

DATE: June 1, 2005

SUBJECT: F-01482857

TO: Office of Special Assistants

FROM: James J. McNulty, Secretary

*KB*

DOCUMENT  
FOLDER

Donald and Patty Taylor  
v.  
Peco Energy Company

*RJP*

Attached are late filed exceptions filed by Donald and Patty Taylor with a request to accept them Nunc Pro Tunc, in connection with the above docketed proceeding.

This matter is assigned to your Office for appropriate action.

Attachment

ksb

**DOCKETED**

JUN 14 2005



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

IN REPLY PLEASE  
REFER TO OUR FILE

August 12, 2005

Lisa A. Lutz Esquire  
2301 Market Street S23-1  
Po Box 8699  
Philadelphia Pa 19101-8699

DOCKETED  
AUG 15 2005

Re: Donald and Patty Taylor v. Peco Energy Company  
F-01482857

Dear Ms. Lutz:

On June 14, 2005, Donald and Patty Taylor filed Exceptions to the Initial Decision of Administrative Law Judge Smolen Herbert in the above captioned matter. Our review of the Exceptions revealed that no certificate of service or other indications of service accompanied that filing. Accordingly, we have enclosed a copy of the Exceptions for your use. This shall constitute service of the Exceptions for purposes of 52 Pa. Code §5.533.

Pursuant to 52 Pa Code §5.535, you shall have ten (10) days from the date of service of the enclosed Exceptions to reply. The Exceptions were filed June 14, 2005. Although the Exceptions were timely filed, due to the failure of Donald and Patty Taylor to note service on Peco Energy Company, and in order to avoid prejudice to either party, we shall deem the filing date to be the date of this letter for purposes of Section 332(h) of the Public Utility Code, 66 Pa. C.S. §332(h), relating to the time for Commission consideration of Exceptions.

Sincerely,

James J. McNulty  
Secretary

Enclosure

nvl

cc: Donald and Patty Taylor  
4907 Parkside Avenue  
Philadelphia Pa 19131  
Office of Special Assistants  
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FOLDER

RJP

**Legal Department**

Exelon Business Services Company  
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Philadelphia, PA 19101-8699

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Business Services  
Company

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Direct Dial 215 841 6841  
August 22, 2005

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

James McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

ORIGINAL

Re: Donald and Patty Taylor v. PECO Energy Company  
Docket No.: F-01482857

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DOCKETED  
AUG 25 2005

Dear Secretary McNulty:

PECO Energy Company ("PECO") hereby replies to the Exceptions filed by the Complainants in the above-referenced matter.

On or about August 23, 2004, Donald and Patty Taylor ("Complainants") filed the above-captioned complaint with the Pennsylvania Public Utility Commission ("Commission") against PECO Energy Company ("Respondent" or "PECO"). Complainants disputed PECO's findings of evidence of meter tampering at the Complainants' property and backbilling for service use that was not registered on the meter.

On or about September 16, 2004, Respondent filed an answer to the complaint. In its Answer, PECO denied that meter tampering did not occur at the meter at Complainants' property. PECO further averred in its Answer that it was entitled to backbill the Complainants when it discovered the Complainants had been undercharged for service actually used regardless of who tampered with the meter.

This matter was assigned to Administrative Law Judge Herbert Smolen. On January 12, 2005 an in-person hearing was held before ALJ Smolen.

On March 14, 2005, the Commission issued ALJ Smolen's Initial Decision ("I.D."). In the decision, the ALJ found PECO's case credible and determined that under existing applicable law, PECO is entitled to recover from customers who have been underbilled. The ALJ found that the Complainants electric meter was tampered with and that the Complainants were responsible for service used but not billed.

August 22, 2005

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Re: Donald and Patty Taylor v. PECO Energy (F-01482857)

On or about June 14, 2005, Complainants filed Exceptions to the Initial Decision; however, the Exceptions were not timely filed and there was no indication of service of the Exceptions upon PECO. On August 11, 2005, the Secretary's Office of the PUC forwarded the Exceptions to PECO and issued the service date of the Exceptions to be August 12, 2005. PECO replies herein to the Exceptions of the Complainant.

PECO agrees with the ALJ's Initial Decision that the evidence in this case demonstrates that the Complainants used service that was not registered on the meter and, as a result, are responsible for payment of the unbilled utility service. No new evidence or relevant facts are presented in Complainants' Exceptions that materially change the evidence presented at the hearing in this matter.

Complainants indicate in their Exceptions that during the hearing, PECO presented no evidence of meter tampering. (Complainants' Exceptions, pg. 1). This statement is clearly in error as the testimony, at the January 12, 2005 hearing, was from the PECO representative, Mr. Charvas Walker, who visited the property on January 11, 2002 and found the evidence of tampering. (Tr. pg. 26-27; Revenue Protection Report by Mr. Charvas Walker - PECO Exhibit No. 2).

