

OALJ Hearing Report

Please check Those Blocks Which Apply

Docket No.:	C-20066721		YES	NO
		Prehearing Held:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Case Name:	H. Francis DeLone, Jr. v. PECO Energy	Hearing Held:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Company		Testimony Taken:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Transcript Due:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Hearing Concluded:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Location:	Philadelphia, PA	Further Hearing Needed:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Estimated Add'l Days:		
Date:	December 15, 2006			
		RECORD CLOSED:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ALJ:	Marlane R. Chestnut	DATE:	<i>etc ↓</i>	
		Briefs to be Filed:	<input type="checkbox"/>	<input type="checkbox"/>
Reporting Firm:	Precision Reporting	DATE:		
		Bench Decision:	<input type="checkbox"/>	<input type="checkbox"/>
<p style="font-size: 2em; font-weight: bold; margin: 0;">RECEIVED</p> <p style="margin: 0;">JAN - 2 2007</p> <p style="margin: 0;">PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU</p>		REMARKS:		
		<p style="font-size: 1.2em; font-style: italic; margin: 0;">Record to remain open until I receive transcript</p>		

PLEASE PRINT CLEARLY - Incomplete information may result in delay of processing.

Name and Telephone Number	Address	Who are you representing?
Michael S. Swerling	2301 Market Street 5237 523-1	PECO Energy Company
	City: Philadelphia State: PA Zip: 19101	
Telephone: (215) 941-6841	E-mail Address:	Fax Number: (215) 568-3389
H. Francis DeLone, Jr	478 St. PO Box 361 478 St. Davids Ave	DOCUMENT FOLDER
	City: Wayne State: PA Zip: 19087	
Telephone: (610) 293-9744	E-mail Address: h.deloney@peco.com	Fax Number: None
		BTL
	City: State: Zip:	
Telephone:	E-mail Address:	Fax Number:

Check this box if additional parties or attendees appear on back of form.


 Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.

Act 294

Case Identification: C-20066721; H. Francis deLone, Jr. v. PECO Energy Company

Initial Decision By: ALJ Marlane R. Chestnut

Deadline for Return to OSA: April 3, 2007

This decision has not been reviewed by OSA.

* * * * *

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2007 MAR 28 PM 1:41
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I want full Commission review of this decision.

Commissioner Date

I do not want full Commission review of this decision.

Kim Longjumeau _____
Commissioner Date
3/28/2007

Act 294

Case Identification:

C-20066721; H. Francis deLone, Jr. v.
PECO Energy Company

Initial Decision By:

ALJ Marlane R. Chestnut

Deadline for Return to OSA:

April 3, 2007

This decision has not been reviewed by OSA.

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2007 APR -3 11:10: 22
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Commissioner

Date

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Spadell J. Skelton

Commissioner

4/2/07

Date

BA

Act 294

Case Identification: C-20066721; H. Francis deLone, Jr. v. PECO Energy Company

Initial Decision By: ALJ Marlane R. Chestnut

Deadline for Return to OSA: April 3, 2007

This decision has not been reviewed by OSA.

* * * * *

I want full Commission review of this decision.

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Commissioner

Date

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James H Cawley
Commissioner

3/29/07
Date

ORIGINAL

H. Francis deLone, Jr.
Attorney
PO Box 361
Wayne, PA 19087-0361
hdelonejr@msn.com
(610) 293-9749

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April 10, 2007

VIA FEDEX OVERNIGHT MAIL

James McNulty, Secretary
Pennsylvania Public Utility Commission
Keystone Building, 2nd Fl.
400 North St.
Harrisburg, PA 17105

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APR 10 2007

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

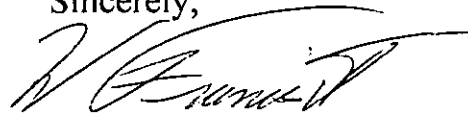
Re: deLone v. PECO
PUC Docket No. C - 20066721

Dear Mr. McNulty:

I am enclosing for filing an original and nine copies of Complainant's Exceptions accompanied by an original and nine copies an appropriate an appropriate Certificate of Service. I am also enclosing an overnight express delivery receipt showing that the Exceptions were deposited with an overnight delivery service today.

Please have the enclosed Exceptions filed of record.

Sincerely,



H. Francis deLone, Jr.

cc(w/encl.): Michael S. Swerling, Esq.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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APR 10 2007

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

H. FRANCIS DELONE, JR. :

v. :

DOCKET NO. C-200066721

PECO ENERGY COMPANY :

COMPLAINANT'S EXCEPTIONS

1. Administrative Law Judge Marlane R. Chestnut erred by denying Complainant's Motion that she recuse herself.

At the hearing in this matter, Complainant, Mr. deLone, moved for the recusal of Administrative Law Judge Marlane R. Chestnut, and pointed to statements in various pre-hearing orders issued by the Judge that showed that she was biased against Complainant and in favor of PECO, the respondent.

