

March 24, 2020

Secretary
PA Public Utility Commission
P O Box 3265
Harrisburg, PA 17105-3265

Re: Eileen Walden v. PECO Energy Company
F-2019-3011507
Exceptions

Dear Secretary:

Herewith attached, Complainant submits exceptions regarding the above referenced matter. Copies have been forwarded to the parties designated on the Certificate of Service list.

I expect to email a copy to the Commission's OSA as required without difficulty.

Sincerely,



Eileen Walden
Complainant
1838 Cobden Road
Laverock, PA 19038

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

EXCEPTIONS OF EILEEN WALDEN	:	
Complainant	:	
	:	DOCKET NO. F-2019-3011507
v.	:	
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

History of the Proceeding

EXCEPTION 1

“PECO also alleged that the Complainant was actively enrolled in its Customer Assistance Program (CAP).” Pg 1. Complainant is not enrolled in CAP. Complainant was never enrolled in CAP. Complainant finds no such statement on her copy of Respondent’s Answer.

EXCEPTION 2

Witnesses were allowed to testify contravening 52 Pa Code @5.421 that requires written application be filed with the presiding officer with copies to all parties specifying “...relevance, materiality, and scope of the testimony and documents being sought...” The application “[must] list the facts to be proved by the documents...” and “contain notice that a response or objection to the application shall be filed with the Commission and presiding officer within 10 days of service application. Complainant did not receive any notice. The Judge overruled Complainant’s implied objection raising the specter of bias favoring Respondent.

EXCEPTION 3

“The complainant offered seven exhibits at the time of the hearing.” Pg 2. The Complainant did not offer any exhibits at the hearing. The footnote referencing Exhibits 2 and 7 makes clear that the documents so represented are Complainant’s reply to Respondent’s Answer. The reply is identified as Complainant Responds and was mailed to the Judge and all parties on Oct 13th with a followup letter on Oct 15th amending page 6 by addition. Without explanation, the Judge introduced the filings as Exhibit 2 and Exhibit 7 during the hearing and then removed the same exhibits from the record as requested by Respondent’s attorney when the hearing ended.

Complainant Responds was submitted to rebut Respondent's Answer and as such satisfies the Commission's definition of a pleading, 52 Pa Code (a)1.8. Complainant could find no provision that allows a pleading to be arbitrarily stricken from the record. Complainant's Oct 23rd letter requesting reconsideration cited legal reason: "the right of the Complainant to respond, rebut the claims made by PECO in its answer..." Complainant received no response to the Oct 23rd request before this decision.

Removal of Complainant Responds from the record of proceedings effectually removes evidence from consideration. As indicated in the Oct 23rd letter, Complainant Responds provided the documentary evidence of the Formal Dispute Respondent denied was filed. The Formal Dispute included the data collected and assembled by Complainant to illustrate the smart meter's readings were unquestionably abnormal and challenged the validity of the load test results. The data included a comparison of like billing cycles evidencing the dramatic inconsistency in meter readings for the eight years reviewed and the results of daily meter readings conducted during Jan and Feb 2018 that revealed high readings day to day and mysterious increases in kWh when the total circuit breaker was shut off on two occasions. Complainant Responds, Exh B, Attms A, B, C.

Findings of Fact

EXCEPTION 4

Had the Complainant been informed about the witness' testimony as the rules require, Complainant would have been prepared to question the basis for the allocation of usage necessary to compute the "total potential usage of 4,125 kWh." Pg 4. A kWh is the product of power times use. While power can be known, usage is an independent variable that is known only when actualized. Thereby, the assignment of kWh usage is arbitrary having no or little bearing on actual usage without being informed by prior usage.

For example, the assessment of 4,125 kWh potential usage assumes 2,880 kWh for baseboard heat. The baseboard heater in Complainant's basement is not in use and has not been in use for over a decade. The assessment assumes kWh usage for two space heaters. Only one

space heater is ever used at any given time because Complainant lives alone and her primary source of heat is a gas furnace. Excluding these arbitrary assumptions results in a potential usage assessment of 975 kWh, a result that falls well below the false reading of 2,614 kWh reported for Jan 2018 but somewhat consistent with the 819 kWh reported for Jan 2017.