Mr. Walker explained that on his visit on January 11, 2002, he found the meter box unsealed; he found the ring to seal the meter was removed and missing; and he found that the barrel lock was removed and missing. (Tr. pg. 27-28). Mr. Walker also explained that the required jumper wires were tampered/hard wired inside the meter, laying up against the wires coming into the meter, thereby diverting power but not registering the usage of the power. (Tr. pg. 29-32). Mr. Walker explained that he removed the tampered jumper wires and replaced/repared them securely, then put the meter in the box, put a ring back onto the box and secured it. (Tr. pg. 32). At that point of his testimony, the ALJ asked the witness, Mr. Walker, "So when you left, the meter was repaired, or placed back in its proper operating condition?" Mr. Walker replied, "Yes, ... with a locking seal and ring." (Tr. pg. 33). Further at the hearing, the Complainant, Mr. Taylor, specifically asked PECO's witness, Mr. Walker, "So what evidence do you have that shows the meter was tampered with?" (Tr. pg. 43). Mr. Walker again explained there were tampered wires inside the meter box that diverted energy usage away from the meter and thereby prevented registration of the actual usage of electricity. (Tr. pg. 43).

Based on Mr. Walker's testimony and written report, the ALJ found that the evidence of meter tampering included, "(a) the heavy duty standard ring was missing; (b) the barrel lock was missing; (c) there was no seal on the meter box; and (d) there were jumpers wired in the meter board." (I.D. pg. 3, Finding of Fact 5).

Complainants also indicate in their Exceptions that prior to moving into the property, a title search was conducted, and all utilities were paid. (Complainants' Exceptions, pg. 1). At the

August 22, 2005

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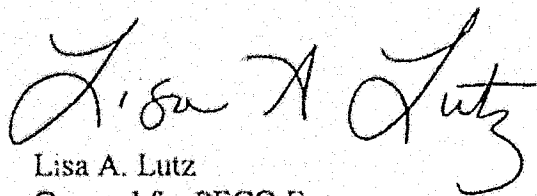
Re: Donald and Patty Taylor v. PECO Energy (F-01482857)

hearing on January 12, 2005, Mr. Taylor testified that his family resided at the property for about eight years. (Tr. pg. 7). The make-up bill that Complainants are responsible for paying is for a four-year period of March 27, 1998 to January 11, 2002. (Tr. pg. 51, PECO Exhibit 1). The ALJ found that the Complainants benefited from unbilled electric service and were properly backbilled for that service. (I.D. Pages 3, 5, 7-8).

PECO agrees with the ALJ's finding that PECO is authorized to issue a make-up bill to the Complainants. The evidence is clear that the meter was tampered with in a way not to register service used at the property and, as a result, the Complainants are responsible for payment of the unbilled service for a four-year period as billed. (ALJ's I.D. Pages 5-7, citing Angie's Bar v. Duquesne Light Company, 72 Pa. PUC 213, 217 (1990); Polan v. Duquesne Light Company, Docket No. F-8156073 (September 17, 1982) and Pa. P.U.C. v. Duquesne Light Company, 50 Pa. PUC 555, 50 Pa. PUC 173 (1977)).

In summary, Complainants' Exceptions present no new evidence or relevant facts that materially change the evidence presented at the hearing in this matter or evidence of record. The ALJ properly found that the Complainants failed to sustain their burden of proof of their allegations; the ALJ found that PECO's case was credible and compelling and that PECO is entitled to recover from customers who were underbilled. PECO agrees with the ALJ's Initial Decision in this matter and, therefore, requests that the Commission deny Complainants' Exceptions.

Respectfully Submitted,



Lisa A. Lutz  
Counsel for PECO Energy

cc: Mr and Mrs. Donald Taylor

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SECRETARY'S BUREAU

DATE September 7, 2005

SUBJECT: F-01482857

TO: Cheryl W. Davis, Director  
Office of Special Assistants

FROM: James J. McNulty  
Secretary  
nvl

**DOCUMENT  
FOLDER**

**DOCKETED**  
SEP 08 2005

DONALD AND PATTY TAYLOR  
VS  
PECO ENERGY COMPANY

Copies of the Initial Decision have been served upon all parties of interest.

Exceptions have been filed by:

**DONALD AND PATTY TAYLOR**

Reply Exceptions have been received from:

**PECO ENERGY COMPANY**

cc: Susan Hoffner

**Legal Department**

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Business Services  
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Direct Dial: 215 841 5604

December 1, 2005

James McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

ORIGINAL DOCUMENT FOLDER

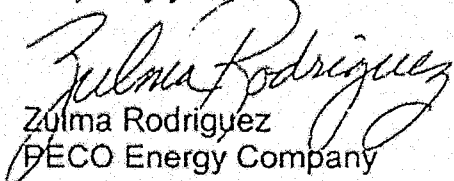
RE: **Donald and Patty Taylor v. PECO Energy Company**  
**Pa. PUC Docket No.: F-01482857**

Dear Secretary McNulty:

An initial decision was filed in the above referenced matter on March 14, 2005. Complainant filed exceptions and PECO Energy Company filed a Reply to Exceptions on August 22, 2005. Our office has not received a final order or closing notice in this matter. Please send me a final order or closing notice so that we can close this matter in our system.

Thank you for your help and if you have any questions regarding this request, please call my direct dial number (215) 841-5604.

Very truly yours,

  
Zulma Rodriguez  
PECO Energy Company

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DEC 1 2005

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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