



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

ISSUED: August 10, 1993

IN REPLY PLEASE  
REFER TO OUR FILE

F-00160324

DANIEL J. KERWIN  
122 DEWEY ROAD  
MELROSE PARK  
CHELTENHAM PA 19012-1320

Daniel J. Kerwin  
v  
Philadelphia Electric Company

DOCUMENT  
FOLDER

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Ky Van Nguyen. 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 IN ROOM B-18, NORTH OFFICE BUILDING, NORTH STREET AND COMMONWEALTH AVENUE, 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.

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.

CC:ALJ NGUYEN/OFFICE OF ALJ/LAW BUREAU/PIO/OSA/CHAIRMAN/COMMISSIONERS/OTS/BCS  
CORRESPONDENCE/OUR FILE

Very truly yours,

*Allison K. Turner*

Allison K. Turner  
Chief Administrative Law Judge

AUG 17 1993

Encls. LCS  
Certified Mail  
Receipt Requested

MARY MCFALL HOPPER ESQUIRE  
PHILADELPHIA ELECTRIC COMPANY  
2301 MARKET STREET BOX 8699  
PHILADELPHIA PA 19101

SLV

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Daniel J. Kerwin :  
 :  
 vs. : F-00160324  
 :  
 Philadelphia Electric Company :

INITIAL DECISION

Before  
KY VAN NGUYEN  
Administrative Law Judge

HISTORY OF THE PROCEEDINGS

On February 3, 1993, Daniel J. Kerwin (the Complainant) filed a complaint with the Pennsylvania Public Utility Commission (the Commission) against Philadelphia Electric Company (the Respondent or PECO). In the complaint, the Complainant alleged that his electricity consumption had gone up from 446 Kwh to 883 Kwh a month after the Respondent changed his meter in May 1991. He asked the Respondent to check his meter for a possible malfunction.

On March 5, 1993, the Respondent filed an answer to the complaint. It admitted that it changed the Complainant's meter in August 1991 and May 1992, but denied that his bills were inaccurate because he had a potential for use.

On May 10, 1993, a hearing was held on the complaint. The Complainant proceeded unrepresented. The Respondent was represented by Mary McFall Hopper, Esquire.

On May 13, 1993, the Respondent filed the correct pages of PECO Exhibit 6. On May 15, 1993, the Complainant filed a summary of his electricity consumption in the years 1982 and 1983, and 1989-1992. This late-filed summary will be marked as Exhibit A-2 and admitted into the record.

FINDINGS OF FACT

1. The Complainant is a residential customer of the Respondent and takes service at 122 Dewey Road, Cheltenham, Pennsylvania 19012. (N.T. 3; PECO Exhibit 6)

2. The Complainant lives in a three-bedroom house with his wife. (N.T. 7)

3. The Complainant's electric appliances consist of two refrigerator-freezers, two clocks, a television, a microwave oven, a drip coffee maker, a washer, a dryer, a dishwasher, a furnace fan, and a central air conditioner. (N.T. 7-9; PECO Exhibit 4)

4. The Complainant's average consumption in 1989 and 1990 was 5654.6 Kwh and 5512.8 Kwh (daily average Kwh x number of days in a month x 12). (PECO Exhibit 5)

5. The number of the Complainant's household members has been reduced to 2 since 1989: the Complainant and his wife. Before that, they lived at this address with 4 children. (N.T. 11, 12).

