

MARK MAZZA

v.

PECO ENERGY COMPANY

C-2012-2318472

**EXCEPTIONS OF COMPLAINANT MARK MAZZA**

Complainant files the following exceptions to the Initial Decision of Administrative Judge Elizabeth H. Barnes and hereby submits exceptions to the findings of fact and conclusions of law.

Complainant files exceptions to findings of facts numbers 4, 6, 8-13, 14, 16, 17, 18, 19, 20, 24, 25, 26, 27, 28, 29, 30, 31, 54, 56 and conclusions of law 4, 5, 6, 7, 11, 12, 13, 16, 17, 18 and order numbers 1, 2, 3 and 4. It is averred the findings of fact and conclusions of law are a denial of complainant's due process rights, improper lack of foundation, prejudicial, errors of law, errors of fact and abuses of discretion. There was a lack of substantial and/or clear and convincing evidence to support the above number exceptions.

The above numbered exceptions should be vacated, reversed or remanded for the above reasons, which are incorporated into each and every numbered exception numbered above.

The Administrative Judge failed to determine or address whether there are any medical conditions or illnesses at the address in question before deciding to allow termination of service. There was a denial of due process by disregarding or failing to address the merits of the other pending complaints prior to deciding a dollar amount, barring further complaints, allowing termination of service and addressing stays of order or decisions. No record was made to

address the other pending complaints, prejudicing complainant without factual basis. There was lack of a finding regarding credibility of the complainant in the findings of fact and conclusions of law. The Administrative Judge failed to address the merits of the other pending complaints and made negative inferences without a factual record which denied due process and full adjudication. Without addressing the merits of the other complaints and disputed amounts at issue in those complaints, most or all of the \$9,742.85 ordered to be paid in full is subject to possible offset or reduction which the judge failed to review, consider and address before the initial decision. The judge failed to offset or stay amounts in dispute regarding the other complaints, at least \$9,400, of the amount claimed or in dispute before rendering a decision. The judge failed to address and consider that PECO may have waived or was estopped from seeking to lift the stay as said argument was not raised previously and their actions regarding billing placed the outstanding amount claimed in dispute. Said amount is disputed and must be adjudicated in consideration of the subsequent complaint filings. It is contended error occurred as the parties are re-litigating the disputed amounts and merits of the subsequent actions, and this should result in a stay of prior decisions, barring further complaint filings, and stay attempts to terminate service until all current complaints are adjudicated after full hearings and become final. Including but not limited to medical conditions, the judge failed to consider the equitable rights and claims of complainant's wife and two small children, committed error by dismissing complaint 6 and rendering a decision beyond the scope of the issues on remand from the Commission. Erred in admitting PECO's exhibits and denying complaint's objections. Accepting testimony of the PECO representative when the best evidence was not provided by PECO by way of correspondence, recordings of bills and phone records. Erred in denying complainant to submit improper billing in evidence, when the judge allowed PECO to amend

their exhibits and submit exhibits late. Error was committed when the judge denied a PUC Par and wrongfully found the amounts at issue were undisputed. The judge wrongfully inferred as to the pending complaints in deciding to dismiss complaint 6, bar future complaints and deciding that service could be terminated unless the amount in the order was paid. Further due process when the judge wrongfully concluded the Commission's order would be final and the stay lifted, without due process and equal protection, and prejudice complainant's rights to pursue the appeal process to have the stay issue addressed in the appellate courts. It is averred the PUC stay of the judge's decision remains in effect until final decisions by the appellate courts. There was a improper ruling, without due process, that complainant was a abuser of the system, when the merits and allegations in open PUC complaint filings are pending and yet to be heard and litigated.

The judge wrongfully found complainant was missing payments. The judge disregarded exhibits submitted by PECO confirming that monthly bills, excluding the past due amount in dispute, was being paid per month for a lengthy period of time. The judge improperly inferred that complainant was missing payments and this incorrectly was utilized by the judge in finding complainant was not paying bills and filing complaints. Complainant was precluded from submitting billing statements to rebut testimony of the PECO witness, which showed monthly amounts due. The judge did not review the PECO exhibit reflecting payments and the confirmation from same that if there was a gap in payment it was due to complainant's bankruptcy filing. Otherwise, payments were monthly for a while, and not taken into consideration in addressing complainant's credibility. Complainant did not make a payment then miss one as wrongfully stated in the Initial Decision. The judge committed error including but not limited to findings of fact 28-31, as there is nothing other than self serving testimony of

PECO and there is a lack of substantial or clear evidence. The judge failed to determine credibility and consider all evidence on the PAR issue. Complainant would just receive a bill with a pay arrangement on several occasions, but complainant did speak to PECO who threatened termination of service. Prejudice occurred as the questionable billing practices and termination letter are the subject of pending PUC complaints. PECO failed to produce any exhibits including recordings of any discussions with PECO about a pay arrangement or that any amounts were undisputed.

PECO made unilateral adjustments or issued a self imposed pay arrangement without discussing same or reaching an agreement with complainant on any amounts in dispute. PECO produced no letters confirming an agreement or arrangement and it is curious while PECO records calls that nothing was produced. It was improper the judge found complainant defaulted on all 4 PARS. It is averred the judgment inferred or concluded the pending complaints were without merit, with no adjudication of same, denying due process rights. There were no pay arrangements or PAR agreements with complainant, as PECO produced no documents to support same. No notices as required by law were submitted at the hearing. The judge committed error as there as lack of substantial or clear and convincing evidence to support there were agreements. Thus, finding of default was error and prejudiced to complainant.

As to complainant's request for injunctive relief, the decision and hearing fail to adjudicate on that issue. It is requested the case be remanded for further findings.

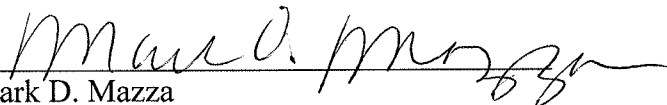
It is averred the judge committed error in finding there was just a money judgment and said amount had to be posted for appeals. Complainant contends this is prejudicial error and violates due process as the other complaints are yet to be adjudicated and the decision does not adjudicate all issues raised in complaint 6. The one Commonwealth Court ruling does not

dismiss or adjudicate other open complaints, and the judge's use of the case is misplaced and substantial error. Since the decision is more than a money judgment, appeal to Commonwealth Court stays the PUC decision and it is not final until the appeal process is concluded.

The judge's reference to complainant being a former attorney is misplaced, prejudicial and a abuse of discretion. Complainant has not practiced law for 14 years and never handled or represented any clients in PUC proceedings. Inclusion in the findings of same is extremely prejudicial and inflammatory while inferring that once being a attorney means the PUC should view complainant negatively and/or with a higher degree of knowledge.

All of the above reasons are submitted as to each and all exceptions above stated. It is requested the Commission reverse, vacate or remand this matter.

Respectfully submitted,

  
Mark D. Mazza

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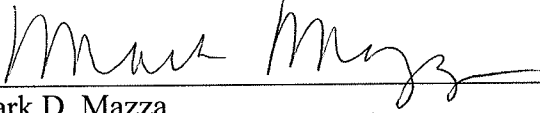
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct of Exceptions of Complainant Mark Mazza was served on the following by United States First Class Mail on the date listed below.

Margaret A. Morris, Esquire  
Regal Rizzo Darnall  
2929 Arch Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19104

Commissions Office of Special Assistants  
PAC  
P.O. Box 3265  
Harrisburg, PA 17105

Dated: 1/17/14

  
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Mark D. Mazza