

1 COMMONWEALTH OF PENNSYLVANIA  
2 PENNSYLVANIA PUBLIC UTILITY COMMISSION

\* \* \*

3 CHARLENE R. McVICKER, :  
4 vs. :  
5 PECO ENERGY COMPANY, : DOCKET  
6 : NO. C-20043878

\* \* \*

7 PAGES 131 through 205  
8 BEFORE: Allison K. Turner,  
9 Administrative Law Judge  
10 1400 W. Spring Garden Street  
11 Philadelphia, PA 19130

12 A P P E A R A N C E S:

**DOCKETED**  
JUL 19 2005

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16 LISA LUTZ, ESQUIRE  
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**DOCUMENT  
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1  
2 JUDGE TURNER: Now is the  
3 time and place of the further hearing  
4 in the matter of Charlene McVicker  
5 versus PECO Energy Company, docketed  
6 C-20043878. My name is Allison K.  
7 Turner, and I'm the Administrative  
8 Law Judge assigned to hear this  
9 case. Please be seated everybody.

10 So it is my thinking that we  
11 are here to cross-examine PECO  
12 Exhibit 3, and in a case such as  
13 this, Ms. McVicker, being the party,  
14 has a right to give closing testimony  
15 if she so desires. Are the parties  
16 in agreement with that?

17 MR. CAMPBELL: Yes.

18 MS. LUTZ: Yes, Your Honor.

19 JUDGE TURNER: Do you want to  
20 put your witness on?

21 MS. LUTZ: I would like to  
22 call to testify or answer any  
23 cross-examination Ms. Anita Armstead  
24 on behalf of PECO.

1 \* \* \*

2 ANITA ARMSTEAD,  
3 after having been first duly sworn,  
4 was examined and testified as  
5 follows:

6 JUDGE TURNER: Please be  
7 seated. Do you want to qualify your  
8 witness.

9 MS. LUTZ: Sure. Thank you,  
10 Your Honor.

11 \* \* \*

12 DIRECT EXAMINATION

13 \* \* \*

14 BY MS. LUTZ:

15 Q. Miss Armstead, would you please state  
16 your name and spell it for the record.

17 A. Yes, Anita Armstead,  
18 A-N-I-T-A, A-R-M-S-T-E-A-D.

19 Q. Would you please state your business  
20 address.

21 A. 2301 Market Street,  
22 Philadelphia, Pennsylvania, 19101.

23 Q. And by whom are you employed?

24 A. PECO Energy.

1 Q. And how long have you been employed  
2 by PECO?

3 A. 27 years.

4 Q. What is your current position with  
5 PECO?

6 A. Regulatory assessor.

7 Q. Would you please describe your duties  
8 as a regulatory assessor.

9 A. Yes, primarily I investigate  
10 and respond to both informal and formal  
11 complaints on behalf of PECO.

12 Q. Thank you. Are you also the  
13 custodian of records for the company?

14 A. Yes, I am.

15 Q. In the course of your employment,  
16 have you had the opportunity to review and  
17 become familiar with the account of Ms.  
18 McVicker?

19 A. Yes, I have.

20 Q. And also with the commercial accounts  
21 at Sedgley Avenue entitled Jopac?

22 A. Yes.

23 Q. Thank you. Ms. Armstead, if I can  
24 refer you to what has been marked a letter

1 identified as PECO Late Filed Exhibit 3,  
2 page 1 of 5 -- I believe you may have left  
3 it here.

4 And this was presented at the  
5 last hearing and admitted into evidence.

6 A. Thank you.

7 Q. Can we please review this late filed  
8 Exhibit as to these accounts.

9 A. Yes.

10 Q. Would you please identify this  
11 Exhibit.

12 A. It's a letter that was drafted  
13 by yourself to the Court.

14 Q. Okay.

15 A. In reference to Miss Charlene  
16 McVicker.

17 Q. And would you please identify the  
18 exhibit number at the bottom of the first  
19 page.

20 A. Yes, it's identified as Late  
21 Filed Exhibit 3 PECO page -- well, it's five  
22 pages.

23 Q. Okay. Thank you. Starting on page  
24 1, would you please review what's been

1 enumerated as paragraph 1 and give us a  
2 status on that information.

3 A. Yes, number 1 indicates at the  
4 hearing Miss McVicker agreed to pay 1  
5 thousand dollars toward her residential  
6 account at 25 Wildey Street in Philadelphia;  
7 however, no payment has been received by  
8 Mrs. McVicker, and her residential account  
9 balance is now 2 thousand, 29 dollars and 97  
10 cents, with no payments received since  
11 August the 5th of 2004.

12 Q. Can you please confirm what the  
13 current account balance is for that  
14 account.

15 A. Yes, the current account  
16 balance is 2 thousand, 108 dollars and 87  
17 cents.

18 Q. And have there been any payments made  
19 on this account?

20 A. No, there have not.

21 Q. Okay. And was the agreed 1 thousand  
22 dollars paid on this account?

23 A. No, it was not.

24 Q. Can I now move you to what's been

1 enumerated as paragraph 2 regarding a field  
2 visit that was attempted to be performed at  
3 the residential property.

4 A. Yes.

5 Q. Do your records indicate that a field  
6 visit at -- Mrs. McVicker called back to  
7 reschedule this appointment?

8 A. No, she has not.

9 Q. Can I please now refer you to what  
10 has been marked as I believe page 3 of 5,  
11 and this is a letter to Mr. Roberts. Can we  
12 please review the commercial accounts listed  
13 here, starting with the one enumerated as  
14 number 2. Would you please read that  
15 account number into the record.

16 A. Yes, the account number is  
17 24-06-31-352053.

18 Q. Could you please tell us if any  
19 payments have been made on this account  
20 since the last hearing of April the 28th?

21 A. No, there have been no  
22 payments made on the account since that  
23 date.

24 Q. Could I please refer you to what has

1       been marked as commercial account enumerated  
2       as paragraph 3 on that letter, that is a  
3       Jopac account on page 4 of 5. Could you  
4       please read that account number.

5               A.       Yes, that account number is  
6       24-06-31-363622.

7       Q.       And was this account also terminated  
8       for nonpayment?

9               A.       Yes, it was.

10      Q.       Was there -- do your records indicate  
11      any payment has been made on this account  
12      since the hearing of April the 28th of 2005?

13              A.       No, there have not been any  
14      payments on that account since that date.

15      Q.       Moving on to the third Jopac account,  
16      enumerated on the letter as number 4, would  
17      you please read the account number on that  
18      one.

19              A.       Yes, that number is  
20      24-01-90-01502601.

21      Q.       And was that account terminated for  
22      nonpayment?

23              A.       Yes, it was.

24      Q.       And do your records indicate any

1 payment was made on that account since April  
2 28th, the last hearing?

3 A. No, there have been no  
4 payments made on that account.

5 Q. Okay. The last commercial account  
6 discussed previously was a tenant at the  
7 Jopac property, and I believe that's  
8 enumerated as number 5 on that letter. Can  
9 you tell us if any payment has been made to  
10 connect that and pay the security deposit on  
11 that account?