6. On August 26, 1991, the Complainant's 1965 meter was changed at random.<sup>1</sup> The old meter was tested and found to be slow. (N.T. 18-20, 22, 23, 60-62; PECO Exhibits 1 and 5)

7. Before the installation, the August 26, 1991 meter was tested and found to be accurate. (N.T. 19; PECO Exhibit 2)

8. In September 1991, the Complainant asked the Respondent to check an increased consumption in his bill. On October 4, 1991, \$78.59 was credited to the Complainant's account because of an error in the calculation. (N.T. 17, 22, 23, 46, 47)

9. In May 1992, the Complainant called the Respondent to complain about the consumption which increased more than twice as much as the year before. The August 26, 1991 meter was then tested and found to be slow on the first and third dials and fast on the fifth dial. (N.T. 23, 24, 51-54, 58; PECO Exhibit 8)

10. On May 29, 1992, the August 26, 1991 meter was replaced. Before the installation, the May 29, 1992 meter was also tested and found to be accurate. (N.T. 24, 25, 55-57; PECO Exhibits 5 and 9)

11. In June 1992, \$80.49 was credited to the Complainant's account because of an error which occurred during the period between July 3 and September 26, 1991. (N.T. 25)

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<sup>1</sup> The Complainant testified that the meter was changed for the first time in May 1991. But PECO records indicate that this change was made on August 26, 1991.

12. On July 23, 1992, the Respondent did an analysis of the use of the Complainant's appliances to determine whether the use was in line with the bills rendered. The estimated use was about 41.4 Kwh a day. (N.T. 27-32; PECO Exhibit 4)

13. After reviewing the load study, which revealed that the use of the heating system in 12 hours and 24 hours a day did not match the load survey, the Respondent made another analysis of the use of the Complainant's appliances. This analysis increased the monthly kilowatt hours of the dryer from 18 to 55, the furnace fan from 240 to 265, the lighting from 0 to 60, the nightlight from 6 to 10; and dropped the monthly kilowatt hours of the central air conditioner. The estimated use was about 27.3 Kwh a day. (N.T. 37-41; PECO Exhibits 6 and 7)

14. In June 1992, because of the meter removed on May 29, 1992, the Complainant did not have service for about 10 days. The average consumption for this month was 930 Kwh. (N.T. 44-46, 59, 60, 71, 72; PECO Exhibit 5)

#### DISCUSSION

Section 332(a) of the Public Utility Code, 66 Pa. C.S. §332(a),<sup>2</sup> provides that a party seeking relief from the

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<sup>2</sup> Section 332(a) of the Public Utility Code provides:

"(a) Burden of Proof. - Except as may be otherwise provided in section 315 (relating to burden of proof) or other provisions of this part or other relevant statute, the proponent of a rule or order has the burden of proof."

Commission has the "burden of proof." "Burden of proof" is a duty to establish a fact by a "preponderance of the evidence." The term "preponderance of the evidence" means that one party has presented evidence which is more convincing, even by the smallest amount, than the evidence presented by the other party. Se-Ling Hosiery v. Marquilies, 365 Pa. 45, 70 A.2d 854 (1950).

Under these principles the Complainant, as the party seeking relief, has the burden of proof. In the context of a billing dispute such as this, the Complainant has the burden of proving by a preponderance of the evidence that (1) the disputed bills are abnormally high when compared to prior usage patterns, and that (2) his pattern of usage has not changed. Waldron v. Philadelphia Electric Company, 54 Pa. PUC 98 (1980). If the utility fails to rebut this evidence, the Complainant would prevail.

Also the Commission has stated that although the meter test results are important, but standing alone, they may be insufficient rebuttal testimony. However, if in addition to the meter test results, the utility places into the record the testimony to rebut the Complainant's prima facie case, the burden of going forward shifts to the Complainant to prove that the meter in question is defective. Replogle v. Pennsylvania Electric Company, 54 Pa. PUC 528 (1980).

The Complainant contends that his lifestyle has not changed over the past 4 years. He lives at this address with his

wife. His children all grew up and moved out. The youngest one lives in New York, but others live in the area so that their visits to the Complainant's house would not have anything to do with increasing his electric consumption. (N.T. 12) Further, his actual use of electricity ought to be low because of the manner in which he uses it. He has reduced the wattage of the light bulbs in the house. He uses 40 watt bulbs instead of 60 watt bulbs. (N.T. 8) Yet, the consumption is unusually high after the two meter changes which took place on August 26, 1991 and May 29, 1992. The consumption is almost double those of the previous years.

