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----- :Docket No.  
LAWRENCE GUSSMAN VS. PECO ENERGY COMPANY :C-20043369  
Billing dispute, Call the Docket. :  
Initial In-person Hearing. :  
----- :

Pages 1 through 7

Hearing Room Two  
State Office Building  
Philadelphia, Pennsylvania

DOCKET

Tuesday, February 1, 2005

Met, pursuant to notice, at 11:35 a.m.

BEFORE:

Cynthia W. Forcham, Administrative Law Judge

DOCKETED  
FEB 24 2005

APPEARANCES:

ANTHONY D. KANAGY, ESQUIRE  
2301 Market Street  
Philadelphia, Pennsylvania 19103  
(Counsel for PECO)

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WITNESS INDEX

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WITNESSES

DIRECT CROSS REDIRECT RECROSS

(None)

EXHIBIT INDEX

1  
2 NUMBER  
(None)

FOR IDENTIFICATION

IN EVIDENCE

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1                   P R O C E E D I N G S

2                   ADMINISTRATIVE LAW JUDGE CYNTHIA WILLIAMS FORDHAM:

3   The next hearing is Lawrence Gussman versus PECO Energy at  
4   Docket C-20043369. I am Administrative Law Judge Cynthia  
5   Williams Fordham. This is one of the cases for Call the Docket  
6   on February first, 2005. The hearing was scheduled to begin at  
7   9:30. We had one case which ended at approximately 11:30. It's  
8   now 11:35. We have an appearance by Anthony Kanagy, Esquire  
9   for PECO Energy Company. The Complainant is not here.

10                   At 8:50 he called this office, and indicated that  
11   he was sick, and would not be able to attend today's hearing.  
12   This is the message that I received from the secretary. I would  
13   just note that this hearing was originally scheduled for a Call  
14   of the Docket with Administrative Law Judge Herbert Smolen on  
15   Tuesday, January 11, 2005. It was cancelled because the  
16   Complainant had a medical appointment. It was re-scheduled by  
17   hearing notice dated January 6th. of 2005 for today before me.

18                   This is a complaint that was filed in July  
19   of 2004 regarding service at 426 East Allegheny Avenue,  
20   Philadelphia, PA 19134. The Complainant indicated that the  
21   Respondent was going to terminate the service because of  
22   non-payment of a \$2,000 deposit, and they didn't want to pay  
23   that \$2,000 deposit, didn't think they were required to do so,  
24   and they felt that they were being denied the services of a  
25   competitor of PECO, supplier. And the designation here is ANC.

1           PECO did file an answer to that complaint and  
2 indicated that this was a commercial customer, and that the  
3 deposit was in line with the regulations from the Commission and  
4 that PECO would switch the Complainant to ANC, as long as ANC  
5 agreed to separately bill the Complainant. ANC has not done so.

6           A hearing has been set in this matter. There was  
7 a prior continuance, as I indicated, based on the Complainant's  
8 medical condition. Based on the note that I got today, this  
9 morning, it seems that he would not be able to attend because he  
10 was sick, I do not have any further clarification.

11           To my knowledge the Complainant did not contact  
12 the company, is that correct, Mr. Kanagy?

13           MR. KANAGY: About a request for continuance, no.

14           JUDGE FORDHAM: Do you have--

15           MR. KANAGY: We would object to a continuance  
16 given that the hearing was scheduled prior, the Complainant  
17 indicated he had a medical appointment. On the day of the  
18 hearing he states that he's sick. We would object to a  
19 continuance and would like to proceed.

20           JUDGE FORDHAM: I will go along with your  
21 objection, and we can proceed.

22           MR. KANAGY: I would like to -- this isn't just  
23 a payment arrangement case. I would like to make a Motion to  
24 Dismiss for Lack of Prosecution, and do not intend to enter any  
25 exhibits into the record at this time.

1                   JUDGE FORDHAM: Your motion is granted. I will  
2 write a decision, which will be issued to both parties. If  
3 either party objects to my decision they can file exceptions and  
4 the full Commission can review it. If there is no review of my  
5 decision, my decision will become final by operation of law.

6                   MR. KANAGY: Thank you.

7                   (Whereupon, at 11:40 a.m. the hearing was  
8 adjourned.)  
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C E R T I F I C A T E

I hereby certify, as the stenographic reporter,  
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