

Act 294

RECEIVED
2006 JAN 24 AM 11:08
PA.P.U.C.
SECRETARY'S BUREAU

Case Identification:

F-01633898; Milton Bitters v. Energy Company

Initial Decision By:

ALJ Angela T. Jones

DOCKETED
JAN 26 2006

Deadline for Return to OSA:

January 23, 2006

This decision has not been reviewed by OSA.

DOCUMENT
FOLDER

RECEIVED
2006 JAN 19 AM 11:09
OFFICE OF SPECIAL
ASSISTANTS

* * * * *

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Donald J. Spillard

Commissioner

JAN 19, 2006

Date

Act 294

Case Identification:

F-01633898; Milton Bitters v. PECO Energy Company

Initial Decision By:

ALJ Angela T. Jones

Deadline for Return to OSA:

January 23, 2006

This decision has not been reviewed by OSA.

* * * * *

I want full Commission review of this decision.

RECEIVED
2006 JAN 23 PH 2:31
OFFICE OF SPECIAL ASSISTANTS

Commissioner

Date

I do not want full Commission review of this decision.

James H Cawley
Commissioner

1/23/06
Date

Stan/Am NO

Act 294

Case Identification:

F-01633898; Milton Bitters v. PECO Energy Company

Initial Decision By:

ALJ Angela T. Jones

Deadline for Return to OSA:

January 23, 2006

This decision has not been reviewed by OSA.

RECEIVED
2006 JAN 24 AM 8:41
OFFICE OF SPECIAL ASSISTANTS

* * * * *

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Bill Shaw / Denise McMillan
Commissioner

1/23/2006
Date

Act 294

Case Identification:

F-01633898; Milton Bitters v. PECO Energy Company

Initial Decision By:

ALJ Angela T. Jones

Deadline for Return to OSA:

January 23, 2006

This decision has not been reviewed by OSA.

* * * * *

I want full Commission review of this decision.

RECEIVED
2006 JAN 24 AM 8:33
OFFICE OF SPECIAL ASSISTANTS

Commissioner

Date

I do not want full Commission review of this decision.



Commissioner

1/20/06

Date

Act 294

Case Identification: F-01633898; Milton Bitters v. PECO Energy Company

Initial Decision By: ALJ Angela T. Jones

Deadline for Return to OSA: January 23, 2006

This decision has not been reviewed by OSA.

* * * * *

RECEIVED
2006 JAN 24 AM 8:14
OFFICE OF SPECIAL ASSISTANTS

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Thomas J. Fitzgerald

Commissioner

1/11/06

Date

Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
P.O. Box 3265, Harrisburg, Pa. 17105 - 3265
January 25, 2006

ORIGINAL

Re #: 91633898
Or
F0163398

F-01633898

Mr. Milton Bitters
687 Whittier Drive
Warminster Pa. 18974

James J. McNulty (secretary)
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, Pa. 17105 - 3265

RECEIVED

JAN 26 2006

DOCUMENT
FOLDER PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dear Mr. James J McNulty,

Exhibit A:

Copy of letter dated - 12 - 20 - 05 ask for rescheduling of 12 - 27 - 05 asking for reasons outlined in exhibit A's letter Heath Problems, asked for 2mos delay, letter dated 12 - 20 - 05 sent certified mail 12 - 21 - 05 this was 7 days before hearing.

This is an appeal of Judges Decision copy of decision.

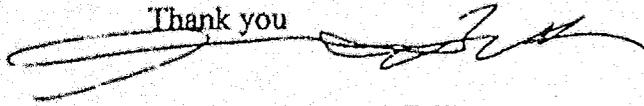
Exhibit B:

Reasons for appeal

1. Timely appeal made before hearing of 12 - 27 - 05
2. Health problems exhibited in exhibit A
3. I feel that rescheduled this second time is justified. Therefore I request a hearing within 60 days

This request being sent certified mail dated January 25, 2006

Thank you



Milton Bitters

DOCKETED
FEB 01 2006

85

EXHIBIT A

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

December 20, 2005

In Re: # - 91633898

Mr. Milton Bitters
687 Whittier Drive
Warminster, Pa 18974

James J. McNulty (Secretary)
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, Pa. 17105 - 3265

RECEIVED

JAN 26 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dear, Mr. James J. McNulty

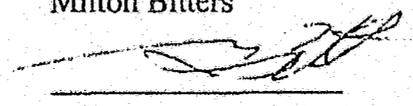
Request for a rescheduling of Hearing date 12 - 27 - 05

