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JUN 11 2020

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

7500 North 21st Street
Philadelphia, PA 19138
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June 11, 2020

Rosemary Chiavette, Secretary
Pa P.U.C.
P.O. Box 3265
Harrisburg, PA 17105-3265

Hon. Angela T. Jones
Pa P.U.C.
Office of Adm. Law Judge
801 Market Street, 4th Fl, Suite 4063
Phila. PA 19107

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~~JUN 18 2020~~

~~PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU~~

RE: Atuahene v. PECO, L-2019-3012904
Filing of Complainants Reply Brief
and Motion To Strike PECO's Brief

Madam:

Enclosed for filing are:

1. Complainants' Reply Brief and
2. Motion To Strike PECO's Main Brief

and copies of which are simultaneously being
sent to PECO counsel Edward T. Fisher Esquire
at 1880 J F K Blvd, Suite 1800, Phila Pa 19103

Sincerely,
AGNES ATUAHENE
STEVE ATUAHENE

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AGNES ATUAHENE :
AND :
STEVE ATUAHENE :

v.

C-2019-3012904

PECO ENERGY COMPANY :

MOTION TO STRIKE OF PECO ENERGY COMPANY'S
MAIN BRIEF IN SUPPORT OF DENYING THE ATUAHENES'
COMPLAINT AND REQUESTED RELIEF.

Complainants Pro Se Steve Atuahene and Agnes Atuahene respectfully move this Honorable Commission to strike Peco Energy Company's Main Brief in support of Denying the Atuahenes' Complaint and Requested Relief due to fatal irregularities and defects apparent on the face of the Record and in support thereof state

1. By Hearing Notice dated January 16, 2020, an initial in-person hearing was ^{scheduled} ~~for~~ and heard on Wednesday, February 19, 2020.
2. At the hearing of February 19, 2020 Complainants were represented by Agnes Atuahene and Steve Atuahene and PECO Energy Company, the Respondent was represented by Edward Fisher, Esquire.

3. In a Briefing Order issued by ALJ Honorable Angela T. Jones on February 20, 2020 the Honorable Judge Angela T. Jones ^{attached} an Appendix to the Briefing Order the requirement for Briefs as stipulated at § 52-5.501 and § 5.502.

4. Specifically, the content and form of Briefs is stated at § 5.501 while § 5.502 relates to the filing and service of Briefs.

5. Further, at the last paragraph of page 2 of the Honorable Judge Jones Briefing Order the Order stated:

"The Briefs may contain proposed findings of fact and proposed conclusions of law as the content of the appendices to the Brief. The parties are to use their discretion as to whether to include in the appendices proposed ordering paragraphs. Other matters regarding the form and content of the briefs should comply with 52 Pa. Code §§ 5.501, 5.502, which is attached as an Appendix to this Order." *Emphasis added*

6. In the accompanying Order, issued on February 20, 2020, attached to the Briefing Order the Order, *inter alia*, stated:

"IT IS ORDERED:

4. All matter not otherwise mentioned regarding the format, content and procedure for filing of

Briefs are to be performed pursuant to 52 Pa. Code §§ 5.501, 5.502"

7. In effect, Honorable Angela T. Jones's Briefing Order went beyond the call of duty, so to speak, to direct the parties to comply with the Commission's practice regarding "the format, content, and procedure for filing of Briefs" pursuant to 52 Pa Code §§ 5.501, 5.502."

8. Despite the Honorable Angela T. Jones Briefing Order and its attached Appendix, ~~Re~~ and the fact that Respondent, PECO Energy Company, was represented by an attorney and a member of the bar, PECO Energy Company, failed to comply with the requirements of Briefing as specifically mandated by 52 Pa. Code §§ 5.501.

9. PECO Energy Company flagrant and wanton disregard of the Briefing Order and 52 Pa Code §§ 5.501 satisfies the legal requirement to strike of its Brief as PECO's failure and fatal defects and irregularities meet such mandate

WHEREFORE, Complainants respectfully pray the Commission strike of PECO Energy Company's Main Brief due to fatal defects and irregularities appearing on the face of the record.

RESPECTFULLY SUBMITTED
AGNES ~~ATUAHENE~~ ATUAHENE
STEVE ~~ATUAHENE~~ ATUAHENE

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AGNES AND STEVE ATUAHENE ;

v.