EXCEPTION 5

That a courtesy was extended "...based on the Complainant's assertions that her usage was abnormal," Pg 4-13, is not factual. The witness made the determination of abnormally high readings when reviewing Complainant's history as stated in his written account:

"High use abnormal for cust based on hist." Respondent's Exh 3

Complaint Requests After Hearing

EXCEPTIONS 6

Complainant is unaware of the instructions as cited. Pg 7, 8. Complainant requested specific information from PECO dated Sept 24, 2019. Complainant was informed by PECO's attorney on the day of the hearing, Oct 23rd, that the requested information was emailed to Complainant on Oct 22nd although Complainant had not consented to email service as is required, 52 Pa Code @702. When apprised, the Judge indicated that her decision could not be rendered before receiving the transcript that should be available in two weeks. That should give Complainant time to submit the information before her decision was rendered. A rehearing would be necessary if received after her decision was rendered. Complainant did not receive any response before this decision.

Complainant forwarded the information received from Respondent on Oct 26th with a letter dated Oct 24 and subsequently forwarded a followup letter dated and mailed Oct 28th. The letters identified the information as Respondent's Answer to Complainant's Request for Information and made a motion to include on the record.

As mentioned in the letters, Complainant concluded from her review of PECO's answers that the load test is not used to validate the accuracy of its smart meters effectually contradicting PECO's finding that Complainant's smart meter was accurate. By its answer, PECO confirmed what Complainant questioned in her Formal Amend Complaint, Attm Pg 2-6, that the smart

meter reading is a calculated result. The calculation is performed internally by the meter, Ans 4, and its accuracy is checked/verified via calibration that is performed as required by the Commission, Ans 7, in compliance with the Federal Bureau of Standards, Ans 16. PECO's standard policy/procedure for testing smart meters was not provided, Ans 14. PECO did not answer how a "load test" validated the kWh calculation but stated that "PECO validates the accuracy of its meter via the meter's calibration pulse indicator..."

The Commission's testing requirement found at 66 Pa C.S.A. @1507 also provides for the right of the customer to request. Complainant was not informed of this option or the option provided by PECO's tariff @16.3 to have her meter replaced.

Further, PECO gave a qualified 'yes' to the occurrence of false kWh readings, Ans 8; affirmed that PECO's authorized personnel can reprogram meters, Ans 9; and, affirmed that its AMI meters are capable of being remotely programmed and updated in answer to the question as to whether an individual customer's calculation formula, multiplier, energy units could be changed by a system command, Ans 23.

By its answer, PECO knew or should have known of the spike in complainant's usage when it commenced because it has the technology to identify electricity theft, meter tampering, anomalous events like a sudden spike in usage, Ans 24. An analysis of Complainant's electricity usage was not conducted despite the Formal Dispute filed in Mar 2018, Ans 27.

The information PECO provided after the hearing also challenges the testimony of witness Pritchard who testified that "PECO cannot alter or change the meter readings." Pg 10. PECO says otherwise in Ans 23 stated above. Witness Pritchard also testified that "[t]here is no multiplier used in residential meters, only commercial properties that use more power." Pg 5, 10. PECO's answer contradicts: "The meter multiplier is set to 1 in the meter." Ans 18.

High Bill Dispute

EXCEPTION 7

The "Heating Degree Day" data presented on Page 6 are of no consequence in the consideration of the meter's accuracy and high bills issues. The same kWh usage results whether you use that term or the term used by PECO on its billing statements, i.e. Average Temperature.

Positing that colder temperatures are the reason for the high meter readings in the winter of 2017-18 vs 2016-17 is not supported by the record of prior like billing cycles, Pg 11. The decision disregards the uncontested evidence asserted on Pg 1 of Complainant's Formal Amended Complaint and Complainant Responds, Exh B, Attm A, B.