The record shows that the Complainant's total consumption between August 1989 and April 1991 was 10,101.5 Kwh. His total consumption in the comparable period between August 1991 and April 1993, the years in which his meter changes took place, was 18,571.5 Kwh. (PECO Exhibit 5 and Exhibit A-2) The big difference between these figures and the Complainant's unchanged lifestyle indicate that the Complainant has established his prima facie case.

The Respondent submitted into evidence the results of the cost estimates and the tests on the Complainant's meters to explain away the difference.

The Complainant's 1965 meter was replaced at random on August 26, 1991. Later, the August 26, 1991 meter turned out to be inaccurate. Yet, the Respondent acted as if nothing had

happened. The Respondent made two credits for the Complainant's account, not because of the inaccurate meter but because of some errors in the calculation. (N.T. 46, 47) One of these credits was made after May 29, 1992, the date on which the August 26, 1991 meter was replaced.

The Respondent even compared the Complainant's consumption in September 1991 and January 1992 with the Complainant's consumption in September 1992 and January 1993. The figures registered in September 1991 and January 1992 were inaccurate because they were produced by the August 26, 1991 meter. The figures registered in September 1992 and January 1993 were allegedly accurate because they were produced by the May 29, 1992 meter, which was allegedly accurate. The Respondent testified that the September 1991 consumption was "slightly higher than" the September 1992 consumption, and that the January 1992 consumption was "right in line" with the January 1993 consumption. (N.T. 34, 35) According to this comparison, there is no difference between an accurate and an inaccurate meter.

Further, when the August 26, 1991 meter was replaced on May 29, 1992, according to the Complainant's uncontradicted testimony, there was no replacement for 10 days. Nevertheless, the May 29, 1992 meter still registered 930 Kwh for the month of June 1992. His daily consumption would be 42.27 Kwh (the registered amount of 930 Kwh divided by the number of days (22 days) between May 29 and June 30, 1992). This consumption is

much higher than those of the previous months of June in 1989 (11 Kwh), 1990 (9.4 Kwh), 1991 (35.1 Kwh). (PECO Exhibit 5) This casts doubt on the accuracy of the May 29, 1992 meter. Therefore, the Respondent's evidence is insufficient to rebut the Complainant's prima facie case.

The Complainant has thus proved that the make-up bills for consumption for the period between August 26, 1991 and April 1993 (a total of 18,571.3 Kwh) are excessive. To correct this error, I will use the consumption in a comparable period, the period between August 1989 and April 1991 (a total of 10,101.5 Kwh), to calculate the consumption from August 26, 1991 to April 1993 (Exhibit A-2; PECO Exhibit 5). Absent evidence to the contrary, I believe this method will most accurately reflect the Complainant's consumption in the disputed period.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this complaint.
2. The Complainant has sustained the burden of proving that the Respondent's make-up bills for service from August 26, 1991 to April 1993 are excessive.
3. The Complainant's account should be adjusted, using the consumption for the comparable period between August 1989 and April 1991; the consumption for this period is 10,101.5 Kwh.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the complaint of Daniel J. Kerwin against Philadelphia Electric Company at Docket No. F-00160324 is sustained.

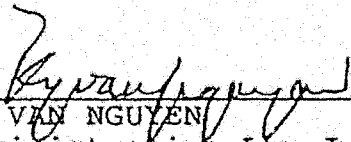
2. That the Respondent shall recompute the Complainant's consumption for the period between August 26, 1991 and April 1993 for 10,101.5 Kwh.

3. That the Respondent shall adjust the bills for the period between August 26, 1991 and April 1993 by issuing a bill for 10,101.5 Kwh and applying the then-applicable tariff rates.