: L-2019-3012904

PECO ENERGY COMPANY ;

MEMORANDUM OF LAW

Movants Pw Se submit this memorandum of law to support of Motion To strike of PECO Energy Company Main Brief in support of Denying the Atuahenes' Complaint and Requested Relief.

I. MATTER BEFORE THE COMMISSION

The matter before the Commission is Motion To Strike of PECO's Main Brief for fatal defects and irregularities appearing on the face of the record.

II. STATEMENT OF QUESTIONS INVOLVED

Whether the Commission should grant Motion To Strike of PECO's Main Brief, in support of denying the Atuahenes' Complaint and Requested Relief, for fatal defects and irregularities appearing on the face of the Record?

ANSWER

: YES

III. FACTUAL AND PROCEDURAL HISTORY.

The averments in the Pleading are referenced herein as though fully stated and reflects the factual and procedural history of this Motion.

IV. ARGUMENT

A. THE COMMISSION ^{SHOULD} GRANT COMPLAINANT'S MOTION TO STRIKE OF PECO ENERGY COMPANY'S MAIN BRIEF, IN SUPPORT OF DENYING THE ATTORNEYS' COMPLAINT AND REQUESTED RELIEF, FOR FATAL DEFECTS AND IRREGULARITIES APPEARING ON THE FACE OF THE RECORD.

In *Franklin Interiors v. Wall of Fame Management*, 510 Pa 597, 599-600, 511 A.2d 761, 762 (1986) the Supreme Court of Pennsylvania, *inter alia*, stated:

" A Petition to strike may be granted only for defects appearing on the face of the record... If the record is not self-sustaining, the judgment should be stricken.

Our Supreme Court has also noted that, in making the determination whether fatal irregularities appear on the face of the record, a court must look only at what was in the record at the time the judgment (Brief) was entered (filed). *Linett v. Linett*, 434 Pa 441, 254 A.2d 7 (1969). A. petition to strike does not involve the discretion of the Court.

Dubrey v. Izaguirre, 454 Pa Super 504, 685 A.2d 1391 (1996). Instead, it operates as a demurrer to the record.

In the Briefing Order of the Commission issued by Honorable Angela T. Jones in relevant part it stated:

"The Briefs may contain proposed findings of fact and proposed conclusions of law as the contents of the appendices to the Briefs. The parties are to use their discretion as to whether to include in the appendices proposed ordering paragraphs. Other matters regard the form and content of the Briefs should comply with ~~Pa Rule~~ 52 Pa Rule 5.501, 5.502. Emphasis added

And the subsequent ~~Commission~~ Order stated:

"IT IS ORDERED:

'4. All matter not otherwise mentioned regarding the format, content and procedure for filing of Briefs are to be performed pursuant to 52 Pa. Code §§ 5.501, 5.502."

In the case sub judge, PECO's Brief failed to comply with both the Briefing Order and 52 Pa Code §§ 5.501, 5.502. PECO's Brief had no proposed findings of fact, no proposed conclusions of law, ~~with~~ no table of authorities or citations and no summary of Argument. This is fatal to the PECO Brief submission.

Thus, PECO's Brief contains fatal defects and irregularities appearing on the face of the record. As the record for proper brief filing is not self-sustaining the brief should be stricken. Further, in this Motion To Strike, the Commission has no discretion and as a matter of law PECO's Brief should be stricken.

For all the foregoing reasons, especially the fact that PECO's Brief failed to comply with the Briefing Order and that said PECO's Brief contains fatal defects and irregularities appearing on the face of the record, Complainants respectfully pray that the Commission ~~strike~~ strike of PECO Energy Company's Main Brief as a matter of law

RESPECTFULLY SUBMITTED

Agnes Atuahene
AGNES ATUAHENE

~~SAR~~
STEVE ATUAHENE

7500 North 21st Street
Philadelphia, PA 19138
267 335 3135

CERTIFICATE OF SERVICE

I, STEVE ATUAHENE, hereby certify that a true and correct copy of the foregoing motion/petition and accompanying papers, was served on the below listed addresses by first-class United States mail, postage pre-paid on

6/11/20 (date).

