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COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Jules Falcone
v.
Aqua Pennsylvania, Inc.

Docket No.: C-20055300
Z-01761777

Pre-Hearing Telephonic

Pages: 1 - 33

DOCUMENT
FOLDER

State Office Building
13th Floor
1400 Spring Garden Street
Philadelphia, PA 19102

Monday, January 30, 2006
Commencing at 10:00 a.m.

BEFORE:

ANGELA JONES, Administrative Law Judge

APPEARANCES:

JULES FALCONE, Pro Se
For the Complainant

FRANCES P. ORTH, Esquire
Aqua Pennsylvania, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19010
For the Respondent

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

REPORTER: KAREN BURKETT

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INDEX TO WITNESSES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
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WITNESS

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P R O C E E D I N G S

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2 -----
3 JUDGE ANGELA JONES:

4 This is the time and place for the
5 pre-hearing conference in reference to Jules Falcone
6 versus Aqua Pennsylvania, Inc., at Docket numbers
7 C-20055300 and Z-01761777. I am Administrative Law
8 Judge Angela T. Jones, appointed by the Commission to
9 preside over this matter. I note that we did change
10 this from a telephonic initial hearing to a telephonic
11 pre-hearing conference to try to make sure that we had
12 all of the issues that Mr. Falcone brought to the
13 attention of the Commission, that we ascertained them,
14 that perhaps maybe some of them are no longer viable
15 and to see if we can get to possibly an accord or an
16 agreement on the issues that remain. I do have some
17 preliminary matters before the parties proceed.

18 Mr. Falcone, I did receive three copies
19 in compliance with my Pre-hearing Order of your
20 documentation and reference to this dispute. Thank
21 you, sir, for complying with my Pre-hearing Order. I
22 do have questions. I note that you have in compliance
23 to my Order, three dates that you have provided the
24 company active to your meter. Is that correct?

25 MR. FALCONE:

1 Yes.

2 JUDGE JONES:

3 And that was today, 8:00 to 10:00. I
4 assume that did not occur today; is that correct?

5 MR. FALCONE:

6 Yes.

7 JUDGE JONES:

8 And tomorrow, 8:00 to 10:00 and Wednesday
9 8:00 to 10:00; those are the three dates, sir?

10 MR. FALCONE:

11 Yes.

12 JUDGE JONES:

13 Okay. Ms. Orth, did you note those dates
14 in reference to the Order?

15 ATTORNEY ORTH:

16 Yes, I did, Your Honor. And upon
17 receiving it, I called Mr. Falcone and left a
18 voicemail for him indicating that we would be out
19 tomorrow between 8:00 and 10:00, if that date was
20 still viable, and asked him to give me a call back to
21 confirm that. And I also followed up with a letter.
22 I have not heard back from him yet.

23 JUDGE JONES:

24 Okay. Well, Mr. Falcone, do you have a
25 problem with the Company coming out tomorrow between

1 8:00 to 10:00?

2 MR. FALCONE:

3 No.

4 JUDGE JONES:

5 Okay. All right. So it appears that we
6 will have at least the Company coming in to access the
7 meter and I understand that the reason for that is
8 because there has been some problems with the
9 transmission of the meter readings; is that correct,
10 Ms. Orth?

11 ATTORNEY ORTH:

12 That is correct, Your Honor.

13 JUDGE JONES:

14 Okay. Let me back track a little bit
15 since I've gotten into the substance of this, and I
16 didn't do some preliminary matters before that. I do
17 note the appearances of Mr. Jules Falcone at telephone
18 number 484-432-5993, as well as Ms. Frances Orth,
19 Esquire, representing Aqua Pennsylvania, Incorporated,
20 at telephone number 610-645-1126.

21 Actually, we have two complaints from Mr.
22 Falcone that we have consolidated, because they have
23 similar nexus of matters. One is in reference to an
24 account. Mr. Falcone is named after his grandfather.
25 They have the same names. The Company had some bills

1 that were attributed to the grandfather when Mr.
2 Falcone did not live at the residence in question, and
3 Mr. Falcone is disputing those charges --- that he is
4 responsible for those charges. Then we have another
5 complaint from Mr. Falcone in reference to damages to
6 his property attributed to the Company Aqua when they
7 were doing some repairs for the township, and it
8 appears that they did not connect a sanitary line.
9 Are those the two complaints that we have before us,
10 Mr. Falcone?