Reasons stated below:

- A. Wife's ongoing medical problems since 2002
- B. Medical tests most recent will be conducted on 12 - 22 - 05. This test is a dangerous test could take up to 1 1/2 hours to perform.
- C. Wife cannot walk more that 20 feet without stopping for short of breath
- D. This test should find the problem and possible treatment
- E. Family doctor has to be seen shortly after test on 12 - 22 - 05
- F. Four different hospitals can not perform this dangerous test.
- G. Please find copy of test appointments
- H. Please reschedule for 2 months

Thank you,

Milton Bitters



JCAT CENTER/EE/MILL

H 7005-2000-0004-2324-7571

JOB COPY ATTACHED SHEET

EXHIBIT B

YORK ROAD STATION
 WARMINSTER, Pennsylvania
 189749997
 4144060073-0098
 12/21/2005 (800)275-8777 12:34:43 PM

Product Description	Sales Receipt Qty	Unit Price	Final Price
HARRISBURG PA 17105			\$0.60
First-Class			
1.30 oz.			
Return Receipt (Green Card)			\$1.75
Certified			\$2.30
Label #: 70033110000423247511			
Customer Postage			-\$1.48
Subtotal:			\$3.17
Issue PVI:			\$3.17
Total:			\$3.17
Paid by:			
Cash			\$20.00
Change Due:			-\$16.83

Bill #: 1000202000138
 Clerk: 19

— All sales final on stamps and postage. —
 Refunds for guaranteed services only.
 Thank you for your business.
 Customer Copy

TTSL HEEZ H000 OTTE E007

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only, Actual Insurance Coverage Provided)	
HARRISBURG PA 17105	
Postage	\$ 0.60
Certified Fee	\$2.30
Return Receipt Fee (Endorsement Required)	\$1.75
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ 4.65

0073
 19 Postmark Here
 12/21/2005

Sent To	JAMES J Mc NULTY SEC
Street, Apt. No. or PO Box No.	PA PVC P.O. B. 3265
City, State, ZIP+4	HARRISBURG, PA 17105-3265

RECEIVED

JAN 26 2006

PA PUBLIC UTILITY COMMISSION
 SECRETARY'S BUREAU

Jefferson Hospital called for app 11/20/55

Phone 215 955-1200 Appt DATE 12-22-55

Appt Time 1PM

ARRIVE by 12:45 PM

916 + CHESTNUT

Doctor GERALD HENDERSON

TEST FOR

SHIRLEY BITTERS

EMG + NERVE COND. STUDIES

ON MUSCLES OF RESPIRATORIC (1° + 2°)

RES: ① RESTRICTIVE Lung Dz

518.89

② ③ Hemiparesis 2° old

BRAIN Injury, 342.90

Dr Pradock

Appt 12-22-55 Thursday at 1PM

Comprehensive Neurologic Associates, P.C.

Board Certified Neurologists

St. Mary's Medical Building
Suite 201
Langhorne, PA 19047
(215) 741-9555

BRAD PADDOCK, M.D.
WWW.DOCTORPADDOCK.COM
1725 WEST BRISTOL ROAD, SUITE B
WARDEN, PA 18974
215-442-8929

Appointment:

11/16/05 12:15

- Emil L. Matarese, M.D.
- Steven E. Mazlin, M.D.
- Steven Urbaniak, D.O.

NAME

Shirley Bitters

ADDRESS

DATE

10-21-05

R

EMG + Nerve Cond. Studies
on Muscles of Respiration (1° + 2°)

Re: ① Restrictive Lung Dz
5/8/89

② ③ Hemiparesis 2° old
Brain Injury. 3/2/90

Emil
Matarese

215-741-9555

Work 9555
Nov-16th

Nov-16th

2nd floor

TUES

STITUTION PERMISSIBLE

[Signature]

IF FOR A BRAND NAME PRODUCT TO BE DISPENSED, THE
IBER MUST HANDWRITE BRAND NECESSARY OR BRAND
LY NECESSARY IN THE SPACE BELOW.

St Mary's
Hospital

Langhorne: - Newtown Rd.
Langhorne, PA 19047

215-750-2000



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
Office of Administrative Law Judge
P.O. BOX 3265, HARRISBURG, PA 17105-3265
October 27, 2005

IN REPLY PLEASE
REFER TO OUR FILE

In Re: F-01633898

MILTON BITTERS
687 WHITTIER DRIVE
WARMINSTER PA 18974

Milton Bitters v. PECO Energy Company

Billing dispute.