12 A. No, there haven't been any  
13 payments made on that account either.

14 MS. LUTZ: Your Honor, I have  
15 no further questions for Miss  
16 Armstead at this time.

17 JUDGE TURNER: Mr. Campbell.

18 MR. CAMPBELL: Yes, Your  
19 Honor.

20 \* \* \*

21 CROSS-EXAMINATION

22 \* \* \*

23 BY MR. CAMPBELL:

24 Q. Miss Armstead, good afternoon.

1 A. Good afternoon.

2 Q. You stated that you were a regulatory  
3 assessor at PECO?

4 A. That's correct.

5 Q. Has that been your position -- that's  
6 been your position for how many of the 27  
7 years?

8 A. Two years.

9 Q. Two years?

10 A. Yes.

11 Q. And counsel also asked you if you  
12 were custodian of records as well as  
13 regulatory assessor.

14 A. That's correct.

15 Q. Would you please explain in what way  
16 you are the custodian of records. What are  
17 your duties associated with that function?

18 A. Preparing account statements,  
19 examining the records, understanding, being  
20 able to explain the records to customers.

21 Q. I think I heard you say that that's  
22 in association with claims or claims  
23 investigations against people.

24 A. Not really claims, no. What I

1 do is --

2 JUDGE TURNER: I didn't hear  
3 the question. In association with  
4 claims?

5 MR. CAMPBELL: With claims or  
6 claims investigations against PECO.

7 THE WITNESS: It's not  
8 actually claims. I'm not employed by  
9 the claims department. Primarily  
10 what I do is when customers contact  
11 the Public Utility Commission with a  
12 complaint, I investigate that. I  
13 make sure the response gets back to  
14 the Bureau of Consumer Services, and  
15 if that complaint becomes a formal  
16 complaint, then I follow up and take  
17 care of -- I prepare all the  
18 documentation and records that are  
19 needed, speak to the customer,  
20 whatever is required.

21 BY MR. CAMPBELL:

22 Q. So if I understand you correctly, you  
23 don't regularly maintain records, but what  
24 you do is as part of your investigation in

1 response to a complaint or contact by the  
2 client, right?

3 A. Right.

4 Q. You then develop a record, as it  
5 were, pursuant to your investigation?

6 A. That's correct.

7 Q. All right. And when did you first do  
8 that for this case?

9 A. For this case, I believe it  
10 was last week, because Miss Tarpley was the  
11 original assessor that was assigned to the  
12 case. Because she's on vacation, I'm here  
13 for her.

14 Q. And when you -- when you obtained  
15 these records -- and by "records", I mean  
16 any computer printouts or memoranda or any  
17 note of bills and payments.

18 A. Okay.

19 Q. The first time you saw any such  
20 material with regard to Miss McVicker was  
21 when you adopted the file, so to speak,  
22 from --

23 A. That's correct. That's  
24 correct.

1 Q. And when you -- when you made  
2 reference to payments not having been made,  
3 okay, for your responses you relied  
4 completely on records that you adopted from  
5 that file; is that correct?

6 A. That's correct.

7 Q. And you had not spoken with anyone  
8 within PECO regarding any of the questions  
9 that were posed to you on direct  
10 examination; is that correct?

11 A. Well, I spoke to Miss Tarpley  
12 when she gave the information to me.

13 Q. I'm sorry, let me qualify the  
14 question.

15 Aside from Miss Tarpley and  
16 Miss Lutz, you haven't spoken with anyone at  
17 PECO with regard to those questions?

18 A. That's correct.

19 Q. So your responses are solely based on  
20 those computer printouts you got from Miss  
21 Tarpley, is that fair to say?

22 A. Well, they're not computer  
23 printouts. They're billing statements.

24 Q. Billing statements?

1 A. Yes.

2 Q. And how far back, just so we know, do  
3 those billing statements go?

4 A. I believe they go back to  
5 '99. This one goes back to 2000. 2000,  
6 1999 on the residential account.

7 Q. Okay. And those billing statements,  
8 is that something that someone, if you know  
9 -- is that something that someone would  
10 generate or put together themselves, or is  
11 that something that would be printed out  
12 from -- by way of a computer command?

13 A. Normally we print them out  
14 from a computer. We can do them manually,  
15 but normally if we can, we like to have the  
16 computer generated type of statement.

17 Q. And the records that you've relied on  
18 today for your responses, are they computer  
19 generated?

20 A. Yes.

21 Q. Does that include -- does that  
22 include your assertion that there was a  
23 field visit for which Miss McVicker -- which  
24 Miss McVicker has not rescheduled?

1           A.       That information was given to  
2 us by the representative that was attempting  
3 to reach Miss McVicker in regard to  
4 rescheduling the appointment.

5           Q.       Did you contact that representative  
6 directly, or did you obtain that from her  
7 file or her --

8           A.       I received that information  
9 from Miss Tarpley and Miss Lutz.

10          Q.       From Miss Tarpley and Miss Lutz?

11          A.       Yes.

12          Q.       So not from the representative?

13          A.       No.

14          Q.       And other than -- you would have no  
15 personal knowledge as to where Miss Tarpley  
16 or Miss Lutz would have gotten that  
17 information, other than those computer  
18 printouts or --

19          A.       Other than company records,  
20 right.

21          Q.       Other than company records, all  
22 right.

23                    JUDGE TURNER:   Excuse me, if  
24 I remember correctly, there was some

1 testimony about this at the last  
2 hearing in relation to the fact that  
3 Miss McVicker had actually called in  
4 and had been referred to a supervisor  
5 who was not available.

6 MS. LUTZ: That is correct,  
7 Your Honor.

8 JUDGE TURNER: And that that  
9 supervisor had not been able to  
10 contact Miss McVicker again, but  
11 there was evidence in the record that  
12 she did call there to try to  
13 reschedule the appointment.

14 MR. CAMPBELL: I recall that,  
15 Your Honor, which is why I sort of  
16 delved into the area a little bit,  
17 because the information was a little  
18 bit different.

19 JUDGE TURNER: Yes.

20 BY MR. CAMPBELL:

21 Q. Now, those records that you have in  
22 front of you, are they for any accounts  
23 other than the one at 25 Wildey Street? I  
24 guess I'll go through them all.

1                   You have in front of you the  
2 records for 25 Wildey Street, correct?

3                   A.        Yes.

4                   Q.        You have in front of you records  
5 pertaining to the commercial account number  
6 24-06-31-352053?

7                   A.        Yes.

8                   Q.        You have in front of you records  
9 relating to the account numbered  
10 24-06-31-363622?

11                   A.        No, that account number I  
12 don't have.

13                   Q.        You do not. Was part of your  
14 testimony earlier that with regard to  
15 that --

16                   A.        I'm sorry, 24-06-31-36 --  
17 353622? Is that what you have?

18                   Q.        The one I was asking about --

19                                JUDGE TURNER: That's not the  
20 number that's here on this Exhibit --  
21 I mean on the --

22                                MR. CAMPBELL:

23                                24-06-31-363622.

24                                THE WITNESS: This one says

1 353.

2 MS. LUTZ: It's on the letter,  
3 Miss Armstead.

4 THE WITNESS: Pardon me?

5 MS. LUTZ: It's on the letter  
6 enumerated as account number 3 of the  
7 commercial accounts.

8 JUDGE TURNER: Apparently her  
9 billing records that she brought  
10 today don't have the same number on  
11 it.

12 THE WITNESS: Yes, there's a  
13 typo on this. Yes, I do have that.

14 JUDGE TURNER: You know that  
15 just by changing the number by hand?

16 THE WITNESS: Well, because --  
17 well, I can only assume that it's a  
18 typo, when the last six digits is  
19 353622 on this statement and on the  
20 letter it's 363622.

21 JUDGE TURNER: Well, you can  
22 deal with that, Mr. Campbell.

23 BY MR. CAMPBELL:

24 Q. And when you say -- you're assuming

1 that it's the same record, correct?