11 MR. FALCONE:

12 Yes. I think I understand what you say
13 about the second one. I also want to mention that on
14 my September bill I was overcharged, which I have in
15 there as one of my exhibits.

16 JUDGE JONES:

17 September of 2005?

18 MR. FALCONE:

19 Yeah.

20 JUDGE JONES:

21 Yes, Mr. Falcone?

22 MR. FALCONE:

23 Yes.

24 JUDGE JONES:

25 Okay. All right. Now, I am reading the

1 matters that both parties have provided with exhibits,
2 as well as trying to give me a timeline as to what has
3 occurred when. There are some dates that are critical
4 to me understanding this timeline. The Company seems
5 to have tried to take care of the account that was
6 billed to Mr. Falcone when his grandfather was in use
7 of the property. And it appears that the Company had
8 asked Mr. Falcone to supply them with some
9 documentation to show when he became living in the
10 property, as well as when his grandfather passed away.
11 And it appears from the documentation that Mr. Falcone
12 as provided to me, that he did send some information.
13 However, I am not sure that the Company received that
14 information. From the Company's documentation that
15 they have sent, it does not appear that they received
16 the information. So let me ask Ms. Orth. The Company
17 has or is the Company still asking for documentation
18 as far as when Mr. Falcone became resident of the
19 property at issue and when his grandfather passed
20 away?

21 ATTORNEY ORTH:

22 Your Honor, I'm locking to see if you ---
23 can you point out to me in the packet that he sent
24 those two dates?

25 JUDGE JONES:

1 Mr. Falcone and his packet is dated
2 January 23rd, 2006. Actually, it has statement
3 underneath, it has statement prepared by Jules
4 Falcone, January 23rd, 2005, but I believe that's a
5 typo. It has a time stamp of 1:58 p.m.

6 ATTORNEY ORTH:

7 I do have that, Your Honor.

8 JUDGE JONES:

9 Okay. Now he refers to an Exhibit One.
10 And the Exhibit One has a temporary Internet driver's
11 license and then it has also a local registrar's
12 certification of death.

13 ATTORNEY ORTH:

14 Okay. So the grandfather would have
15 passed on June 13th, 2001.

16 JUDGE JONES:

17 That's what it looks like to me, Ms.
18 Orth.

19 ATTORNEY ORTH:

20 And Your Honor, am I then to take it that
21 Mr. Falcone would have moved into the property as of
22 that date or as of a different date?

23 JUDGE JONES:

24 I do not believe that one can assume that
25 Mr. Falcone moved into the property after the ---

1 immediately after the June 13th, 2001. I do, however,
2 note that Mr. Falcone has said that the Company
3 requested the death certificate and I'm asking if the
4 Company is still requesting these materials?

5 ATTORNEY ORTH:

6 No, Your Honor. This paperwork that he
7 recently supplied will suffice on that request.

8 JUDGE JONES:

9 Okay. All right. Now, Mr. Falcone, the
10 Company has stated that they are noting your
11 occupation --- your occupancy of the residence in
12 question sometime between June and July. However,
13 they also are noting that your account would not be
14 charged until August 20th. Now, I am asking you, are
15 you --- do you have a problem, are you disputing with
16 that particular charge or is that okay with you, as
17 far as what the Company has done?

18 MR. FALCONE:

19 Yeah, I'm not disputing any of that.

20 JUDGE JONES:

21 You're not disputing that at all, Mr.
22 Falcone?

23 MR. FALCONE:

24 Right.

25 JUDGE JONES:

1 Okay. Now, I note that you have said in
2 your timeline that you prepared, that you feel as
3 though the Company has strong armed you and harassed
4 you, as far as there have been several termination
5 notices. And you have tried to make sure that the
6 Company is aware that you are there and that you do
7 not believe that the termination notices are viable.
8 I do note that in your timeline. And I note that you
9 are somewhat dissatisfied because all they have done
10 is provided you with a credit of an amount, I believe,
11 as of August 26th, \$126.76. Is that correct, Mr.
12 Falcone?