4. That the difference between the bills for the period between August 26, 1991 and April 1993, and the bill adjusted under paragraphs 2 and 3 of this Order, shall be credited -- and refunded, if a refund is available -- to the Complainant's account.

Date:

July 28, 93

  
\_\_\_\_\_  
KY VAN NGUYEN  
Administrative Law Judge

Act 294

Case Identification:

F-00160324; Daniel J. Kerwin v.  
Philadelphia Electric Company

Initial Decision By:

ALJ Ky Van Nguyen

Deadline for Return to OSA:

August 24, 1993

This decision has not been reviewed by OSA.

\* \* \* \* \*

I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

I do not want full Commission review of this decision.

*Dana M. Roca/iv*  
Commissioner

8-26-93  
Date

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Act 294

Case Identification: F-00160324; Daniel J. Kerwin v.  
Philadelphia Electric Company

Initial Decision By: ALJ Ky Van Nguyen

Deadline for Return to OSA: August 24, 1993

This decision has not been reviewed by OSA.

\* \* \* \* \*

I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

I do not want full Commission review of this decision.

Joseph P. Rucker, Jr.  
Commissioner

8/23/93  
Date

AUG 13 P.M.

Act 294

Case Identification: F-00160324; Daniel J. Kerwin v.  
Philadelphia Electric Company

Initial Decision By: ALJ Ky Van Nguyen

Deadline for Return to OSA: August 24, 1993

This decision has not been reviewed by OSA.

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I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

I do not want full Commission review of this decision.

*[Signature]*  
\_\_\_\_\_  
Commissioner

*8-24-93*  
\_\_\_\_\_  
Date

Act 294

Case Identification: F-00160324; Daniel J. Kerwin v.  
Philadelphia Electric Company

Initial Decision By: ALJ Ky Van Nguyen

Deadline for Return to OSA: August 24, 1993

This decision has not been reviewed by OSA.

\* \* \* \* \*

I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

~~I do not want full Commission review of this decision.~~

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

8/23/93

Act 294

Case Identification: F-00160324; Daniel J. Kerwin v.  
Philadelphia Electric Company

Initial Decision By: ALJ Ky Van Nguyen

Deadline for Return to OSA: August 24, 1993

This decision has not been reviewed by OSA.

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I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

I do not want full Commission review of this decision.

x John Hunger  
\_\_\_\_\_  
Commissioner

8-25-93  
\_\_\_\_\_  
Date

ORIGINAL

PHILADELPHIA ELECTRIC COMPANY  
LEGAL DEPARTMENT

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Assistant General Counsel

August 23, 1993

VIA FEDERAL EXPRESS

Mr. John G. Alford, Secretary  
Pennsylvania Public Utility Commission  
Room B-20, North Office Building  
Harrisburg, PA 17105-3265

REC-7  
AUG 30 1993  
SEC. Public Utility Commission

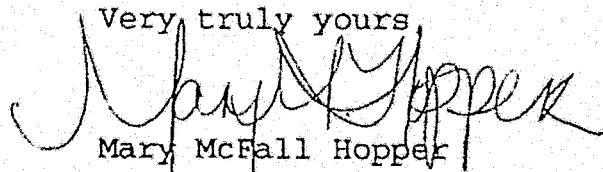
Re: Daniel J. Kerwin v. Philadelphia Electric Company (PECo)  
PUC Docket No. F-00160324

Dear Secretary Alford:

Enclosed for filing with the Commission are an original and nine copies of Philadelphia Electric Company's Exceptions in the referenced matter. Also enclosed is an extra copy of this letter which I request that you date stamp and return to me in the enclosed envelope as proof of filing.

Enclosed is a Certificate of Service showing that a copy of the above document was served on the Complainant, Daniel J. Kerwin.