2 A. Yes.

3 Q. And you have not, as you stated  
4 earlier, generated any records yourself for  
5 the account referenced in paragraph 3 of  
6 this Exhibit; is that correct?

7 A. That's correct.

8 Q. And do you -- you have no firsthand  
9 knowledge whether or not it's a typo, you're  
10 assuming it; is that correct?

11 A. That's correct.

12 Q. Do you happen to have in front of you  
13 records related to the commercial account  
14 number 24-01-90-015026-01?

15 A. Yes, I do.

16 Q. And you also made reference to the  
17 commercial account from the previous tenant,  
18 the PNC Wiring account?

19 A. Yes.

20 Q. Do you have those records in front of  
21 you?

22 A. I don't believe so. I have  
23 some information on them. I don't have the  
24 billing statement on them, no.

1 JUDGE TURNER: Keep your voice  
2 up.

3 MS. LUTZ: Your Honor, I would  
4 object. At the last hearing, Miss  
5 Tarpley testified to that account and  
6 noted for the record that she was  
7 unable to disclose that information,  
8 as Miss McVicker was not a rate payer  
9 on that account, and she disclosed  
10 how that account could be established  
11 in Miss McVicker's name, and you were  
12 going to relay that to Ms. McVicker.

13  
14 But Miss Tarpley testified on  
15 the record that she could not  
16 disclose information as to PNC  
17 Wiring.

18 JUDGE TURNER: She did state  
19 that there is customer confidentiality  
20 about billing, yes.

21 MS. LUTZ: That is correct.

22 MR. CAMPBELL: But my question  
23 is rather directed to a time period  
24 when Miss McVicker was the -- let me

1 rephrase that.

2 I think that the information  
3 is relevant because Miss McVicker is  
4 being held liable for it. We're  
5 asking about payment or nonpayment,  
6 and I don't think that that  
7 information in any way violates the  
8 confidentiality of a tenant, who,  
9 number one, is not there and, number  
10 two, who is not even a party to this  
11 suit.

12 MS. LUTZ: Your Honor, I would  
13 object, because Miss Tarpley said  
14 Miss McVicker is not being held  
15 responsible for the payment on that  
16 account, and she established how the  
17 account could be turned on in Miss  
18 McVicker's name at the last hearing.

19 MR. CAMPBELL: And part of  
20 that would be by Miss McVicker paying  
21 a certain quote from PECO as a  
22 deposit that would be based on the  
23 usage of the prior account holder.

24 MS. LUTZ: And I'm sure that

1 Miss Armstead can testify as to how a  
2 security deposit would be calculated  
3 on the meter at the property that was  
4 in the prior tenant's name.

5 MR. CAMPBELL: I guess I  
6 wouldn't need to explore this area,  
7 Your Honor, if maybe there was a  
8 stipulation from PECO that Miss  
9 McVicker would be asked for a deposit  
10 commensurate with the requirements of  
11 any new account holder as opposed to  
12 the usage of someone else; otherwise,  
13 I think that she should be entitled  
14 to ask about some of that usage to  
15 verify that the billing is correct,  
16 because after all, she will be the  
17 one to have to pay for a deposit in  
18 order to activate the electricity  
19 there.

20 JUDGE TURNER: I understand  
21 your position. I seem to remember  
22 that you asked some questions about  
23 this at the last hearing, and that  
24 Miss Tarpley said that quite possibly

1 the deposit would be based on the  
2 previous usage on that meter.

3 MS. LUTZ: That is correct,  
4 and I believe Miss Armstead, if on  
5 redirect -- or I'm not sure -- would  
6 establish that. Would you like me to  
7 ask her those specific questions  
8 now?

9 JUDGE TURNER: What is before  
10 me, an objection or motion to compel?

11 MR. CAMPBELL: It was an  
12 objection.

13 MS. LUTZ: It was an original  
14 objection as to Miss Armstead  
15 testifying as to another account that  
16 was not in the complainant's name.

17 JUDGE TURNER: And I do  
18 understand PECO's position in this  
19 matter, but I do think that Mr.  
20 Campbell's position is correct, if  
21 the usage on that account is going to  
22 be used to calculate a deposit that  
23 Miss McVicker is going to have to  
24 pay, she has some right to know

1                   whether that's a fair calculation of  
2                   a deposit, unless he's stipulating  
3                   that it would be the same calculation  
4                   for any new tenant there, if I  
5                   followed him.

6                   MR. CAMPBELL: Yes.

7                   JUDGE TURNER: Could you  
8                   stipulate to that?

9                   MS. LUTZ: Your Honor, if we  
10                  may go off the record.

11                  JUDGE TURNER: Okay, we may go  
12                  off the record.

13                                   \* \* \*

14                                   (Whereupon, a discussion was  
15                                   held off the record.)

16                                   \* \* \*

17                   JUDGE TURNER: We've had an  
18                   extensive discussion about the  
19                   commercial account in the name of PNC  
20                   Wiring, and I think what we have come  
21                   down to is that the security deposit  
22                   that will be calculated for Ms.  
23                   McVicker, if she applies for a new  
24                   account on this meter, will be

1           calculated on past usage, and that  
2           Ms. Armstead and Ms. Lutz will make  
3           usage information available to Mr.  
4           Campbell, and Mr. Campbell is  
5           satisfied with that; is that correct?

6                   MR. CAMPBELL: That is  
7           correct, Your Honor.

8                   JUDGE TURNER: Miss Lutz?

9                   MS. LUTZ: That is correct,  
10          Your Honor.

11                   JUDGE TURNER: Can she get  
12          that for him today, tomorrow? When  
13          can she get that for him?

14                   MS. LUTZ: I'm sorry, I was  
15          reviewing what the Court instructed  
16          Mr. Campbell on that at the last  
17          hearing. Miss Tarpley indicated if  
18          Ms. McVicker applies for service,  
19          there would be a rate -- a security  
20          deposit calculated at that time based  
21          on the prior usage for that meter.

22                   JUDGE TURNER: Okay.

23                   MS. LUTZ: So certainly Mr.  
24          Campbell --

1 JUDGE TURNER: Can you make it  
2 available to Mr. Campbell?

3 MS. LUTZ: Right.

4 JUDGE TURNER: My question to  
5 you was when.

6 MS. LUTZ: Ms. Armstead?

7 THE WITNESS: What about  
8 tomorrow?

9 JUDGE TURNER: Tomorrow?

10 MS. LUTZ: Yes.

11 JUDGE TURNER: Was that last  
12 bit on the record?

13 COURT REPORTER: Yes.

14 JUDGE TURNER: Do you want to  
15 proceed, Mr. Campbell?

16 MR. CAMPBELL: Yes, Your  
17 Honor.

18 BY MR. CAMPBELL:

19 Q. Miss Armstead, how is an account  
20 designated commercial as opposed to  
21 industrial?

22 A. There isn't any real --  
23 they're both actually commercial. When we  
24 refer to industrial, normally we're talking

1 about a primary service versus a secondary  
2 service. A primary service is where a  
3 customer provides their own transformation,  
4 they have their own transformers. Secondary  
5 service is where PECO provides the  
6 transformation. So sometimes they're two  
7 different rates, depending on what the  
8 situation is.

9 Q. Okay. And isn't one of these  
10 accounts marked as -- is one of these  
11 accounts designated as industrial?

12 A. The one account, the 1800 West  
13 Sedgley account number 24-01-90-01522601.  
14 That is set up as an industrial account.  
15 We have a little bit different billing  
16 system set up for those types of accounts.  
17 I'm assuming because it's set up in the  
18 system that it is what we consider a primary  
19 account.