13 MR. FALCONE:

14 Yes.

15 JUDGE JONES:

16 Okay. However, you're not disputing ---
17 or are you requesting audits to see if the credit
18 should be changed?

19 MR. FALCONE:

20 No.

21 JUDGE JONES:

22 Okay. So as far as the credit is
23 concerned, you're okay with that being accredited to
24 your account, sir?

25 MR. FALCONE:

1 Yes.

2 JUDGE JONES:

3 Okay. All right. So as far as the
4 complaint of the account of bills, are you still
5 asking the Commission to prove whether the usage from
6 your grandfather's occupancy versus your occupancy ---
7 are you asking the Commission to probe into that
8 issue, sir?

9 MR. FALCONE:

10 I'll answer it this way. I wanted to
11 present everything that I've been going through for
12 the last --- I guess it's been a year and a half with
13 the Company.

14 JUDGE JONES:

15 Okay.

16 MR. FALCONE:

17 The Company consistently puts it off the
18 list, you know, second. But make me wait, you know,
19 six months, a year, a year and a half, to finally do
20 what they should have done instantly. So if there are
21 sanctions for that, then I would like sanctions to be,
22 you know ---

23 JUDGE JONES:

24 Understood.

25 MR. FALCONE:

1 --- instituted.

2 JUDGE JONES:

3 Okay. All right. Mr. Falcone, let me
4 explain, because now I think I have a good handle of
5 what the rationale is behind the information you gave
6 me. Because I wasn't sure whether you still were
7 pursuing more credit, dates that were inaccurate for
8 your water service, or what. But what you seem to be
9 saying to me is that you want me to have a clear
10 picture of the dealings you've had with the Company
11 and if there is any rationale for fining or sanctions
12 of the Company with inadequate or unreasonable service
13 then you want that to be taken into consideration; is
14 that correct, Mr. Falcone?

15 MR. FALCONE:

16 Yes.

17 JUDGE JONES:

18 Okay. All right. Now, let me probe into
19 a different issue. This falls under your damages
20 claim. You have provided exhibits and a timeline for
21 you not having service for you having to ask a plumber
22 to provide repairs that you believe should be
23 attributed to Aqua; is that correct, Mr. Falcone?

24 MR. FALCONE:

25 Yes. But again, I mention that, not that

1 that's for this hearing. That's obviously not covered
2 by the PUC, and that's --- except I put that in there
3 to show again, a timeline, to show what I've been
4 going through --- yes.

5 JUDGE JONES:

6 Okay. All right. I just wanted to make
7 sure that you were aware that I cannot award damages,
8 but it sounds as if you are aware of that, and again,
9 this goes to the vein of the type of service that
10 you've been provided, and if it can go towards
11 unreasonable or inadequate service towards fines or
12 sanctions, then that's what you want to be considered;
13 is that correct, Mr. Falcone?

14 MR. FALCONE:

15 Yes.

16 JUDGE JONES:

17 Okay. Now, I think I have adequately
18 gone over my concerns in reading what the parties have
19 supplied to me thus far. Mr. Falcone, let me ask you
20 --- do you have any questions for the Company?

21 MR. FALCONE:

22 Well, I have a question for you.

23 JUDGE JONES:

24 Okay.

25 MR. FALCONE:

1 Okay. I brought it up earlier, but we
2 --- I lump it in with me being charged incorrectly ---
3 my grandfather's, you know, bill. And they
4 de-credit it, however, they did overcharge me again in
5 September. It's in my exhibits. My minimum charge is
6 supposed to be \$10, it went up to \$22. So I bring
7 that up because it's constant --- my dealings with the
8 Company. There's always something that I have to
9 check, and there's always something wrong, there's
10 always a call I have to make. So that was the one
11 thing I wanted to make clear, even though we did talk
12 about the overcharging and over billing and
13 transferring the other bill. I wanted to say even
14 though that was, let's say, taken care of, it went on
15 again in September, so you know, a few months ago. So
16 I wanted to bring that up, and that's it.

17 JUDGE JONES:

18 Okay. So you were overcharged in
19 September of 2005?

20 MR. FALCONE:

21 Right.

22 JUDGE JONES:

23 All right. And have you --- has the
24 Company addressed that, or do you want that? I
25 understand that you want to make sure that I know what

1 you've been going through in dealings with the
2 Company. But I also need to know if you want me to go
3 through the substance of you being overcharged and
4 have the Company make sure that they right that?