Very truly yours,



Mary McFall Hopper

MMH/mtj  
Enclosures  
xc Daniel J. Kerwin

DOCUMENT  
FOLDER

SLV

BEFORE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DANIEL J. KERWIN :

v. :

DOCKET NO. F-00160324 :

PHILADELPHIA ELECTRIC COMPANY :

EXCEPTIONS OF PHILADELPHIA ELECTRIC COMPANY

Philadelphia Electric Company ("PECo" or "Company"), pursuant to 52 Pa. Code §5.533, files the following exceptions to the Initial Decision of the Honorable Administrative Law Judge Ky Van Nguyen issued on August 10, 1993.

INTRODUCTION

This case is the result of a formal complaint filed by Daniel J. Kerwin ("Complainant"), with the Pennsylvania Public Utility Commission ("Commission") as an appeal from a decision issued by the Commission's Bureau of Consumer Services at ICU No. 016324 on December 14, 1992. (PECo Exhibit 11) In his formal complaint, the Complainant, who is a residential customer of PECo, alleged that his electric bills doubled after PECo changed his meter in May, 1991.<sup>1</sup> At the hearing on May 10, 1993, Complainant testified as to the size and number of occupants in his home, the appliances present in his home, and submitted an exhibit summarizing his bills for 1982, 1983, and 1989 through 1992. (Exhibit A, Exhibit A-2)

<sup>1</sup> Although the Complainant claims that the meter was changed in May, 1991, the meter was changed on August 26, 1991 (Int. Dec., p. 3)

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SEP 01 1993

PECo offered testimony and documentary evidence that Complainant's meter was changed on August 26, 1991 in accordance with PECO's random meter change policy and that the removed meter was operating slow. (N.T. 18-20, PECO Exhibit 1). On May 29, 1992, as the result of PECO's investigation into Complainant's high bill inquiry, PECO tested the meter that was installed on August 26, 1991 and found it to be operating accurately, 100 percent on full load and 99.8 percent on light load. (N.T. 51, PECO Exhibit 8). The meter, however, did have three dials that were not operating properly and although this did not affect the accuracy of the meter, the meter was replaced to avoid meter reading errors. PECO's witness testified that an experienced meter reader would be able to read the meter but that an inexperienced meter reader may have difficulty. (N.T. 52-54) In addition, PECO presented testimony and documentary evidence on Complainant's appliances and the average amounts to operate such appliances, and that Complainant has the potential to consume the electric service billed to date. (N.T. 27-41, PECO Exhibits 4 through 7).

In the Initial Decision, Judge Van Nguyen found that Complainant met his initial burden under the test set by the Commission in Waldron v. Philadelphia Electric Company, 54 Pa. PUC 98 (1980). PECO excepts to Judge Van Nguyen's failure to consider whether the testimony and documentary evidence presented by PECO rebutted the prima facie case presented by Complainant. PECO also excepts to Judge Van Nguyen's finding that PECO's

meter, installed on August 26, 1991, was inaccurate and his finding that Complainant was without a meter for a ten-day period in June, 1992.

- I. PECO's evidence is sufficient, under the standards set by the Commission to satisfactorily rebut the Complainant's prima facie high bill allegations.

In Replogle v. Pennsylvania Electric Co., 54 Pa PUC 528 (1980), the Commission held that when a prima facie case has been established, the burden of rebutting that prima facie case shifts to the adverse party. In a case involving overbilling, once a Complainant establishes the three criteria for a prima facie case, the utility must present its rebuttal evidence. The Commission has determined that although a meter test is important evidence, the utility must also present testimony regarding the Complainant's usage. Replogle v. Pennsylvania Electric Company, 54 Pa. PUC 528, 531032 (1980).