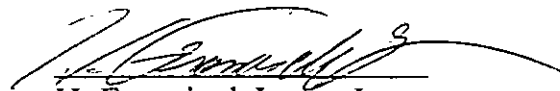
The Judge's March 21 decision provides further evidence of her bias. It recounts some of the unwarranted decisions she made regarding discovery. Her decision also demonstrates such bias in its discussion of the complainant's reference to PECO's "mysterious" charges. According to the American Heritage Dictionary "mysterious" means, among other things, "difficult to explain or account for." Improper bills, such as PECO's bills in this case, are difficult to explain or account for.

2. Administrative Law Judge Marlane R. Chestnut erred by admitting hearsay evidence.

Judge Chestnut admitted into evidence a printout that was especially prepared by PECO personnel for use in responding to Mr. deLone's Complaint. The printout is hearsay and was not admissible under the business records or any other exception to the hearsay rule.

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APR 13 2007



H. Francis deLone, Jr.
P.O. Box 361
Wayne, PA 19087-0361
(610) 293 -9749
hdelonejr@msn.com
Complainant

DATED: April 10, 2007

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

H. FRANCIS DELONE, JR. :
 :
 :
 v. : DOCKET NO. C-200066721
 :
 :
 PECO ENERGY COMPANY :

CERTIFICATE OF SERVICE

I hereby certify that on this date I am having a copy of the foregoing
Complainant's Exceptions served by first class mail, postage prepaid, upon:

Michael S. Swerling
PECO
PO Box 8699
Philadelphia, PA 19101-8699


H. Francis deLone, Jr.

DATED: April 10, 2007

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APR 10 2007

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Legal Department

Exelon Business Services Company
2301 Market Street/523-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Telephone 215.841.5544
Fax 215.568.3389
www.exeloncorp.com

ORIGINAL

Via FedEx

Direct Dial: 215.841.6841

April 20, 2007

James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

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APR 20 2007

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: H. Francis deLone, Jr. v. Peco Energy Company
PUC Docket No. C-20066721

Dear Mr. McNulty:

Enclosed for filing with the Commission are the following documents and copies in the matter referenced above.

- Answer (original and 3 copies)
- Petition (original and 3 copies)
- Preliminary Objection (original and 3 copies)
- Reply to Motion/Petition (original and 3 copies)
- Exceptions (original and 9 copies)
- Reply Exceptions (original and 9 copies)
- Brief (original and 9 copies)
- Reply Brief (original and 9 copies)

**DOCUMENT
FOLDER**

Also enclosed is an extra copy of this letter, which I request that you date stamp and return to me in the envelope provided as proof of filing. I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties.

Very truly yours,

Michael S. Swerling
Michael S. Swerling
Counsel for PECO Energy Company

MSS/zr

Enc.

cc: H. Francis deLone, Jr.

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Legal Department

Exelon Business Services Company
2301 Market Street/523-1
P.O. Box 8699
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Telephone 215.841.5544
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Business Services
Company

ORIGINAL

Direct Dial: 215 841 6841
April 20, 2007

VIA FED EX MAIL

James McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

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APR 20 2007

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**Re: H. Francis deLone, Jr. v. PECO Energy Company, Reply To Exceptions
Docket No. C-20066721**

Dear Secretary McNulty:

PECO Energy Company ("PECO Energy") hereby replies to the Exceptions filed by H. Francis deLone, Jr. ("Complainant") in the above-referenced matter on April 10, 2007.

A decision by the Bureau of Consumer Services ("BCS") was rendered on August 04, 2006. In its decision, the BCS issued a verbal close, clearly stating, in detail, how each of Complainant's bankruptcy filings and dismissals affected his account balance. The BCS also explained that the Complainant broke multiple payment arrangements given by both the Commission and PECO Energy. The Complainant was then found responsible to pay his account balance and arrearage.

Mr. deLone filed a Formal Complaint with the Pennsylvania Public Utility Commission ("PUC") on or about August 16, 2006. In his Complaint, Mr. deLone alleged that PECO Energy billed Complainant for mysterious charges and that PECO Energy had problems explaining the charges to Complainant. Mr. deLone requested that the mysterious charges, amounting to \$8,640.91, be credited back to his account and that PECO Energy be stayed from terminating his electricity.

PECO Energy responded to the Complaint by filing an Answer, New Matter, and Motion To Dismiss on or about September 12, 2006. PECO Energy explained, in detail, that Complainant's account balance and arrearage was the result of multiple bankruptcy filings and that Complainant was knowledgeable enough to understand how his bankruptcy dismissals affected his account, especially in light of the fact that he stopped paying his bills in 2005. PECO Energy also averred that Complainant was sanctioned in bankruptcy court, using it as a vehicle to avoid lawful collection of his debts. As the Bankruptcy Court stopped Mr. deLone from re-filing bankruptcy for 180 days, Complainant turned to the PUC processes to avoid having his account terminated. PECO Energy's Motion To Dismiss was denied and the case was scheduled for hearing.