5 MR. FALCONE:

6 If that's part of the scope of this,
7 that's fine. I thought the scope of this was more of
8 just what they can be fined for ---

9 JUDGE JONES:

10 Okay.

11 MR. FALCONE:

12 --- but I'll eventually have to take care
13 of that in some court, so if you want to handle it,
14 you know, I'm fine with that.

15 JUDGE JONES:

16 Okay. All right. So as far as you're
17 concerned, if I can widen the scope of my purview to
18 also right any overcharges, then you would be willing
19 to have that as part of the scope of this proceeding?

20 MR. FALCONE:

21 Yes.

22 JUDGE JONES:

23 Okay. All right. Is there anything else
24 you would like to bring to my attention, Mr. Falcone?

25 MR. FALCONE:

1 No.

2 JUDGE JONES:

3 All right. Ms. Orth?

4 ATTORNEY ORTH:

5 Yes, Your Honor.

6 JUDGE JONES:

7 Do you have any questions for me or Mr.
8 Falcone?

9 ATTORNEY ORTH:

10 Yes. I guess the one question that I
11 would ask of Your Honor, and you can direct me as to
12 whether I'm permitted to ask this of Mr. Falcone, but
13 did he notify the Company about his concerns on this
14 bill, prior to his submission of this packet on
15 January 23rd?

16 JUDGE JONES:

17 Ms. Orth, yes, I will permit you to ask
18 Mr. Falcone that question, although Mr. Falcone, I'm
19 not sure you need it repeated; do you?

20 MR. FALCONE:

21 No.

22 JUDGE JONES:

23 Okay. And your answer to the question
24 is?

25 MR. FALCONE:

1 Okay. I have been --- I'm so glad that
2 this question was asked. I call the Company all the
3 time. I have phone records. I submitted my phone
4 records. I have, you know, eight-minute
5 conversations, nine-minute conversations. In all
6 Aqua's paperwork it says they tried to contact
7 Falcone, and Falcone never returns their calls. Well,
8 fortunately I have phone records to prove I have been
9 returning my calls. Okay. They send me shut off
10 notices and when they do that, I call them. And I ---
11 and they tell me, you know what? It's a mistake,
12 disregard it. I said, well, you know what, you messed
13 up my bill, you messed up this, you messed up that. I
14 write Aqua now all the time. Okay. And Aqua
15 conveniently writes on all the paperwork that, oh, he
16 didn't call us. The other thing is, in relation to
17 it, we talked about the paperwork that I submitted.
18 In my exhibits, I just took Aqua's exhibits. It says
19 August of 2004 they have my paperwork with my driver's
20 license, and all that stuff. So in August 2004 they
21 had my paperwork, my fax. I have the fax confirmation
22 in there. They have all my stuff. And then here it
23 is, you know, a year later, you know, Retriano
24 (phonetic) is calling me, saying oh, we need this, we
25 need this, we need this. When in her files, it has

1 --- they already have that from me. So in answer to
2 that question, yes, I have contacted the Company about
3 it.

4 ATTORNEY ORTH:

5 About this specific bill, Mr. Falcone?

6 MR. FALCONE:

7 What's that?

8 ATTORNEY ORTH:

9 About this specific bill?

10 MR. FALCONE:

11 I did when I called about --- yes.

12 ATTORNEY ORTH:

13 Okay. That's all I wanted to know.

14 Thank you, Your Honor.

15 JUDGE JONES:

16 You're welcome, Ms. Orth. Is there
17 anything else you have to question me or Mr. Falcone
18 about?

19 ATTORNEY ORTH:

20 No. I guess at this point I would ask
21 you with regard to the issues, are you going to go
22 over what issues we will be going forward with?