PECO excepts to Judge Van Nguyen's failure to find that PECO did not rebut Complainant's prima facie case. The evidence at the hearing established that on August 26, 1991 Complainant's meter was changed. (N.T. 19). It is PECO's policy to remove all "dash 6 meters" on a random sample (N.T. 18) These meters "have been in service for a period or years and records show basically they run slow." (N.T. 57). Complainant's original meter, installed prior to 1965, was removed because of this policy. (N.T. 18, 22) The meter that was removed from Complainant's property on August 26, 1991 was tested and found to be operating

slowly. The original meter was found to operate at 98.6 percent at full load and 89.6 percent at light load. (N.T. 18-20 PECO Exhibit 1) The meter that replaced the old meter, and was installed on August 26, 1991, was tested prior to installation and was operating accurately. (N.T. 20-21, Exhibit 2).

Although a meter test alone is insufficient to rebut a prima facie high bill case, in this case a comparison of the meter tests and the bills is important. The fact that the meter at Complainant's property was replaced with a more accurate meter is sufficient rebuttal to Complainant's high bill inquiry. Complainant's original meter was replaced with a meter operating at 100.1 percent accuracy. At this point it was inevitable that Complainant's bills would increase because once a device is installed which will register all usage, the bill will have to increase.

PECO also presented evidence relating to the major appliances contributing to Complainant's bills which is sufficient to rebut Complainant's allegations that his bills were too high. PECO conducted a number of appliance analyses and performed a load study on two major appliances at Complainant's property. (N.T. 27-41, PECO Exhibits 4 through 7) PECO's field representative, Ms. Nelson, testified that in July, 1992 she visited the property and conducted an appliance analysis. Ms. Nelson testified that she estimated the Complainant's usage to be approximately 41.4 kwh per day, taking into consideration central air conditioning use of about 4 hours per day. (N.T. 33, PECO

Exhibit 4) Ms. Nelson testified that this was in line with what the Complainant was using during the summer of 1992. (N.T. 32, PECO Exhibit 5).

PECO also conducted a load survey, which measures how much electricity is used by a particular appliance over a twenty-four hour period, for Complainant's heating system and dryer. (N.T. 35-36, PECO Exhibits 5 & 6). The load survey revealed that Ms. Nelson's original estimates for these appliances should be altered. At that point, another appliance analysis was completed, utilizing the load survey data, and Complainant's average daily use was 27.3 kwh per day for the winter of 1993. Ms. Nelson testified that this was in line with what the Complainant was using during the winter of 1993. (N.T. 40, PECO Exhibit 6).

The two analyses conducted for the appliances at Complainant's property reflect an estimate for Complainant's usage during both the summer and winter months. The first analysis was done in July, 1992 and reflects Complainant's summer usage, including central air conditioning use. The second analysis was conducted in January, 1993 and reflects Complainant's winter usage. Both reports illustrate that Ms. Nelson's estimates are in line with the amount of electricity used by Complainant.

The evidence at the hearing establishes that PECO provided sufficient evidence of the possible major causes for the increase in Complainant's bills from May, 1991 to May, 1992. The

Complainant's original meter was operating slowly, causing the meter not to register all Complainant's usage. Thus when a new, accurate meter was installed, Complainant's bill would have to increase. The weather in May, 1992 was sufficiently hot, "with temperatures over 80 degrees and over 90 percent humidity" to have a significant effect on an electric bill because of air conditioning use. (N.T. 27). The evidence presented by PECO also established that Complainant had the potential to use the amount of electricity consumed in the disputed months based on the appliances in his home and the weather during the time period and as such is sufficient rebuttal testimony under the standard set in Replogle.

II. PECO excepts to Judge Van Nguyen's finding that the August 26, 1991 meter was inaccurate.

In his initial decision Judge Van Nguyen finds that the meter installed by PECO on August 26, 1991 was determined to be inaccurate and that PECO should not have used consumption figures for September, 1991 through January, 1992 because they were obtained through a faulty meter. (Int. Dec. p. 6-7) PECO excepts to this characterization of the problem found with the meter installed at Complainant's residence on August 26, 1991.