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April 20, 2007

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Re: H. Francis deLone, Jr. v. PECO Energy Company (C-20066721)

This case was assigned to Administrative Law Judge (“ALJ”) Marlane R. Chestnut. The in-person hearing was held on December 15, 2006 before Judge Chestnut. The Complainant appeared and called PECO Energy’s witness, Renee Tarpley to put his case into the record. The ALJ’s Initial Decision, issued on March 21, 2007, denied the Formal Complaint because the Complainant failed to meet his burden of proof.

On or about April 10, 2007, the Complainant filed Exceptions with the PUC, alleging that he was not afforded a fair and impartial hearing. He further alleged that the Administrative Law Judge erred in admitting evidence into the record over his objection. PECO Energy’s response to those Exceptions is as follows:

PECO Energy objects to Section 1. of Complainant’s Exceptions where he argued that ALJ Chestnut should recuse herself because she was biased against him and he could not receive a fair hearing.

PECO Energy further takes exception to the Section 2. of Mr. deLone’s Exceptions relating to an alleged error in admitting hearsay evidence into the record.

Both of Complainant’s Exceptions will be dealt with in one combined response because they are a part of a whole strategy used by Mr. deLone to divert attention away from the fact that Mr. deLone had absolutely no true defense. Therefore, he attempted to forestall the Commission from considering or ruling on any part of PECO Energy’s case and evidence by claiming he was a victim. Most simply, Mr. deLone has a history of abusing the legal process to his advantage and his pursuits in this matter are more of the same.

Mr. deLone has been sanctioned by the Pennsylvania Bankruptcy Court and federal courts on at least four separate occasions for abusing the legal process to his advantage. He even admitted at hearing that federal courts sanctioned him three times for arguing legal theories after the courts instructed him to cease. Mr. deLone is simply continuing this pattern of abusing process with this dispute.

The facts of record prove that Mr. deLone failed to prove his burden, but he attempted to divert attention away from this by alleging he was a victim. The purpose of the Formal Complaint was to keep Mr. deLone’s service from being terminated. To do that, Mr. deLone alleged a billing dispute. The evidence proved that Mr. deLone stopped paying his bills in 2005 to the extent that he owes over \$10,000 in arrears. Mr. deLone never claimed that he paid his bills in full or on time. He never disputed the fact that he stopped making any payments since 2005. He admitted that he filed bankruptcy four times since 2003. He also admitted that he is an attorney. As such, he must understand what a bankruptcy is and how it operates, no other conclusion can be drawn. Therefore, Mr. deLone, at all times, knew that by not paying his bill, his arrears were accumulating. He also knew that his each time he filed his bankruptcies, pre-petition and post-petition accounts were formed. He also knew that each time his bankruptcy was dismissed, the

April 20, 2007

Page 3

Re: H. Francis deLone, Jr. v. PECO Energy Company (C-20066721)


pre-petition account was transferred to the post-petition account. Mr. deLone did not address any of his bankruptcies during his hearing because they prove that he owes PECO Energy over \$10,000. Instead of addressing the fact that he no longer pays his bills or the fact that he filed bankruptcies in an effort to avoid paying PECO Energy, Mr. deLone tried to argue that he was a victim. He argued first that he did not receive a fair hearing, even though he was allowed his hearing and allowed to make all of his points. Yet, he put no case on to prove a billing error.

He next argued that it was unfair to admit any of PECO Energy's evidence because it was hearsay and that the business records exception was improperly applied. This argument fails because PECO Energy's exhibits were properly qualified under the Business Records Exception to the Hearsay Rule. More importantly, the Complainant did not prove that there was any "substantial prejudice" in admitting those exhibits. PA Public Utility Commission v. Philadelphia Suburban Water Company, 1986 Pa. PUC LEXIS 141, 6 (1986). Instead, these records were highly relevant as they explained how PECO Energy treated Complainant's accounts as they were affected by each bankruptcy filing.

His strategy, which failed, was to argue that his position would not count because the Commission would not let him win and that the Commission should not listen to evidence that PECO Energy admitted, but only listen to his arguments. This strategy was designed to accomplish one thing, preventing the Commission from hearing any arguments, evidence, or decisions by anyone except Mr. deLone and, if allowed, would simply be an abuse of process. The ALJ's decision was proper and supported by the evidence of record.

PECO Energy, therefore, requests this Honorable Commission to deny all of Complainant's Exceptions in this matter.

Respectfully Submitted,


Michael S. Swerling
Counsel for PECO Energy

cc: H. Francis deLone, Jr.

DATE: April 24, 2007

SUBJECT: C-20066721

TO: Cheryl W. Davis, Director
Office of Special Assistants

FROM: James J. McNulty
Secretary
nvl .

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H. FRANCIS DELONE, JR.
V.
PECO ENERGY COMPANY

Copies of the Initial Decision have been served upon all parties of interest.

Exceptions have been filed by:

H. FRANCIS DELONE, JR.

Reply Exceptions have been received from:

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APR 24 2007

cc: Susan Hoffner

BTL