23 JUDGE JONES:

24 I think that would be productive, Ms.
25 Orth.

1 ATTORNEY ORTH:

2 Okay.

3 JUDGE JONES:

4 Based on the materials that I have
5 reviewed, and Mr. Falcone, I have to be frank with
6 you, sir. I did not see in the materials that you
7 provided me, an overcharge specifically for September
8 of 2005. And it's possible that you may have it in
9 here, but I did not note it. What I am planning to do
10 is to review the documents that you have sent me, as
11 well as the Company has sent me, and provide a written
12 Order in reference to what we are planning to have as
13 issues to dispute. I think that will be productive
14 because it looks like, to me, there has been a lot of
15 exchange between Mr. Falcone and the Company. And a
16 lot of it was not productive, as far as Mr. Falcone is
17 concerned. And it appears to me that Mr. Falcone,
18 because of his interactions with the Company and not
19 being productive, has, as most humans, when they are
20 in a situation where things are not cleared up, and
21 what continued to be pursued, as far as him having to
22 pursue it, to make sure that it's clear, get tired and
23 frustrated with the Company and the personnel that he
24 is dealing with. So I think that in order to make
25 sure that the Commission is hearing the appropriate

1 thing, I understand that a lot of the information that
2 Mr. Falcone has provided, is not necessarily for the
3 substance of that information, but to give an overall
4 picture of the type of service that the Company has
5 been giving him, in particular. And if there is a
6 rational reason to provide an assessment of the
7 Company not providing adequate or reasonable service,
8 that all of these things should be considered. So I
9 believe that that is one of the issues, Ms. Orth, that
10 I will be looking at, as far as all of the dealings
11 that Mr. Falcone has had with your Company, in the
12 timeline as well as the exhibits that he has provided,
13 as well as the exhibits that you have provided for
14 your Company. It appears to me that the issue of the
15 accounts for usage supplied by the --- service
16 supplied by the Company for uses of the grandfather
17 being attributed to Mr. Falcone, has been resolved as
18 far as the substance of those matters. It does not
19 appear that Mr. Falcone wants me to probe into the
20 accounting of the actual credit or the actual timeline
21 that the Company has provided that they started
22 accrediting service to Mr. Falcone. So that
23 particular issue I will declare as moot, because the
24 Complainant, Mr. Falcone, has stated that he no longer
25 wants to pursue that. Do you understand that, Ms.

1 Orth?

2 ATTORNEY ORTH:

3 Yes, Your Honor.

4 JUDGE JONES:

5 Do you understand that, Mr. Falcone?

6 MR. FALCONE:

7 Yes --- and can I say one thing?

8 JUDGE JONES:

9 Not until I'm done, sir.

10 MR. FALCONE:

11 Okay.

12 JUDGE JONES:

13 However, I will be memorializing all of
14 what I'm saying in an Order so that we're clear. But
15 based on the conversations that I have had today with
16 both the Company and Mr. Falcone, I am finding that
17 that particular complaint is now moot. As far as
18 whether Mr. Falcone did bring up the overcharged
19 service in September of 2005, I will allow him to
20 point me to matters that he has already provided.
21 However, I do not believe it would be fair or just to
22 allow him to supplement his Complaint, based on this
23 conversation that we had to add it. He is free to
24 bring an additional complaint before the Commission
25 referencing that matter. But I do not believe at this

1 point it would be fair to the Company, for him to add
2 that to this particular proceeding. Do you understand
3 that, Mr. Falcone?

4 MR. FALCONE:

5 Yes.

6 JUDGE JONES:

7 Do you understand that, Ms. Orth?

8 ATTORNEY ORTH:

9 Yes, Your Honor.

10 JUDGE JONES:

11 Okay. Mr. Falcone, I believe you had an
12 issue that you wanted to bring to my attention, and I
13 told you to wait until I'm finished. You can bring
14 that matter to my attention now, sir.

15 MR. FALCONE:

16 Thank you. On the previously mentioned
17 document I submitted Monday, January 23rd, incorrectly
18 dated, 2005. Page four at the top, September 28 ---

19 JUDGE JONES:

20 Just a minute.

21 MR. FALCONE:

22 --- 2005 ---.

23 JUDGE JONES:

24 Just a minute, Mr. Falcone. I need to
25 make sure I'm referencing the document.

1 MR. FALCONE:

2 Okay. It's page four at the top, dated
3 September 28th, 2005.

4 JUDGE JONES:

5 Page four. Okay, page four is dated
6 September --- okay --- the first full paragraph.

7 MR. FALCONE:

8 Right.

9 JUDGE JONES:

10 Okay. Understood.

11 MR. FALCONE:

12 I'm just pointing it out. And in Exhibit
13 12, I just have the bill and I marked the bill with a
14 question mark next to minimum charge.