In May, 1992, Complainant contacted PECO alleging that his bills were too high. At that point PECO conducted an investigation, and the meter at Complainant's property was tested on May 29, 1992. PECO's witness, Mr. Hayes, testified that he tested the meter at Complainant property on May 29, 1992, and

found the meter to be operating accurately, 100 percent at full load and 99.8 percent at light load. Mr. Hayes also testified that he found three dial hands not working properly and that he replaced the meter that day. (N.T. 54-55, PECO Exhibit 8). Mr. Hayes testified that the operation of the dials do not affect the accuracy of the registration of the meter and that an experienced meter reader would be able to accurately read the meter but that an inexperienced meter reader may have a problem. (N.T. 54-55).

The fact that the August 26, 1991 meter developed a problem with the dial hands sometime subsequent to its installation, should not be considered in evaluating whether Complainant's consumption was in line with the estimates prepared by PECO's field representative. The problem with the dials does not affect the accuracy of the meter and therefore it cannot be concluded that this meter was inaccurate or that PECO's consumption analysis is faulty.

III. PECO excepts to Judge Van Nguyen's finding that Complainant was without a meter for 10 days in June, 1992.

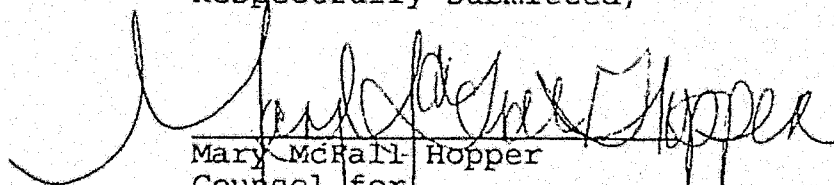
Judge Van Nguyen held that Complainant presented uncontradicted testimony that Complainant was without a meter for 10 days. Int. Dec. 7. PECO submits, however that there was evidence presented by PECO that Complainant's statement is inaccurate. Mr. Hayes testified that on May 29, 1992 he tested the meter at Complainant's property and that day installed a new meter. (N.T. 53). The meter test document entered as PECO

Exhibit 8 shows that the meter was changed to meter number 9-4225534. Mr Hayes also testified that there was a meter test conducted on July 2, 1992. (N.T. 54, PECO Exhibit 9). PECO Exhibit 9 indicates that the meter at Complainant's property on July 2, 1992 was meter number 9-4225534, the same number of the meter installed by Mr. Hayes on May 29, 1992. (N.T. 54) Therefore, Complainant's testimony that he did not have an electric meter at his property for ten days in June 1992 cannot be accurate.

CONCLUSION

For the reasons stated above, Philadelphia Electric Company respectfully requests that its Exceptions be granted and the Complaint be dismissed.

Respectfully submitted,



Mary McRall Hopper  
Counsel for  
PHILADELPHIA ELECTRIC COMPANY  
2301 Market Street, S23-1  
Philadelphia, PA 19103  
215/841-4941

August 30, 1993

BEFORE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DANIEL J. KERWIN :  
 :  
 v. : DOCKET NO. F-00160324  
 :  
 PHILADELPHIA ELECTRIC COMPANY :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document in the above matter upon all interested parties as indicated below:

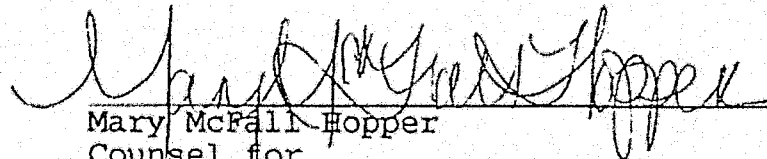
FEDERAL EXPRESS

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FIRST-CLASS MAIL

Honorable Ky Van Nguyen  
Administrative Law Judge  
PA Public Utility Commission  
1302 State Office Building  
Broad and Spring Garden Streets  
Philadelphia, PA 19130

Dated at Philadelphia, Pennsylvania, August 30, 1993.



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