20 Q. When you say that you're assuming, am  
21 I correct, then, that you're also not  
22 familiar with any paperwork indicating that  
23 this should be an -- that this should be an  
24 industrial account as opposed to a

1 commercial account?

2 A. The fact that it's on a  
3 different billing system on the PAC system,  
4 as I said, it would indicate to me that it  
5 more than likely is primary. I didn't look  
6 into that, because I didn't -- I wasn't told  
7 that that was an issue, or else I would have  
8 looked into it.

9 Q. So you have no information -- you're  
10 not aware of any information that would make  
11 this account qualify as an industrial versus  
12 a commercial account?

13 MS. LUTZ: I would object at  
14 this time, because that certainly is  
15 outside the scope of the original  
16 complaint and the purpose of this  
17 hearing, and certainly Ms. Armstead  
18 is not prepared nor qualified to  
19 testify as to the metering at the  
20 property and why they're coded as  
21 industrial versus commercial.

22 JUDGE TURNER: There was an  
23 issue raised by Ms. McVicker at I  
24 believe the first hearing, and she

1 wanted to know why she would be  
2 considered industrial.

3 MS. LUTZ: And Miss Tarpley  
4 had testified at that time it depends  
5 on the type of meter and service  
6 that's at the building at that time.

7 JUDGE TURNER: And she also  
8 said that if you hadn't gone into  
9 your box and made certain changes,  
10 that it might still be considered  
11 industrial, that a former tenant  
12 might have been an industrial user.

13 MS. LUTZ: I believe she  
14 testified as to the type of equipment  
15 needed to provide service to that  
16 area.

17 JUDGE TURNER: To an  
18 industrial area, you mean?

19 MS. LUTZ: Yes. And it's my  
20 understanding that it's the  
21 equipment, also, that -- and the type  
22 of service needed for that property.  
23 Normally --

24 MR. CAMPBELL: Your Honor, at

1           this point, respectfully, we can't  
2           have Miss Lutz providing the  
3           testimony regarding the issue. And I  
4           do think that it's relevant no matter  
5           how you slice it. It's relevant  
6           because it's part of how the account  
7           is billed.

8                         JUDGE TURNER: It's billed at  
9           a different rate if it's considered  
10          industrial.

11                        I have to overrule you here,  
12          Ms. Lutz. You may be recollecting  
13          Miss Tarpley's testimony correctly,  
14          but I think that Mr. Campbell is  
15          entitled to probe this on behalf of  
16          his client, because it may be to her  
17          disadvantage if it's classified as an  
18          industrial meter.

19                        THE WITNESS: Well, the fact  
20          -- the size of service is what  
21          dictates that. That's why I said  
22          more than likely -- and I can't say  
23          for sure, because I don't have the  
24          records here. If I had the prints

1 here, I could tell you for sure.  
2 Normally the primary services are  
3 higher voltage for bigger equipment,  
4 so it really depends on what the end  
5 use is at the property as far as  
6 whether it should be industrial or  
7 whether it should be commercial.  
8 It's not just a matter of a different  
9 meter.

10 JUDGE TURNER: I understand  
11 that. That's exactly what he's  
12 asking about, and that's exactly what  
13 Miss Lutz is objecting he's asking  
14 about, and I'm overruling her  
15 objection, because it's entirely  
16 possible that the account should be  
17 reclassified. I don't think there's  
18 any equipment there right now. And  
19 correct me if I'm wrong.

20 MR. CAMPBELL: That's correct,  
21 at least as of the last hearing.

22 MS. MCVICKER: There's  
23 equipment there, but it's not turned  
24 on.

1 MR. CAMPBELL: Is there any  
2 electric service on at the  
3 warehouse?

4 MS. MCVICKER: We haven't had  
5 any electric service since the  
6 beginning of March.

7 JUDGE TURNER: We can't get  
8 into taking her testimony at this  
9 point.

10 But we are now talking about  
11 what's designated as paragraph 4 in  
12 the affidavit; is that correct?

13 MS. LUTZ: That is correct,  
14 Your Honor.

15 JUDGE TURNER: And you call it  
16 a commercial account in this  
17 affidavit?

18 MS. LUTZ: That is correct,  
19 Your Honor.

20 JUDGE TURNER: And your  
21 witness is saying that you think it's  
22 an industrial account because of  
23 certain indications in the records  
24 you have?

1 THE WITNESS: Yes, because  
2 it's set up on our PAC billing  
3 system --

4 JUDGE TURNER: Is that an  
5 acronym, P-A-C, all caps?

6 THE WITNESS: Yes. And that  
7 stands for primary accounts.

8 And like I said, if it's a  
9 primary service, if she has her own  
10 transformer there transforming the  
11 high voltage services coming through  
12 there, it is billed differently. It  
13 would have different metering. If  
14 that was something that she wished to  
15 change because she doesn't have the  
16 need for that big of a service, that  
17 would be a change that she would have  
18 to initiate. It wouldn't be  
19 something that PECO would be  
20 changing. She would have to request  
21 that we come out and examine the  
22 situation and see what would be  
23 involved in changing it to a  
24 secondary service, and then she could

1 be billed for the regular commercial  
2 service.

3 JUDGE TURNER: She has  
4 requested that some people come out  
5 and review the status of all of those  
6 meters and explain things to her. I  
7 don't know if that's been done.

8 Do you want to move on, Mr.  
9 Campbell?

10 MR. CAMPBELL: Yes, Your  
11 Honor.

12 BY MR. CAMPBELL:

13 Q. Well, following up on the last  
14 question, do you have any information  
15 indicating that a representative from PECO  
16 has looked into the designation of this  
17 particular account?

18 A. No, I have no information  
19 around that.

20 Q. All right. Do you have any  
21 information that any field visits have been  
22 made at all to review any of these accounts  
23 since, let's say, 2002?

24 A. What I believe was that we

1        were out there -- and I don't know if this  
2        residential is one or not. I'm not sure.

3                    JUDGE TURNER: You have to  
4        keep your voice up. She's trying to  
5        transcribe it.

6                    THE WITNESS: Yes, it was the  
7        residential account that we were  
8        trying to set up the filed visit for,  
9        and, no, I don't have anything. I  
10       have no indication that we were out  
11       to the commercial properties.

12                   MS. LUTZ: Your Honor, at this  
13       time I --

14                   JUDGE TURNER: Off the record  
15       here.

16                   \* \* \*

17                   (Whereupon, a discussion was  
18       held off the record.)

19                   \* \* \*

20                   JUDGE TURNER: This is in  
21       regard to number 4 in the affidavit,  
22       commercial account Jopac  
23       24-01-90-015026-01. Mr. Campbell was  
24       asking about whether there has been

1 any kind of field visit to look at  
2 this meter. It had been Miss  
3 McVicker's thinking that it was an  
4 industrial meter. Ms. Armstead has  
5 agreed from the billing system and  
6 other documents that this is  
7 considered an industrial account.  
8 She says the classification depends  
9 on what use is made of the  
10 electricity and whether the customer  
11 transforms their own electricity.

12 And PECO has agreed to have a  
13 person, whatever the appropriate  
14 person is, go out and evaluate this  
15 account as to its industrial versus  
16 its commercial status, and in my  
17 mind, if the end result is that it  
18 should be a commercial account, then  
19 there will have to be an  
20 investigation or a consideration of  
21 whether it should be rebilled as a  
22 commercial rather than as an  
23 industrial account.

24 Does either counsel have

1 anything to add to that?

