMOUNT	TOTAL BILL	BALANCE FORWARD	DUE DATE	KWH	CC
06/26/12	DEPOSIT				\$3705.00						
06/27/12	ELECTRIC SERVICE	01/17/12 02/02/12	37237	334206970	\$844.23						
06/27/12	ELECTRIC SERVICE	02/02/12 03/04/12	50715	334206970	\$1455.82						
06/27/12	ELECTRIC SERVICE	03/04/12 04/02/12	58394	334206970	\$976.78						
06/27/12	ELECTRIC SERVICE	04/02/12 05/01/12	64378	334206970	\$776.89						
06/27/12	ELECTRIC SERVICE	05/01/12 05/31/12	68727	334206970	\$528.20						
06/27/12	CONNECTION CHARGE - STANDARD				\$6.00						
06/27/12	Regular Bill						\$8292.92		07/19	39313	
07/02/12	ELECTRIC SERVICE	05/31/12 06/29/12	72068	334206970	\$363.48						
07/02/12	DEPOSIT										
07/02/12	Regular Bill						\$8656.40		07/24	3341	
07/27/12	Payment Agreement					\$4951.40					
07/27/12	INSTALLMENT PAYMENT AGREEMENT				\$2475.70						
08/02/12	ELECTRIC SERVICE	06/29/12 08/01/12	76339	334206970	\$418.87						
08/02/12	DEPOSIT										
08/02/12	INSTALLMENT PAYMENT AGREEMENT				\$1265.77						
08/02/12	Regular Bill						\$7865.34	\$3705.00	08/24	4271	
08/14/12	Payment					\$1000.00					
08/29/12	Late Payment Charge				\$46.85						
08/31/12	Returned Check				\$300.00						
08/31/12	ELECTRIC SERVICE	08/01/12 08/30/12	79905	334206970	\$367.63						
08/31/12	DEPOSIT										
08/31/12	RETURNED CHECK NSF CHARGE				\$20.00						
08/31/12	INSTALLMENT PAYMENT AGREEMENT				\$1265.77						
08/31/12	Regular Bill						\$8865.59	\$7212.19	09/25	3566	
09/04/12	Payment					\$6865.34					
09/07/12	Returned Check				\$6865.34						
09/07/12	RETURNED CHECK NSF CHARGE				\$20.00						
09/18/12	Payment					\$1640.77					
10/02/12	ELECTRIC SERVICE	08/30/12 10/01/12	84238	334206970	\$449.61						
10/02/12	DEPOSIT										
10/02/12	Late Payment Charge				\$102.24						
10/02/12	Regular Bill						\$7796.67	\$7327.06	10/24	4333	
10/30/12	ELECTRIC SERVICE	10/01/12 10/29/12	90465	334206970	\$742.53						
10/30/12	DEPOSIT										
10/30/12	Late Payment Charge				\$109.28						
10/30/12	Regular Bill						\$8648.48	\$7905.95	11/21	6227	
11/30/12	ELECTRIC SERVICE	10/29/12 11/29/12	5944	334206970	\$1677.65						
11/30/12	DEPOSIT										
11/30/12	Regular Bill						\$10326.13	\$8648.48	12/26	15479	
11/02/13	Late Payment Charge				\$15.86						
11/04/13	ELECTRIC SERVICE	11/29/12 01/03/13	25830	334206970	\$2119.33						
11/04/13	DEPOSIT										
11/04/13	Regular Bill						\$12461.32	\$10341.99	01/28	19886	
12/04/13	Late Payment Charge				\$177.37						
12/05/13	Late Payment Charge					\$177.37					
12/05/13	Payment					\$1100.00					
12/05/13	Late Payment Charge				\$31.79						

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EXHIBIT "B"



OE

Commonwealth
P.O. Box 3265
Harrisburg, PA 1

Return Service



9171 9690 0935 0039 6685 13

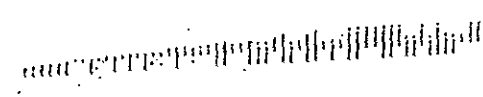
C-2013-2358115
ROBERT SIMMONS ESQUIRE
ALLIANCE FOR YOUTH MISSION MINISTERIES
3700 GATEWAY DRIVE SUITE 324
PHILADELPHIA, PA 19145-5948

POST OFFICE
DATE PAID
\$10.00

12-6

1st NOTICE _____
2nd NOTICE _____
RETURN _____
12-11
12-21

Handwritten signature and date: 12/19/2013



CERTIFICATE OF SERVICE


I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of §1.54 (relating to service by a party:

e-Filing:
Secretary
Pa. Public Utility Commission
400 North Street
Commonwealth Keystone Bldg, 2nd Floor
Harrisburg, PA 17120

e-mail: Shawane.lee@exeloncorp.com
& First Class Mail
Shawane L. Lee, Esquire
Exelon Legal Department
2301 Market Street/S23-1
Philadelphia, PA 19103

ra-OSA@pa.gov
Pa. Public Utility Commission
Office of Special Assistants

Dated: 12/17/2013



Robert L. Simmons, Esquire
3700 Gateway Drive, Suite 324
Philadelphia, PA 19145-5948
(215) 462-4577

Counsel for Complainant

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