15 JUDGE JONES:

16 Okay. All right. So that is your way of
17 making sure that I understand that that's part of your
18 dispute.

19 MR. FALCONE:

20 Yes.

21 JUDGE JONES:

22 I see. Okay. Ms. Orth, did you find the
23 particular paragraph that Mr. Falcone referenced?

24 ATTORNEY ORTH:

25 Yes, Your Honor.

1 JUDGE JONES:

2 All right. Is there anything else that
3 the parties wish for me to consider? Okay. Hearing
4 nothing, I assume that there's nothing else.

5 MR. FALCONE:

6 I think I can say that I wrote it ---
7 well, I'll summarize it like, in one or two sentences.
8 The Company initially wrote that my problem --- my
9 little problem was rectified --- not that word, but
10 rectified in one day. Then when I went through the
11 Company's documents, they showed that there were
12 various plumbing bills submitted from the township and
13 admitted to going out at various times. The Company
14 was fully aware that it was not rectified in one day.
15 And the Company, I would assume, knows that when that
16 much plumbing work and damage is done to a line, that
17 the water is heavily shocked with chlorine, which
18 makes it totally unusable for anything, other than
19 flushing the toilet. And I find it hard to believe
20 that Aqua would not be aware of that fact. And it's
21 the kind of thing where that's basically --- a big
22 part of it is this was obviously not done in one day,
23 okay? And I have the dates listed for how many times
24 the plumbers were out, and I wanted to make --- it's
25 written. I just want to make it very clear, so thank

1 you for letting me have that time, Judge.

2 JUDGE JONES:

3 Okay. Ms. Orth, would you wish to
4 respond to that at this time?

5 ATTORNEY ORTH:

6 Your Honor, I think that there are --- I
7 think that there are certain facts that when we have
8 our witnesses testify, that will help clear things up
9 for Mr. Falcone. That's why I wanted to have a
10 conversation with him about those issues before.

11 JUDGE JONES:

12 Understood.

13 ATTORNEY ORTH:

14 But I don't think it's appropriate to get
15 into argument on it now.

16 JUDGE JONES:

17 Understood.

18 ATTORNEY ORTH:

19 But one thing I would ask you, Your
20 Honor, and if you could ask Mr. Falcone, I think that
21 there's an explanation for the September bill. And if
22 he would allow me to have our rates department
23 generate a letter to him, there will be no verbal
24 contact, but a letter to him, explaining this minimum
25 charge. That may clarify for him that charge and, you

1 know, save him the effort of filing yet another
2 complaint.

3 JUDGE JONES:

4 Understood. Mr. Falcone --- Mr. Falcone?

5 MR. FALCONE:

6 Yes.

7 JUDGE JONES:

8 The Company is planning to send a written
9 correspondence to you in reference to your pointing
10 out to them the overcharge in September. I'm asking
11 if you should still have a problem with their
12 explanation, I believe it would be most appropriate
13 for you to file something with the Commission to say
14 that you have a problem with that particular bill; do
15 you understand that, Mr. Falcone?

16 MR. FALCONE:

17 Yes.

18 JUDGE JONES:

19 Okay. Let me ask this. Mr. Falcone, are
20 you receptive to the Company calling you, or would you
21 prefer them to contact you in writing?

22 MR. FALCONE:

23 Writing.

24 JUDGE JONES:

25 Okay. Ms. Orth?

1 ATTORNEY ORTH:

2 Yes, Your Honor.

3 JUDGE JONES:

4 I am not surprised that Mr. Falcone is
5 --- would want to limit the Company's contact with him
6 to writing. As long as the Company can do contact in
7 writing, I would appreciate it if the Company would
8 let me know if there are things that are resolved.
9 Based on my Order, I'm going to provide you with
10 issues that I saw are in dispute. But if there are
11 things that are resolved, I would like to be apprised
12 of that.

13 ATTORNEY ORTH:

14 Then, Your Honor, I would request that
15 when Mr. Falcone receives the letter, that he respond
16 to it in writing or with a phone call, and that way
17 we'll be able to communicate back to you whether or
18 not this resolves his issue.

