

PLEASE PRINT

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Michael Clark, t/a MDNC South LLC :
 :
 v. : C-20054245
 :
 PECO Energy Company :

PREHEARING ORDER

On January 24, 2005, Michael Clark, t/a MDNC South LLC (Clark, Complainant or Customer) filed this formal complaint against PECO Energy Company (PECO or Company).

On March 10, 2005, the Company filed a Motion to Dismiss along with a timely Answer denying the material allegations of the complaint.

On April 28, 2005, a hearing notice was issued scheduling an initial in-person hearing to be held on this case on Monday, June 6, 2005 at 10:00 a.m. in an available hearing room in the Philadelphia State Office Building. The case has been assigned to ALJ Turner for hearing and initial decision.

The purpose of this order is to bring to the attention of all parties certain procedural rules, observance of which will serve to "secure the just, speedy and inexpensive determination" of this proceeding. 1 Pa. Code §1.2(a). The parties are directed to comply with the following requirements:

1. Proceedings before the Commission are governed by, inter alia, 52 Pa. Code §1.15, which provides:

§1.15. Extensions of time.

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(b) Except as otherwise provided by statute, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at or within a specified time by this title or by order of the Commission or the presiding officer, shall be by motion in writing, timely filed with the Commission, stating the facts on which the application rests, except that during the course of a proceeding, the requests may be made by oral motion in the hearing before the Commission or the presiding officer. Only for good cause shown, will requests for continuance be considered. The requests should be submitted at least 5 days prior to the hearing date. (Emphasis added.)

In accordance with the foregoing, absent a timely request for continuance for good cause (i.e., no later than 5 days before the scheduled hearing on June 6, 2005), all parties to this proceeding shall be prepared to participate in the scheduled hearing.

2. If for any reason any party cannot appear at this initial hearing as scheduled, that party should request a continuance. **If you do not appear at the hearing, and you have not obtained a continuance, the hearing may be held without you and you may lose this case.** Continuances are only granted if good cause is presented. Any request for a change of the scheduled date for the initial hearing must be sent to the Office of Administrative Law Judge Scheduling Staff, to the office of the presiding officer, and to the opposing party or parties. The mailing address for the Scheduling Staff is: PA PUC, P.O. Box 3265, Harrisburg, PA 17105-3265, and the phone number is (717) 787-1399. The mailing address for the Philadelphia Administrative Law Judges is: PA PUC, Room 1302 Philadelphia State Office Building, 1400 W. Spring Garden Street, Philadelphia, PA 19130. The phone number for this office is (215) 560-2105. The presiding officer on your case is Administrative Law Judge Allison K. Turner. She is designed to decide requests for continuances.

3. **COMPLAINANT:** Please be aware that you have the burden of proof in this proceeding, and must show by a preponderance of the evidence that respondent has violated the Public Utility Code or a regulation or order of the Commission, and that you are entitled to

the relief requested in the Complaint. If this burden is not satisfied, the Complaint must be denied as a matter of law.

4. Pursuant to 52 Pa. Code §§1.21 and 1.22, if you are an individual, you may be represented by an attorney or you may represent yourself. **If this is an adversarial proceeding and you are a partnership, corporation, trust, association or governmental agency or subdivision, you must be represented by an attorney.** MDNC South LLC appears to be a corporation in this matter. MDNC South LLC must retain an attorney who shall file a Notice of Appearance with the Secretary of the Commission, by Wednesday, June 1, 2005, with a copy to the ALJ.

5. If you wish to offer into evidence at the hearing material in the form of documents (letters, bills, cancelled checks and the like), you must bring with you the required number of copies (an original and two copies for the Commission, one copy for every other party in the case, and a copy for yourself). 52 Pa. Code §5.409. Please note that the Commission has ruled that the proper time frame for make-up billings is four (4) years back from the date the improper billing is discovered. Angie's Bar v. Duquesne Light Company, 72 Pa PUC 213 1990 Pa LEXIS 4 (1990); Wanda O. Johnson v. PGW, F-01231082, Order entered May 28, 2004.

6. Please be aware that there often is a delay in my receiving documents filed in Harrisburg. Therefore, serve me directly with any documents you file in this proceeding.

7. If the parties intend to conduct discovery, please note that 52 Pa. Code §5.331(b) provides, inter alia, that "[p]articipants shall endeavor to initiate discovery as early in the proceedings as reasonably possible," and 52 Pa. Code §5.322 which encourages participants to exchange information on an informal basis. I urge all parties to cooperate in discovery. Such cooperation is preferable to numerous or protracted discovery disagreements which require the presiding officer's participation for resolution. Please be aware that there are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa. Code §§5.361, 5.371-3.572.

8. Commission policy is to encourage settlements. 52 Pa. Code §5.231(a). Therefore, the parties are urged to discuss informally between themselves the possible settlement of this case at least one week before the hearing, and to notify the ALJ and or the Scheduling Office by May 31, 2005 if agreement is reached, and the hearing is not necessary. If you are unable to completely settle this case, you may still resolve as many questions or issues as possible during your informal discussion.

ORDER

The parties shall comply with procedural rules and regulations discussed herein.

Allison K. Turner

ALLISON K. TURNER
Administrative Law Judge

Date: May 3, 2005



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

IN REPLY PLEASE
REFER TO OUR FILE

July 19, 2005

C-20054254

BARRY E. OLIVER
1310 VILLAGE DRIVE
STROUDSBURG PA 18360

BARRY E. OLIVER
v.
PPL ELECTRIC UTILITIES CORPORATION

TO WHOM IT MAY CONCERN:

Please be advised that the Commission has marked closed the above-entitled proceeding.

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Very truly yours,

James J. McNulty
Secretary

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cc: All parties of Record
Office of ALJ

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