2 MR. CAMPBELL: To that  
3 particularly, no, but to something  
4 that may relate to it. My question  
5 once we got past this -- and I think  
6 my original question was broader --  
7 is whether someone has been out to  
8 examine any of the meters at any of  
9 the account locations. I started out  
10 with that one. So that would be my  
11 next question.

12 JUDGE TURNER: You'll have to  
13 go on to these other two meters. As  
14 far as this one, it's going to be an  
15 investigation, a recalculation, but  
16 the question is in what time frame  
17 can that be done. What is a  
18 reasonable time frame?

19 THE WITNESS: I guess it  
20 depends on the scheduling of those  
21 that would go -- the field people  
22 that we would get to go out, so I'm  
23 not really sure.

24 MS. LUTZ: I think it can be

1 done in 20 days, couldn't it? Can we  
2 schedule in 20?

3 THE WITNESS: Yes, I would  
4 think so.

5 MS. LUTZ: I believe PECO can  
6 agree to go out within 20 business  
7 days.

8 JUDGE TURNER: But then the  
9 results would be done, what, within  
10 30 business days?

11 MS. LUTZ: Yes.

12 JUDGE TURNER: All this  
13 depends on the cooperation of Ms.  
14 McVicker. She or somebody else has  
15 got to be there to let them in. If  
16 she's not -- if it's not available,  
17 all bets are off. Okay?

18 MR. CAMPBELL: Okay. I don't  
19 know if that's a fact. I don't know  
20 much about these things. Are these  
21 meters not outside the warehouse?

22 JUDGE TURNER: I don't know  
23 whether they are or not, but they  
24 have to look at the inside to see

1                   what use is being made, what  
2                   equipment is going to be connected to  
3                   it. They have to look at what's  
4                   inside.

5                   MR. CAMPBELL: Okay.

6                   JUDGE TURNER: But are they on  
7                   the outside, or are they on the  
8                   inside?

9                   THE WITNESS: From what I have  
10                  here, I don't know. I don't have the  
11                  proper prints here to indicate.

12                  JUDGE TURNER: We can explore  
13                  that later. Do you want to proceed?

14                  MR. CAMPBELL: Yes, Your  
15                  Honor.

16 BY MR. CAMPBELL:

17 Q.           Ms. Armstead, I heard you say that  
18           one of the qualifications that would make  
19           this an industrial versus a commercial  
20           account would be how many properties are  
21           attached to this meter or device.

22           A.           No, I didn't say that.

23 Q.           Did you say anything that had to do  
24           with the number of the properties attached

1 to it?

2 A. No.

3 JUDGE TURNER: What do you  
4 mean by "properties"? I don't know  
5 what you mean by "properties". She  
6 said "equipment".

7 THE WITNESS: Right,  
8 equipment.

9 JUDGE TURNER: So now she's  
10 agreed with it as long as you've used  
11 the word "equipment".

12 BY MR. CAMPBELL:

13 Q. How is it determined how much  
14 equipment is attached to this meter or  
15 device when such a determination is made?

16 MS. LUTZ: Your Honor, I would  
17 object. Miss Armstead is qualified  
18 to testify as to the billing. She is  
19 not qualified to testify as to the  
20 metering and the equipment  
21 specifically.

22 MR. CAMPBELL: I thought that  
23 she was, number one, and number two,  
24 that she's already made testimony

1 about it. She indicated that --

2 JUDGE TURNER: I'm having  
3 trouble with the relevance of this.

4 MR. CAMPBELL: I'll move on  
5 then to the other meters.

6 JUDGE TURNER: Thank you.

7 BY MR. CAMPBELL:

8 Q. Miss Armstead, you are not aware of  
9 any information indicating that PECO  
10 actually went out and read the meters for  
11 any of the other accounts that you've made  
12 reference to?

13 A. Recently or since they were  
14 finalled?

15 Q. Well, since they were finalled.

16 A. Since they were finalled, no.

17 Q. And when were they finalled? Would  
18 you tell us the date for each one and where  
19 you are getting that information from.

20 A. For account number  
21 24-06-31-363622, that account was finalled  
22 on March the 25th of 2004.

23 JUDGE TURNER: Would you give  
24 me the starting number for that

1 again. 26 --

2 THE WITNESS:

3 24-06-31-363622.

4 MS. LUTZ: Miss Armstead, I  
5 would direct you to the Late Filed  
6 Exhibit 3 on those matters that  
7 counsel is requesting information.

8 JUDGE TURNER: Are you telling  
9 her she can only answer from this  
10 Exhibit?

11 MS. LUTZ: That's what the --  
12 Your Honor, the hearing was to be  
13 cross-examination --  
14 cross-examination on the Late Filed  
15 Exhibit.

16 JUDGE TURNER: That's correct.

17 MS. LUTZ: I would like to  
18 direct her to the information on the  
19 Late Filed Exhibit, yes.

20 JUDGE TURNER: But  
21 cross-examination means probing,  
22 probing beyond it. She should be --  
23 better be able to give more  
24 information than just what's on this

1 page.

2 MS. LUTZ: Okay.

3 JUDGE TURNER: She might start  
4 with this, but he is entitled to  
5 probe it.

6 MS. LUTZ: Right. But the  
7 information he's asking is, in fact,  
8 on the Late Filed Exhibit.

9 JUDGE TURNER: Thank you.  
10 Okay. Where is it?

11 MR. CAMPBELL: I'm sorry?

12 JUDGE TURNER: Where is it on  
13 the Late Filed Exhibit?

14 MR. CAMPBELL: On the Late  
15 Filed Exhibit, it's paragraph number  
16 4, page 4 of 5, but as the Court  
17 indicated, Your Honor, it is  
18 probing. I mean, I don't expect this  
19 witness to simply read from the Late  
20 Filed Exhibit prepared by counsel.

21 JUDGE TURNER: But it said  
22 there it was terminated March 1st,  
23 2005. You're asking for the same  
24 information.

1                   MR. CAMPBELL: And the reason  
2 is that the information on the Late  
3 Filed Exhibit is prepared by  
4 counsel. Since this witness is  
5 qualified and she -- she's a  
6 qualified records custodian from  
7 PECO, I think it's reasonable to  
8 inquire where she -- what she's  
9 basing her responses on. And that's  
10 why she has, in addition to the Late  
11 Filed Exhibit, these charts in front  
12 of her. I'd like to see her make --  
13 put on the record where she's getting  
14 the information that she relies on in  
15 response to these questions.

16                   If it's all going to be on the  
17 Late Filed Exhibit, then we might as  
18 well accept the Late Filed Exhibit as  
19 fact. You know, this is a witness,  
20 and the witness may use that  
21 information as a guide, but certainly  
22 she may not use it in the place of  
23 other documentation, especially since  
24 it was prepared by counsel. If

1 there's a discrepancy between one  
2 documentation and the other, I think  
3 it simply creates a basis for further  
4 probe.

5 MS. LUTZ: And, Your Honor, I  
6 would object. This information was  
7 not prepared by me. It was prepared  
8 by Miss Tarpley as submitted in the  
9 affidavit to the Late Filed Exhibit.

10 MR. CAMPBELL: Fine, by Miss  
11 Tarpley. It's still the case that  
12 I'm entitled to ask her about all  
13 documentation that she's going to  
14 testify to, unless PECO's position is  
15 going to be her testimony is only  
16 going to be limited to the Exhibit  
17 that counsel has submitted.

18 JUDGE TURNER: Mr. Campbell,  
19 it does not seem to me that asking  
20 for repetition of information is  
21 probing. And if you're going to ask  
22 for a repetition of dates, then we  
23 will not finish this afternoon.

