

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

3175 JFK Associates, LP
v.
Peco Energy

Docket No.: C-20065806

Pages 1 9

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Building
1400 Spring Garden Street
13th Floor
Philadelphia, PA 19130

Monday, September 24, 2007
Commencing at 10:00 a.m.

BEFORE:

MARLANE R. CHESTNUT, Administrative Law Judge

APPEARANCES:

ETHAN HALBERSTADT, Esquire
1100 East Hector Street
Suite 425
Conshohocken, PA 19428
For the Complainant

MICHAEL S. SWERLING, Esquire
WARD L. SMITH, Esquire
2301 Market Street
Philadelphia, PA 19101
For the Respondent

REPORTER: CAROL LYNN HARRIMAN

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WITNESS

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None

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JUDGE MARLANE R. CHESTNUT:

Docket number C-20065806, 3175 JFK Associates, L.P. versus Peco Energy Company. For the record, let me state that I'm Administrative Law Judge Marlane R. Chestnut. I'll enter the following appearances for the record. Mr. Swerling and Mr. Ward, do you want to state your name and address for the record, please?

ATTORNEY SMITH:

Ward Smith, 2301 Market Street, S23-1, Philadelphia, Pennsylvania, 19101.

ATTORNEY SWERLING:

Michael Swerling representing Peco Energy Company. Address is 2301 Market Street, S23-1, Philadelphia, Pennsylvania, 19101.

JUDGE:

Thank you. Mr. Halberstadt.

ATTORNEY HALBERSTADT:

Yes. Good morning. Ethan Halberstadt for 3175 JFK Associates, LP. My address is 1100 East Hector Street, Suite 425, Conshohocken, PA, 19428.

JUDGE:

Thank you. Now, before we get started

1 with the actual hearing, I'm going to give you two a
2 chance to see if you can resolve this. And before I
3 do, I'd like to make a few statements that I'd like
4 you to keep in mind, that perhaps can assist you in
5 coming to a result that is in the best interest of
6 both of you.

7 Mr. Halberstadt, you know you had the
8 burden of proof. You know what it is you have to
9 prove. This is a very simply case. You know the law.
10 There's a statute that addresses this issue. I'm sure
11 there's a tariff for this as well. And it's a very
12 simple issue in terms of what the fact is that you
13 have to prove. When did you provide notice of the
14 service condition to Peco?

15 And Peco, on your side there's certainly
16 is always room to recognize a good customer. Reflect
17 that maybe you could have handled things differently
18 then perhaps you did, and this is without me knowing
19 anything at all about what you did. So take it from
20 that prospective.

21 If we do have to go and have to litigate
22 this case, I want you both to be aware that it's going
23 to be a substantial investment of your time and
24 expense. Because we're going to have to have a
25 hearing. I'm going to require you to provide

1 transcript corrections if necessary, we're going to
2 have to brief at least two rounds, there may be
3 exceptions, required exceptions. So think about the
4 time and the money that you're going to spend doing
5 that and how that may enter into your decision about
6 whether or not it's a good idea to proceed.

7 Now, if I can assist you in any way in
8 coming to an agreement let me know. This will be off
9 the record, of course. If you need anything come and
10 let me know. Anything from you then Mr. Ward --- Mr.
11 Smith, excuse me. I do that all the time.

12 ATTORNEY SMITH:

13 There's nothing right now. We'll talk
14 and there may be something.

15 JUDGE:

16 Mr. Halberstadt, anything from you?

17 ATTORNEY HALBERSTADT:

18 I don't think there's anything right now.
19 I think we can chat, we've done this before, and
20 hopefully we can see eye to eye.

21 JUDGE:

22 I hope so. I hope everybody here is
23 reasonable. I make the assumption that every party is
24 proceeding in good faith. That you're not going to
25 evade payment responsibility. I hope that that's true

1 also for Peco, that you're not trying to get out of
2 responsibility for whatever actions you did take, or
3 didn't take, and that you are reasonable and can come
4 to an agreement and we'll take it from there. Thank
5 you very much.

6 ATTORNEY SMITH:

7 Thank you, Judge.

8 OFF RECORD DISCUSSION

9 JUDGE:

10 Well, go back on the record. The parties
11 engaged in extensive settlement negotiations. So Mr.
12 Halberstadt, do you want to ---?

13 ATTORNEY HALBERSTADT:

14 Yes, Your Honor. I'm pleased to report
15 that we were successful in resolving the matter
16 between the parties. The terms of the resolution were
17 as Mr. Smith had previously advised, Your Honor. We
18 have effectively split the baby such that Peco Energy
19 has agreed to pay to our client \$110,000. That check
20 will be payable to Halberstadt Curley as attorneys for
21 the customer of 3175 JFK Boulevard Associates, LP.
22 There will be a short written settlement agreement
23 prepared where there was no admission of liability by
24 any of the parties involved in the case.

25 Upon receipt of the check from Peco

1 Energy, we will file a satisfaction piece with the
2 Commission, marking the matter dismissed with
3 prejudice.

4 JUDGE:

5 Okay. Thank you. Mr. Ward, anything
6 from you?

7 ATTORNEY SWERLING:

8 That is an accurate recitation, Your
9 Honor.

10 JUDGE:

11 Okay. Well, I want to thank you both.
12 I'm sure it was a hard effort on everybody's part
13 here. But I really think you did the right thing,
14 because believe me, going through with the litigation
15 is full of so much uncertainty and expense, that you
16 really are better off getting something at this point
17 than pursuing it any further. So thank you both ---
18 thank you all, I should say, very much. I appreciate
19 it. And good luck to you in the future.

20 ATTORNEY SWERLING:

21 Thank you so much.

22 ATTORNEY HALBERSTADT:

23 Thank you.

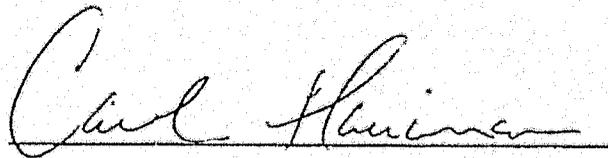
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25 HEARING CONCLUDED AT 10:05 A.M.

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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
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