Hearing Notice

This is to inform you that your case is scheduled for hearing at 9:30 a.m. in Hearing Room 2 in the Philadelphia State Office Building. Your case is one of several cases that have been scheduled at this time in Hearing Room 2. You must be available in the hearing room when your case is called by the presiding Administrative Law Judge. You should arrive at the Hearing Room no later than 9:15 a.m. and wait in the Hearing Room until the presiding Administrative Law Judge calls your case. Your case might not be the first one to be called and you should be prepared to stay in the hearing room all morning, if necessary. If you are not present and prepared to go forward with your case when it is called, your case will be dismissed by the Administrative Law Judge.

Type: Initial Hearing
Date: Tuesday, December 27, 2005
Time: 9:30 a.m.
Location: Hearing Room 2
State Office Building
Broad & Spring Garden Streets
Philadelphia, PA



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

IN REPLY PLEASE
REFER TO OUR FILE

ISSUED: January 10, 2006

F-01633898

Rec. 1-21-06

EXHIBIT B

MILTON BITTERS
687 WHITTIER DRIVE
WARMINSTER PA 18974

Milton Bitters
v.
PECO Energy Company

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Angela T. Jones. This decision is being issued and mailed to all parties on the above specified date.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Specifically, an original and nine (9) copies of your signed exceptions **MUST BE FILED WITH THE SECRETARY OF THE COMMISSION 2ND FLOOR, KEYSTONE BUILDING, 400 NORTH STREET, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17105-3265, within twenty (20) days of the issuance date of this letter.** The signed exceptions will be deemed filed on the date actually received by the Secretary of the Commission or on the date deposited in the mail as shown on U.S. Postal Service Form 3817 certificate of mailing attached to the cover of the original document (52 Pa. Code §1.11(a)) or on the date deposited with an overnight express package delivery service (52 Pa. Code 1.11(a)(2), (b)). If your exceptions are sent by mail, please use the address shown at the top of this letter. A copy of your exceptions must also be served on each party of record. 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of exceptions/reply exceptions. A certificate of service shall be attached to the filed exceptions.

If you receive exceptions from other parties, you may submit written replies to those exceptions in the manner described above within **ten (10) days** of the date that the exceptions are due.

Exceptions and reply exceptions shall obey 52 Pa. Code 5.533 and 5.535 particularly the 40-page limit for exceptions and the 25-page limit for replies to exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

If no exceptions are received within **twenty (20) days**, the decision of the Administrative Law Judge may become final without further Commission action. You will receive written notification if this occurs.

Very truly yours,

James J. McNulty
James J. McNulty
Secretary

Encls.
Certified Mail
Receipt Requested
SS

RECEIVED

JAN 26 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Milton Bitters

v.

PECO Energy Company

:
:
:
:
:

F-01633898

INITIAL DECISION

Before
Angela T. Jones
Administrative Law Judge

HISTORY OF THE PROCEEDING

On June 10, 2005, Mr. Milton Bitters ("Complainant") filed a formal Complaint against PECO Energy Company ("PECO" or "Company" or "Respondent") disputing bills for gas and electric service from 2000 through 2004 alleging bankruptcy filing for that period. Mr. Bitters requested a hard copy of the bills for the disputed period and questioned charges on his bills.

On August 10, 2005, PECO filed an Answer denying the material allegations of the Complaint and further answered that the Company would send an account statement to the Complainant for the period of 2000 through 2004. The Company also averred that the Commission's Bureau of Consumer Services ("BCS") issued a decision on or about March 14, 2005, indicating the pre-bankruptcy balance of the Complainant's account was properly transferred to the current account. BCS also required the Complainant to pay a monthly budget amount of \$175.00 plus \$20.00 towards the account arrearage beginning April 2005. PECO requested that the formal Complaint be dismissed.



An Interim Order dated August 15, 2005, was issued by Chief Administrative Law Judge ("CALJ") Veronica Smith directing the parties to attempt to resolve the dispute through a conference to convene no later than September 12, 2005. On October 24, 2005, Mediator Bruce Bigelow reported that a resolution was not reached and that the dispute should be scheduled for hearing.