24 MR. CAMPBELL: I understand

1 that, Your Honor.

2 Just as an example, on this  
3 last question, her response was  
4 3/25/04, which is not the same as  
5 March 14, '05 -- I'm sorry --

6 JUDGE TURNER: March 1st, '05.

7 MR. CAMPBELL: That's right.

8 I stand corrected.

9 THE WITNESS: But that's a  
10 different account number.

11 MR. CAMPBELL: It's the same  
12 account number. I was reading from  
13 the wrong line. The 3/25/04 is  
14 correct on both accounts. We're  
15 entitled to ask her questions that  
16 may not necessarily be answerable  
17 with the use of counsel's Exhibit  
18 unless her only qualification to be  
19 here and testify is familiarity with  
20 the Exhibit. Otherwise, we're just  
21 dealing with a bunch of conclusions.  
22 I'm just trying to get to the basis  
23 of her responses, if they're anything  
24 outside of this Exhibit.

1 JUDGE TURNER: I don't quite  
2 follow your reason, Mr. Campbell.  
3 She is testifying about an  
4 affidavit. There is information in  
5 it. And it seems to me that just  
6 asking about date after date after  
7 date is not really probing.

8 Now, what account were you  
9 asking about?

10 MR. CAMPBELL: Well, in this  
11 instance, I was asking about account  
12 number 24 06-31-363622.

13 JUDGE TURNER: Okay. And it  
14 was terminated for delinquency on  
15 March 25th, 2004, and that's when she  
16 said it was terminated.

17 MR. CAMPBELL: Yes. Okay.  
18 And I think my question was -- I'm  
19 going to try and consolidate for all  
20 the accounts for simplicity.

21 JUDGE TURNER: Yes, I  
22 certainly hope you're not going to  
23 pick apart like that.

24 MR. CAMPBELL: All right.

1 BY MR. CAMPBELL:

2 Q. So, Miss Armstead, you don't have any  
3 information that any of these accounts were  
4 visited by technicians or anybody from PECO  
5 once they were terminated; is that correct?

6 A. That is correct.

7 Q. And to go back further, you don't  
8 have any information regarding any visits to  
9 these meters or devices before the accounts  
10 were terminated; is that correct?

11 A. In regard to like a field  
12 visit type of --

13 Q. Field visit for a meter or for  
14 designation or anything like that.

15 A. No, I don't have any  
16 information here that would indicate we were  
17 out for a field visit on the accounts.

18 Q. All right. Going back to the  
19 industrial account for just one question.

20 You also don't know when it  
21 was designated as an industrial account; is  
22 that correct?

23 A. I can tell you that the  
24 account was set up June the 14th of 2000.

1 That's when it was initiated.

2 JUDGE TURNER: As an  
3 industrial?

4 THE WITNESS: Yes.

5 BY MR. CAMPBELL:

6 Q. June what of 2000, I'm sorry?

7 A. 14th.

8 MR. CAMPBELL: Thank you,  
9 Miss Armstead. I think that's all I  
10 have.

11 JUDGE TURNER: That's all?

12 MR. CAMPBELL: I think so.

13 JUDGE TURNER: Do you have any  
14 redirect, Miss Lutz?

15 MS. LUTZ: Yes, I believe I  
16 do.

17 \* \* \*

18 REDIRECT EXAMINATION

19 \* \* \*

20 BY MS. LUTZ:

21 Q. Miss Armstead, you testified you are  
22 -- you have obtained the -- or looked at the  
23 account records from the computerized  
24 records at PECO; is that correct?

1 A. That is correct.

2 Q. Have you investigated individually,  
3 outside of Miss Tarpley's information to  
4 you, the residential account of Miss  
5 McVicker and whether there was a payment  
6 made on that?

7 A. Yes.

8 Q. And what did your records indicate?

9 A. My -- our records indicate  
10 that a payment was not received.

11 Q. Did you check your computerized  
12 records for the Sedgley Avenue accounts  
13 independent of Miss Tarpley's records?

14 A. Yes, I did.

15 Q. And did your investigation reveal  
16 whether any payments were made since the  
17 last hearing on those commercial accounts?

18 A. There have been no payments  
19 made on those two commercial accounts.

20 Q. Okay. So your testimony is, Miss  
21 Armstead, that you have investigated the  
22 computerized records on these accounts  
23 independent of the records transferred to  
24 you for Miss Tarpley; is that correct?

1 A. That is correct.

2 Q. Did you, in fact, investigate whether  
3 the residential visit was -- was called back  
4 to schedule by Miss McVicker in the  
5 computerized records?

6 A. Yes.

7 Q. And what was the conclusion of your  
8 investigation on whether that visit was  
9 rescheduled?

10 A. The visit was not rescheduled.

11 Q. Okay.

12 MS. LUTZ: I have no further  
13 questions, Your Honor.

14 MR. CAMPBELL: Recross, Your  
15 Honor.

16 JUDGE TURNER: Yes, you may.

17 MR. CAMPBELL: And I will  
18 limit it to only the questions that  
19 were asked on redirect.

20 JUDGE TURNER: Well, I have a  
21 question before you start. And that  
22 is, the issue that has been raised in  
23 this case is the payment record  
24 before the last hearing. Ms.

1           McVicker says that she has made  
2           payments, and that PECO either didn't  
3           -- says they didn't receive or they  
4           were handled in a way perhaps  
5           differently than Ms. McVicker would  
6           have designated them. Unfortunately  
7           she sent it in undesignated. But did  
8           you make any investigation of  
9           payments made before the last hearing  
10          on these accounts?

11                   THE WITNESS: No, because we  
12           received no record that any  
13           additional payments were made for us  
14           to investigate.

15                   JUDGE TURNER: Before the last  
16           hearing?

17                   THE WITNESS: Correct.

18                   JUDGE TURNER: Go ahead, Mr.  
19           Campbell.

20                                   \* \* \*

21                                   REXCROSS-EXAMINATION

22                                   \* \* \*

23           BY MR. CAMPBELL:

24           Q.       Ms. Armstead, you said you did

1 independent investigation into these  
2 accounts other than Miss Tarpley's records?

3 A. I looked at them on our  
4 computer screens to look at the updates to  
5 see if anything recent had been received as  
6 far as payment.

7 Q. Okay. Basically to match the  
8 information that Miss Tarpley had told you  
9 with what the computer currently showed?

10 A. Correct.

11 Q. And that -- that was your entire  
12 investigation; is that correct?

13 A. Other than looking at the  
14 records, but there's a lot of information  
15 other than just looking at the -- we can go  
16 back, and we can see what people have  
17 entered as far as what has transpired, as  
18 far as conclusions and that type of thing on  
19 the accounts.

20 Q. Is it fair to say that your  
21 investigation was the same as Miss  
22 Tarpley's, looking to see what was in the  
23 computer and nothing else?

24 A. Primarily.

1 Q. Is that a yes, nothing else?

2 A. Yes.

3 MR. CAMPBELL: That's all I  
4 have, Your Honor.

5 JUDGE TURNER: Do you have any  
6 reredirect?

7 MS. LUTZ: No, I don't, Your  
8 Honor.

9 JUDGE TURNER: Thank you.  
10 Thank you, Ms. Armstead. You may  
11 step down. I hope you will remain  
12 around for the rest of the hearing in  
13 case we need to recall you.