According to PECO's billing statements issued Complainant:

When the average temperature was 31 degrees, the smart meter registered

2614 kWh in Jan 2018 for a daily average use of 76.9

714 kWh in Feb 2014 for a daily average use of 25.5

When the average temperature was 33 degrees, the smart meter registered

889 kWh in Jan 2017 for a daily average use 24.6

When the average temperature was 40 degrees, the smart meter registered

1500 kWh in Feb 2018 for a daily average use of 51.7

737 kWh in Feb 2017 for a daily average use of 25.4

When the average temperature was 43/42 degrees, the smart meter registered

2287 kWh in Dec 2017 (43) for a daily average use of 67.3

792 kWh in Dec 2016 (42) for a daily average use of 24.0

When the average temperature was 54/55 degrees, the smart meter registered

1080 kWh in Nov 2017 (54) for a daily average use of 37.2

592 kWh in Nov 2016 (55) for a daily average use of 20.4

Complainant's pattern of usage during the winters preceding the winter of 2017-18 evidence consistency in usage for like billings over a period of eight consecutive years from 2010 thru 2017 that did not exceed an average daily use of:

22.1 kWh in Nov / 25.5 kWh in Dec / 28.1 kWh in Jan / 26.8 kWh in Feb

as compared to the average daily use reported for the winter of 2017-18 of:

37.2 kWh in Nov / 67.3 kWh in Dec / 76.9 kWh in Jan / 51.7 kWh in Feb

In addition, if colder temperatures are responsible for the high bills issued in the winter of 2017-18 as the decision suggests, Pg 11, there would have been a similar, corresponding increase

in gas usage given that Complainant's gas furnace is her primary source of heat. Yet, PECO's billings show no such increase occurred. The decision disregards that the pattern of gas usage remained relatively consistent as shown in the Formal Amended Complaint Attm, Pg 1.

	NOV	DEC	JAN	FEB
2016-17	60	216	284	204
2017-18	95	208	341	161
2018-19	158	269	320	315

As asserted in Complainant's Formal Amended Complaint, Pg 1 Attm, the same electrical connections and their use were in place immediately before, during, and after the spike in meter readings occurred. Billing statements so evidence.

Complainant asserted in her Formal Dispute filed with Respondent: "There has been no change in electrical connections or in the frequency of use of those connections in this single person household to sustain and explain the huge level of kWhs reported." Complainant Responds, Exh B Pg 1.

EXCEPTION 8

Evidence on the entire record of proceedings establish a prima facie case as the Waldron Rule allows, Pg 9.

- A. Complainant's billing history evidences the bills received for Nov 2017 thru Apr 2018 were abnormally high when compared to like billing periods.
- B. Complainant's billing history establishes a stable, consistent pattern of actual usage over a period of eight consecutive years that demonstrates billings for the period in question were abnormally high by comparison.
- C. The number of occupants residing in the household has not changed. Complainant lives alone.
- D. Complainant's billings for her gas furnace remained relatively consistent with prior billings.

As addressed in Exception 5 above, Respondent's contention of potential usage does not overcome or outweigh the long and sustained history of actual usage. Respondent never responded to Complainant's advisement that her meter registered increases in kWh when the total circuit breaker was shut off. Complainant Responds, Exh B, Attm C.

Respondent's use of a load test to establish the accuracy of Complainant's smart meter is subject to serious question given the information Respondent provided after the hearing that acknowledges that the meter's accuracy is validated by "...comparing the meter's calibration pulse indicator (this is thru the IR port) and comparing the energy values to a reference standard." The acknowledgment directly challenges the Utility Report findings regarding the accuracy of Complainant's meter and the validity of using a load test to evaluate the accuracy of a smart meter. Respondent's information included reference to Commission regulations that govern meter testing as cited in Exception 6.

Complainant believes the burden of proof has been met and all the evidence presented is sufficiently substantial to prevail.

Respectfully Submitted



Eileen Walden
Complainant
1838 Cobden Road
Laverock, PA 19038

CERTIFICATE OF SERVICE

Secretary
Pa. Public Utility Commission
P O Box 3265
Harrisburg, PA 17105-3265

Admin Law Marta Guhl
Pa Public Utility Commission
801 Market Street, Ste 4063
Philadelphia, PA 19107

Shawane Lee, Esq
PECO Energy Company
Legal Department
2301 Market Street/S23-1
Philadelphia, PA 19101-8699

Angela M. Lorenz, Esq
Edward T. Fisher, Esq
Griesing Law LLC
1880 John F. Kennedy Blvd, Ste 1800
Philadelphia, Pa 19103