

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Jacqueline Marie Crabb

v.

PECO Energy Company

C-20055727

Jacqueline Marie Crabb

v.

Aqua Pennsylvania, Inc.

C-20055728

Jacqueline Marie Crabb

v.

Verizon Pennsylvania, Inc.

C-20055729

ORDER CONSOLIDATING PROCEEDINGS

On December 21, 2005, Jacqueline Marie Crabb (Complainant) filed a formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission). The complaint named the following utility companies as respondents: PECO Energy Company (PECO), Aqua Pennsylvania, Inc. (Aqua) and Verizon Pennsylvania, Inc (Verizon PA) (collectively, Respondents). Each named utility was assigned a separate complaint docket number by the Commission's Secretary's Bureau as designated in the caption above.

BTL

The Complaints against Respondents alleged various billing and service issues related to her utilities and further averred that Complainant was a victim of identity theft. While the specific Complaint allegations focus on the service provided by PECO, Complainant requested that these allegations be applied, by reference, to each of the Respondents.

On January 25, 2006, Verizon PA filed an Answer with New Matter and a Motion to Dismiss the Complaint on the basis it is insufficient as to substance since it fails to state a cause of action against Verizon PA upon which the Commission may grant relief. Alternatively, Verizon PA's motion requested that the Complaint docketed against it be consolidated with the related proceeding docketed against PECO.

On January 26, 2006, PECO filed an Answer to the Complaint, at Commission Docket No. C-20055727.

On February 24, 2006, Aqua filed an Answer to the Complaint at Commission Docket No. C-20055728.

By Order issued March 9, 2006, I denied Verizon PA's Motion to Dismiss and granted its Motion to Consolidate. For the reasons set forth below, these three cases will be consolidated for hearing.

The Commission regulation pertaining to consolidation appears at 52 Pa. Code §5.81, and states, in relevant part:

**§5.81. Consolidation.**

(a) The Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay.

The question of consolidation is clearly left to the sound discretion of the

Commission or presiding officer.

Cases have been consolidated for adjudication; Re Middletown Taxi Company, 50 Pa. PUC 263 (1976), for hearing; City of York v. York Telephone and Telegraph Co., 43 Pa. PUC 240 (1967), for briefing; Clepper Farms, Inc. v. Grantham Water Co., 41 Pa. PUC 749 (1965), and have been refused consolidation for any purpose; Dopp v. Williamsburg Borough Dept. of Water and Sewer, 59 Pa. PUC 25 (1984).

In considering the consolidation of cases, the first criteria (set forth in the Commission's regulations) is that the proceedings must involve "a common question of law or fact". An examination of Commission precedent in such cases as Applications of Philadelphia Electric Co., 43 Pa. PUC 781 (1968), Pa. Public Utility Comm'n v. Bell Telephone Co. of Pennsylvania, 46 Pa. PUC 568 (1973), and Pa. Public Utility Comm'n v. Butler Twp. Water Co., 52 Pa. PUC 442 (1978), as well as those cited above, establishes that considerations in addition to the presence of common questions of law or fact must also be evaluated in ruling on a consolidation. These other considerations are:

1. Will the presence of additional issues cloud a determination of the common issues?
2. Will consolidation result in reduced costs of litigation and decision-making for the parties and the Commission?
3. Do issues in one proceeding go to the heart of an issue in the other proceeding?
4. Will consolidation unduly protract the hearing, or produce a disorderly and unwieldy record?
5. Will different statutory and legal issues be involved?
6. Does the party with the burden of proof differ in the proceedings?

7. Will consolidation unduly delay the resolution of one of the proceedings?
8. Will supporting data in both proceedings be repetitive?

No single consideration, nor group of these considerations, is dispositive of a consolidation, any more so than the presence of a common question of law or fact. Rather, the evaluation of all of them and a balancing of those favoring and disfavoring consolidation is required.

In these cases, on balance, consolidation would be advantageous to the proceedings and in the public interest.

In these cases, the Complaints are identical and clearly, involve common questions of both law and fact. There are no "additional issues" to cloud the determination of the common issues. The same Complainant will appear in each case.

As previously mentioned, the issues in each case are identical, therefore, going to the heart of each respective case.

Consolidation will not make the record disorderly or unwieldy.

The same legal issue(s) will be decided in both cases.

The same party in both cases, i.e., the Complainant, bears the burden of proving that the named Respondents did or omitted to do any act or thing in violation of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission.

Consolidation of these cases will not unduly delay the resolution of any of them. They will be heard together.

Because the Complaints are identical, the supporting data will be heard once and there is no need for repetition.

These cases meet all the criteria for consolidation.

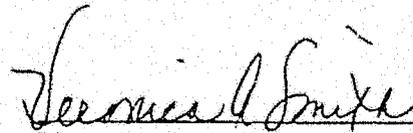
For all of the stated reasons, consolidation of these cases for hearing is warranted and in the public interest.

**THEREFORE,**

**IT IS ORDERED:**

1. That the above-captioned cases, bearing Docket Numbers C-20055727, C-20055728 and C-20055729 are consolidated for hearing.
2. That the above-captioned cases, bearing Docket Numbers C-20055727, C-20055728 and C-20055729 be set for hearing.

Date: March 9, 2006

  
Veronica A. Smith  
Chief Administrative Law Judge



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Office of Administrative Law Judge  
P.O. BOX 3265, HARRISBURG, PA 17105-3265  
March 22, 2006

IN REPLY PLEASE  
REFER TO OUR FILE

In Re: C-20055727,  
C-20055728, C-20055729

(See attached list)

C-20055727 Jacqueline Crabb v. PECO Energy Company  
C-20055728 Jacqueline Crabb v. Aqua Pennsylvania, Inc.  
C-20055729 Jacqueline Crabb v. Verizon Pennsylvania, Inc.

Billing dispute.

**DOCUMENT  
FOLDER**

Hearing Notice

This is to inform you that a hearing on the above-captioned case will be held as follows:

Type: Initial hearing

Date: Thursday, May 18, 2006

Time: 10:00 a.m.

Location: In an available hearing room  
Philadelphia State Office Building  
Broad and Spring Garden Streets  
Philadelphia, PA 19130

Presiding: Administrative Law Judge Herbert Smolen  
1302 Philadelphia State Office Building  
1400 West Spring Garden Street  
Philadelphia, PA 19130  
Telephone: 215.560.2105  
Fax: 215.560.3133

**DOCKETED**  
APR 04 2006

Attention: You may lose the case if you do not come to this hearing and present facts on the issues raised.

If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the reporter. An additional copy must be furnished to the Presiding Officer. A copy must also be provided to each party of record.

Individuals representing themselves do not need to be represented by an attorney. All others (corporation, partnership, association, trust or governmental agency or subdivision) must be represented by an attorney. An attorney representing you should file a Notice of Appearance before the scheduled hearing date.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission at least (2) two business days prior to your hearing:

- Scheduling Office: 717.787.1399
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1.800.654.5988

pc: Judge Smolen  
Susan Licon  
Beth Plantz  
Docket Section  
Calendar File