14 THE WITNESS: Yes.

15 Mr. Campbell, did your client  
16 wish to give closing testimony?

17 MR. CAMPBELL: I may have one  
18 moment, Your Honor.

19 We have nothing to add by way  
20 of testimony at this point.

21 JUDGE TURNER: So your case is  
22 in and PECO's case is in; is that  
23 correct?

24 MS. LUTZ: That is correct,

1 Your Honor.

2 JUDGE TURNER: You have three  
3 transcripts. I have three Exhibits  
4 from PECO, an account statement, a  
5 BCS decision, and this affidavit.

6 MS. LUTZ: That is correct.

7 JUDGE TURNER: And I have, on  
8 behalf of Miss McVicker, McVicker-B  
9 through J, J being the letter which  
10 was hand delivered to me dated May  
11 3rd, 2005.

12 MR. CAMPBELL: That's correct,  
13 Your Honor.

14 JUDGE TURNER: G, L, and I  
15 being bills to Jopac, and J being the  
16 -- that letter which we discussed.

17 MR. CAMPBELL: Yes.

18 JUDGE TURNER: And that is all  
19 the evidence in this case; is that  
20 correct?

21 MS. LUTZ: That is correct,  
22 Your Honor.

23 MR. CAMPBELL: That is  
24 correct, Your Honor.

1 JUDGE TURNER: Now, I am  
2 trying to get this decision written  
3 before I leave the Commission. It  
4 turns out my last day will be  
5 Wednesday.

6 MR. CAMPBELL: The day after  
7 tomorrow?

8 JUDGE TURNER: Yes, that's why  
9 I didn't want the hearing this late.  
10 I'm not sure counsel will be in a  
11 position to write a brief at this  
12 point. I'm sure that a brief would  
13 be helpful to me. But my guess is  
14 although this transcript is going to  
15 be expedited, that it won't come in  
16 until Thursday. That's when I got  
17 the transcript from the last  
18 hearing. I don't know if counsel at  
19 this point wants to make a closing  
20 statement, if you'd like to write a  
21 memorandum of law on the case,  
22 anything at all, if you'd like to do  
23 that.

24 MR. CAMPBELL: I would be

1 happy to make a closing statement and  
2 a memorandum if the Court requests.

3 JUDGE TURNER: Okay.

4 And Ms. Lutz?

5 MS. LUTZ: Your Honor, I would  
6 prefer that the evidence as submitted  
7 to date would be considered solely in  
8 the decision.

9 JUDGE TURNER: No closing  
10 statement and no memorandum of law,  
11 is that your position?

12 MS. LUTZ: A memorandum of law  
13 in -- are you requesting it to be  
14 submitted in 24 hours?

15 JUDGE TURNER: How about 48?

16 Let's hear your closing  
17 statement, Mr. Campbell.

18 MR. CAMPBELL: Your Honor, I  
19 think simply put, there's been -- at  
20 par there's the allegation that PECO  
21 has overbilled. I think that a prima  
22 facie case has been made, and I think  
23 then it behooves PECO to show that it  
24 has not overbilled and that it has

1 not acted unlawfully and  
2 inappropriately in any way.

3 Now, accepting that I was not  
4 here at the first hearing, I'm open  
5 to any corrections by the Court, but  
6 I don't know of any exhibits by PECO  
7 indicating all of the billing that's  
8 in question and the payments that  
9 have been made and not been made.  
10 I've only heard information about  
11 what is purportedly due on each  
12 account, and I think that those  
13 conclusions are not -- even judging  
14 by the preponderance of the evidence  
15 -- are not -- it's not the kind of  
16 evidence that's -- that should be  
17 persuasive in this kind of  
18 proceeding.

19 In addition to that, even the  
20 evidence that had been presented at  
21 this proceeding as well as the last  
22 hearing is presented in a way that I  
23 think merits a fair amount of doubt  
24 from this Court. And again, I'm

1 speaking of sufficiency. Again,  
2 we're talking about mere conclusions,  
3 not adequately supported by evidence,  
4 that this Court should deny. One  
5 would expect when one is being billed  
6 by PECO or PGW, or whoever it is,  
7 that there be a calculation for the  
8 usage multiplied by some number that  
9 translates into dollars, and along  
10 with that somewhere, some indication  
11 of what was paid and what wasn't  
12 paid, and therefore what is due.

13 And unless I'm missing  
14 something, all I see are conclusions  
15 about amounts that are due. And that  
16 being the case, I don't think that  
17 PECO has adequately responded to the  
18 allegations, and therefore, I ask  
19 that you find in favor of Miss  
20 McVicker.

21 JUDGE TURNER: Well, it could  
22 be that you're thinking of an account  
23 statement, which PECO presented on  
24 the residential, so I agree with you

1                   there is no account statement on the  
2                   resident -- other than the  
3                   residential account. Is that kind of  
4                   what you had in mind?

5                   MR. CAMPBELL: That is kind of  
6                   what I had in mind, Your Honor.

7                   JUDGE TURNER: So we have that  
8                   for the residential account and not  
9                   for --

10                  MR. CAMPBELL: But not for the  
11                  other three accounts.

12                  JUDGE TURNER: That's  
13                  correct.

14                  MR. CAMPBELL: So my argument  
15                  then, I would ask the Court to apply  
16                  it to the commercial accounts and the  
17                  designated industrial account.

18                  JUDGE TURNER: Okay.

19                  MR. CAMPBELL: As far as the  
20                  residential account goes, that --  
21                  that whole situation having to do  
22                  with the rescheduling and what have  
23                  you, again we're dealing with mere  
24                  conclusions. Although we're not

1           expecting the witnesses to come to  
2           Court who have spoken with Miss  
3           McVicker directly, certainly I see no  
4           reason why they couldn't come with  
5           some kind of documentation that shows  
6           PECO's communication with Miss  
7           McVicker.

8                         JUDGE TURNER: Miss Lutz, do  
9           you want to make a response?

10                        MS. LUTZ: Yes, Your Honor,  
11           thank you.

12                        I will note that the original  
13           scope of the complaint was payments  
14           on the residential account that were  
15           made and not posted, and the  
16           complainant failed to prove that she  
17           made any payments that were not  
18           posted. The complainant also failed  
19           to make the agreed payment on her  
20           residential account. She also failed  
21           to make any kind of proof to meet her  
22           burden of proof on the commercial  
23           accounts that all payments were not  
24           posted. Certainly the -- you know,

1 PECO made every effort to accommodate  
2 and wait to reschedule the  
3 residential visit, and that was not  
4 made, and there were no payments to  
5 investigate, no proof of payments as  
6 she alleged.

7 So certainly PECO would submit  
8 that the evidence on record supports  
9 that the complainant has not met her  
10 burden of proof in this case on the  
11 payment arrangements and the payments  
12 made on the account that were not  
13 posted.

14 JUDGE TURNER: All right. It  
15 is true that the original complaint,  
16 apparently being at least in part an  
17 appeal of a BCS decision which had to  
18 do with payments made or not made on  
19 the residential account, that those  
20 payments -- and we did ask for proof  
21 of them, and she apparently did not  
22 find them. She was going to look  
23 through her records. I'm not sure  
24 that if you read the actual original

1 complaint you come up with that. The  
2 original complaint says theft of  
3 identity, changes in billing  
4 payments, misuse by companies and/or  
5 persons within of defrauding the  
6 system that was set up to benefit the  
7 people by Benjamin Franklin, not  
8 applying or enforcing payments  
9 received to be applied to correct  
10 accounts.