A Hearing Notice dated October 27, 2005, notified the parties that an Initial Hearing was scheduled for Tuesday, December 27, 2005 at 9:30 a.m. This case was assigned to me, ALJ Angela T. Jones, to preside over the matter.

On November 2, 2005, I issued a Prehearing Order advising the parties of the day, date and time of the scheduled hearing, and advising them that the case could be dismissed if they failed to obtain a continuance and failed to appear for the hearing. The Prehearing Order emphasized if any party is not present and prepared to go forward with the case when it is called, the case would be dismissed by the ALJ.

The Initial Hearing was convened as scheduled on December 27, 2005, at 9:30 a.m. Ms. Lisa Lutz, Esquire appeared on behalf of PECO. Mr. Bitters was not present. Mr. Bitters has not to date contacted the ALJ and PECO to reschedule this matter. There is no further information available about Mr. Bitters.

I asked Ms. Lutz how she wished to proceed. No witnesses were presented and no exhibits were admitted into the record. PECO moved that the Complaint be dismissed for failure to prosecute. That motion will be granted consistent with the ordering paragraphs below. The record closed at the conclusion of the hearing on December 27, 2005.

FINDINGS OF FACT

1. On June 10, 2005, Mr. Milton Bitters filed a formal Complaint with the Commission against PECO disputing billing for electric and gas service from 2000 through 2004.

A Hearing Notice and Prehearing Order were mailed to Mr. Bitters at the address listed on his Complaint at least three weeks prior to the scheduled hearing and were not returned to the Commission by the post office. Therefore, Mr. Bitters is deemed to have received these documents and had sufficient notice of the day, date and time of the scheduled hearing. His failure to appear is unexcused.

Once notice of a hearing and the opportunity to be heard has been provided, it is the responsibility of the parties to appear and participate in the hearing. Craig Sentner v. Bell Telephone Co. of Pennsylvania, Docket No. F-00161106, Opinion and Order entered October 25, 1993. Mr. Bitters waived the opportunity to participate in the hearing by his failure to appear. His case will be dismissed with prejudice. 52 Pa. Code §5.245(a); Martin W. Jefferson v. UGI Utilities, Inc., 1995 Pa. PUC LEXIS 159.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa. C.S. §701.
2. As the Complainant, Mr. Bitters had the burden of proof and failed to carry that burden. 66 Pa. C.S. §332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion of PECO Energy Company to dismiss the Complaint of Milton Bitters at Docket No. F-01633898 is granted.

2. By Hearing Notice dated October 27, 2005, and Prehearing Order dated November 2, 2005, Mr. Bitters was advised that an Initial Hearing on his formal Complaint was scheduled for Tuesday, December 27, 2005, at 9:30 a.m. These documents also informed Mr. Bitters that his case could be dismissed if he failed to appear for the hearing and present evidence.

3. Both of these documents were mailed to Mr. Bitters at the address provided on his Complaint form and were not returned to the Commission by the United States Postal Service as undeliverable.

4. Mr. Bitters did not appear for the Hearing.

5. Mr. Bitters did not settle or withdraw his Complaint prior to the scheduled hearing date or obtain a continuance.

DISCUSSION

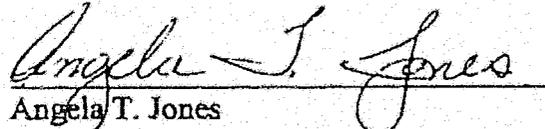
In his formal Complaint, Mr. Bitters disputed his bills for electric and gas service from PECO for the period of 2000 through 2004. As the Complainant seeking affirmative relief from the Commission, he bears the burden of proof. 66 Pa. C.S. §332(a). By failing to participate in the hearing, Mr. Bitters was unable to meet this burden.

Administrative agencies, like the Public Utility Commission, are required to provide due process to the parties appearing before them. This requirement is satisfied when the parties are afforded notice and the opportunity to appear and be heard. Schneider v. Pa. PUC, 83 Pa. Commw. 306, 479 A.2d 10 (1984). Notice mailed to a party's last known address and not returned by the post office is presumed to have been received. Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review, 165 Pa. Commw. 671, 645 A.2d 944 (1994).

2. That the formal Complaint filed by Milton Bitters against PECO Energy Company at Docket No. Z-01633898 is dismissed with prejudice for failure to prosecute.

3. That the Secretary's Bureau should mark this matter closed.

Dated: January 3, 2006



Angela T. Jones
Administrative Law Judge