19 JUDGE JONES:

20 Okay. Mr. Falcone, are you willing to
21 respond to the Company's letter by phone or in writing
22 or both?

23 MR. FALCONE:

24 I would like to respond --- if I had a
25 response, I would then --- I just want to go to trial.

1 So I just want to go to trial. I don't want to
2 respond to anything. I don't want this taking any
3 more of my life, so if I --- if they think that it's
4 so wonderful, then I'm like okay, great, I'll respond.
5 Other than that, I just want to go to trial. So, I
6 would rather not.

7 JUDGE JONES:

8 Okay. Let's do this. Ms. Orth, I'm
9 assuming that you will date your correspondence to Mr.
10 Falcone?

11 ATTORNEY ORTH:

12 Yes.

13 JUDGE JONES:

14 If you do not receive a response from him
15 within a week of your correspondence, then you can
16 assume that he is not happy with your explanation and
17 is still disputing it.

18 ATTORNEY ORTH:

19 Okay.

20 JUDGE JONES:

21 If he does respond otherwise, then take
22 his response as his word.

23 ATTORNEY ORTH:

24 Okay.

25 JUDGE JONES:

1 Does that suit you, Mr. Falcone?

2 MR. FALCONE:

3 Yes.

4 JUDGE JONES:

5 Okay. All right. Are there any other
6 things that the Company or you, Mr. Falcone, wish to
7 bring to my consideration?

8 MR. FALCONE:

9 No.

10 ATTORNEY ORTH:

11 No, Your Honor.

12 JUDGE JONES:

13 Okay. All right. Do the parties mean to
14 have contact with this particular telephone
15 conversation outside of my hearing, to discuss matters
16 as far as who is going to appear tomorrow, when they
17 can --- when you can contact or resolve the meter
18 problem, if the two-hour timeframe is not enough time
19 to discover and rectify the problem --- those type of
20 matters?

21 ATTORNEY ORTH:

22 Your Honor, if we find that tomorrow upon
23 the visit at the property that there is a problem, and
24 I do need additional contact, then I will do that
25 separately and let you know. What I've asked our

1 representative to do is to arrive at the property
2 between that timeframe. And Mr. Falcone, just so you
3 know, he is aiming for nine o'clock. And he will go
4 there. If he can't rectify the remote transmitter
5 immediately, and we do need to do a meter exchange,
6 then he is ready to bag the meter and have it set
7 aside for a bench test, if that be appropriate, and
8 install a new facilities --- new equipment, so that we
9 can avoid any problems down the road.

10 JUDGE JONES:

11 Mr. Falcone, do you have a problem with
12 the proposed procedure?

13 MR. FALCONE:

14 No.

15 JUDGE JONES:

16 Okay. All right. I will leave it to the
17 Company and Mr. Falcone to respond to me if you're
18 dissatisfied with something, or if something has
19 occurred that you are now satisfied. I will go on the
20 premise that those issues that I outlined --- if I do
21 not hear from anyone, they are still viable,
22 disputable issues and that we will proceed with the
23 evidentiary hearing on those issues. Is that
24 understood by the parties?

25 MR. FALCONE:

1 Yes.

2 ATTORNEY ORTH:

3 Yes, Your Honor.

4 JUDGE JONES:

5 Okay. All right. I hope that this was
6 productive. Mr. Falcone, again my apologies, sir. I
7 know you want to put this matter behind you, and the
8 sooner you get to an evidentiary hearing, the better.
9 But I thought it was productive, at least to make sure
10 that we have ironed out what it is we are disputing,
11 why we are disputing those matters and also to make
12 sure that the access to the property is something that
13 will be occurring. So again, I apologize to you, Mr.
14 Falcone, but I believe that we did have some
15 productivity with this call.

16 MR. FALCONE:

17 Yes, no need to apologize. It's not your
18 fault, Judge. Thank you.

19 JUDGE JONES:

20 All right. If we have nothing further,
21 this matter is adjourned, set for an evidentiary
22 hearing. You will be receiving a Notice in the mail
23 from the Commission to provide the date and time of
24 the evidentiary hearing.

25 *** HEARING CONCLUDED AT 10:35 A.M. ***

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C E R T I F I C A T E

I hereby certify, as the
stenographic reporter, that the foregoing
proceedings were taken stenographically by
me, and thereafter reduced to typewriting
by me or under my direction; and that this
transcript is a true and accurate record
to the best of my ability.

Karen Burkett

Court Reporter

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