11 And she says what she wants is  
12 to investigate the internal fraud,  
13 misuse of computer technology, start  
14 with me at two properties besides  
15 this one, 1830, or 1844, or 1846, or  
16 1744, 1834 West Sedgley Avenue, and  
17 1332 North 9th Street, 901 West  
18 Thompson, Philadelphia, PA. Also  
19 please look up Jopac, Inc., the PUC  
20 and PUCA, Charles Benjamin, PUCA,  
21 PUCA. I am the direct descendant of  
22 the PUCA and ICC and FCC  
23 authorities.

24 Now, she gave testimony about

1           what she meant by that, which is that  
2           she knew that her grandfather had  
3           certain rights, and she wanted to  
4           know what had happened to them from  
5           the 1830s - 1930s, excuse me.

6                     In any event, she does seem to  
7           think that she made payments that are  
8           not applied to the correct account,  
9           and it is true that she has not  
10          presented any proof of payments that  
11          have not been applied to the correct  
12          account.

13                    On the other hand, she had  
14          asked, which is a form of discovery,  
15          PECO to provide her with some kind of  
16          account statement on these other  
17          accounts. She had asked for bills,  
18          if I remember correctly, and the  
19          question was whether the company  
20          would have to go back and do them by  
21          hand or whether she could find them.  
22          I don't know if there's been any  
23          communication on that, but I gather  
24          that PECO has not reproduced them by

1 hand.

2 It does seem to me that  
3 setting aside this litigation, there  
4 should be some effort made by PECO to  
5 help this customer establish her  
6 service. She does have a building.  
7 It is a dead storage warehouse.  
8 There are people that are  
9 knowledgeable about whether it should  
10 be an industrial or commercial  
11 account. I can understand you saying  
12 that you can't test a meter if it  
13 doesn't have electricity running  
14 through it, but there may be other  
15 assistance that PECO technicians  
16 could give if they went and inspected  
17 the meters and the circumstances and  
18 whatever the outcome here. I would  
19 hope that PECO would do that, whether  
20 I find -- sustain the complaint or  
21 not, because PECO can always use  
22 another paying customer. That's the  
23 way I see it. And if she's got a  
24 business going, then that could be

1 helpful.

2 The other thing is I asked  
3 her at one of the hearings was her  
4 position of was she not able to pay.  
5 And your answer was no. She is able  
6 to pay as long as she's persuaded  
7 it's a just bill. So I think it  
8 would also behoove PECO to meet with  
9 her in that regard. This account  
10 statement for the residential, she  
11 was paying quite regularly through  
12 July '03, and then she stopped. And  
13 she did state on the record that  
14 after she married her husband in  
15 October -- in December of 2003, she  
16 stopped making payments. And that  
17 particular month she paid 6 hundred  
18 dollars. I don't know, Ms. McVicker,  
19 but it might be good to start paying  
20 again.

21 MS. McVICKER: Of course, Your  
22 Honor. I haven't had any bills since  
23 2002.

24 JUDGE TURNER: And we just

1 established that that was because you  
2 had gone to e-billing.

3 MS. McVICKER: Correct. I  
4 can't pull them up, and they were  
5 supposed to produce the bills anyway,  
6 but I can't get onto the computer.

7 JUDGE TURNER: Well, for one  
8 thing, you need to cancel your  
9 e-billing.

10 MS. McVICKER: I can't do  
11 that. I can't get into the e-bill.  
12 They were going to -- they were going  
13 to get me a paper copy of the bills.  
14 That's why I can't pay. I don't know  
15 what I'm paying on, because what I  
16 paid before, they took the money and  
17 they appropriated it how they wanted  
18 to appropriate the funds. When I  
19 paid on one account, they took my  
20 money and appropriated it.

21 JUDGE TURNER: Stop. I'm  
22 talking about the residential  
23 account.

24 MS. McVICKER: I haven't had

1 any bills for two years. I don't  
2 know what to pay on it.

3 JUDGE TURNER: Well, I'll tell  
4 you what, if you take this statement  
5 of account --

6 MS. McVICKER: I have a  
7 statement, Your Honor.

8 JUDGE TURNER: And look at the  
9 bills that you paid -- you can just  
10 start paying those amounts. However,  
11 it's your responsibility as a  
12 customer, if you go to e-bills -- and  
13 then I gather everything was lost  
14 when your computer crashed -- you  
15 said it crashed -- you actually said  
16 it burned.

17 MS. McVICKER: My computer  
18 crashed, and what was lost was my  
19 actual programming for being able to  
20 pull up things on the Internet. My  
21 actual information for my company was  
22 not lost, no.

23 JUDGE TURNER: But the fact is  
24 the reason you're not receiving bills

1 is that you're on the e-billing  
2 program. So either you use that  
3 program or cancel it. I mean, I  
4 don't think that PECO is responsible  
5 for sending you bills when you're on  
6 the e-billing program. They're  
7 billing you through that program.  
8 That's my understanding. So if you  
9 don't want e-billing anymore, you  
10 cancel that and get your paper  
11 bills.

12 MS. McVICKER: And I just --  
13 which number do I call? Where do you  
14 call that?

15 JUDGE TURNER: Miss McVicker,  
16 I don't know. You set yourself up on  
17 the program.

18 MS. McVICKER: I guess I'll  
19 have to go back to the old bills and  
20 see if there's a number -- I haven't  
21 I guess maybe -- they use a  
22 third-party service to do their  
23 billing. I guess they would have to  
24 send me the back bills for what I've

1           been doing, to see what -- all  
2           right.

3                   JUDGE TURNER: I mean, there  
4           must be a way to set up that  
5           program. There must be a website of  
6           some sort.

7                   MS. McVICKER: I imagine so.  
8           I can't get onto the site. They use  
9           a dog by the name of Scout. I can't  
10          get onto Scout though that system.

11                   JUDGE TURNER: You cannot get  
12          onto PECO's website?

13                   MS. McVICKER: I cannot get on  
14          there. I discussed it at the first  
15          hearing, I would try to do it, and  
16          I'm unable to do that. They were  
17          going to produce the bills for me.

18                   JUDGE TURNER: Yes, they were,  
19          for about a year they said they could  
20          go back.

21                   MS. LUTZ: Are we back on the  
22          record?

23                   JUDGE TURNER: Yes, we are on  
24          the record. But the fact is that --

1 I guess -- let me put it this way. I  
2 find you responsible. You have to  
3 take some responsibility for your  
4 bills. You set them up to go in a  
5 certain way. When you stopped  
6 getting bills, I gather you didn't  
7 say anything until the hearing. And  
8 if you're not getting your e-bills,  
9 there's some hangup in your system  
10 that you need to correct.

11 Now, if PECO can give you  
12 those paper bills for a year, that's  
13 fine, but what are you going to do  
14 about the future? Are you still  
15 going to stay on e-bills and never  
16 get anything because you can't get  
17 into the program? It doesn't make  
18 sense.

19 MS. McVICKER: Your Honor,  
20 where they're sending those bills,  
21 that e-mail address doesn't exist any  
22 longer. I don't understand where the  
23 bills are going.

24 JUDGE TURNER: Off the

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record.

\* \* \*

(Whereupon, a discussion was held off the record.)

\* \* \*

JUDGE TURNER: Thank you all for your patience, and we are adjourned.

\* \* \*

(Witness excused.)

\* \* \*

(Whereupon, the hearing was concluded at 2:45 p.m.)

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## I N D E X

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WITNESS: ANINTA ARMSTEAD

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C E R T I F I C A T I O N

I, Michele Matteo, hereby  
certify that the foregoing is a true  
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proceedings held in this matter, as  
transcribed from the stenographic  
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*Michele Matteo*

MICHELE MATTEO  
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