Name: Hon. Angela T. Jones

Address: P U C

Address: Office of Administrative Law Judge
801 Market Street, 4th floor, Ste 4063

City, State, zip: Phila PA 19107

Name: Edward T. Fisher Esq

Address: PECO Energy Company

Address: 1880 J F K Blvd, Suite 1800

City, State, zip: Phila PA 19103

Dated: 6/11/20

By: SD

IN THE
PUBLIC UTILITY COMMISSION

DOCKET NUMBER: C-2019-3012904

IN RE:
AGNES ATUAHENE
AND

STEVE
RECEIVED

ATUAHENE

JUN 11 2020

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PEW ENERGY COMPANY

COMPLAINANTS/APPELLANTS

REPLY BRIEF

SUBMITTED BY:

~~RECEIVED~~

~~JUN 18 2020~~

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

AGNES ATUAHENE AND
STEVE ATUAHENE
7500 NORTH 21ST STREET
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A. Pursuant to §332(a) Complainants have met their burden of proof that PECO Overbilled them as demonstrated by the fact that between June 2016 and May 2018, the average monthly kilowatts usage jumped from 212.88 for the period January 2015 - May 2016 to 284.46 for the period June 2016 - May 2018 and then after initiating the complaint the average monthly kilowatt usage dropped to 208.53 9

B. Complainants, pursuant to §332(a), have met their burden of proof that PECO violated their Due Process Rights by transferring service charges from other properties, which charges were incurred by tenants without complainants knowledge, to the Accounts of 7500 North 21st Street Address without Notices and an opportunity to challenge the accuracy and

Validity of Said Transfer Accounts

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C. Complainants, pursuant to § 332 (a), have met their burden of proof that PECO engaged in fraud or planned to extort monies from them as evidenced by High Billings without justification and the use of AEP as a conduit for such actions

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STATEMENT OF ISSUES PRESENTED FOR REVIEW

A. Whether pursuant to 206 Pa.C.S. §332(g) Complainants have met their burden of proof that PECO overbilled them as demonstrated by the fact that between June 2016 and May 2018 the average monthly kilowatts usage jumped from 212.88 for the period January 2015 - May 2016 to 284.46 for the period June 2016 - May 2018 and then after initiating the complaint the average monthly kilowatts usage dropped to 208.53

ANSWER : YES

B. Whether Complainants pursuant to §332(a) have met their burden of proof that PECO violated their Due Process Rights by transferring service charges allegedly from the other Properties, which charges were incurred by Tenants without Complainants knowledge, to the Account of 7500 North 21st Street Address without Notice and ^{an} opportunity to challenge the Accuracy and Validity of said Transfer Accounts

ANSWER : YES

C. Whether Complainants, pursuant to §332(a) have met the burden of proof that PECO engaged in fraud or planned to extort monies from them as evidenced by High Billings without justification and the use of AEP as a conduit for such action

ANSWER : YES

STATEMENT OF THE CASE

The Concise Statement of the Case in the Complainants/Appellants Brief stated at pages 5 through 10 of said Brief stated with sufficient details of the facts ~~of~~ and procedural history of this case. For brevity and conciseness of in this Reply Brief Complainants reference herein said Concise Statement of the Case to reflect the Statement of the Case as though fully stated herein.

SUPPLEMENT TO PROPOSED CONCLUSION OF LAW

1. The Proposed Conclusion of Complainants Original Brief is referenced here in as fully stated.
2. The essence and import of Due process Notice and an opportunity to be heard is discussed by the Opinion of Commonwealth Court Complainant was invited and attached hereto as an Exhibit.
3. Pennsylvania law requires PEW as an electric utility to provide service that is safe and reasonable 66 PA C.S. §1501. Here PEW is required to calibrate the Meter Testing Equipment every six months; however the Meter Testing Equipment of the Property was not in compliance for over 5 years in violation of §1501.
4. The Commission is required and authorize to enforce the mandate of 66 PA C.S. §1501.
5. Neither PEW nor the Commission has the authority ~~not~~
6. to enforce the mandate of 66 PA C.S. §1501.

SUMMARY OF ARGUMENT

The Complainants have the burden of proof in this matter pursuant to 66 Pa.C.S. § 332(a). Said proof is by preponderance of the evidence that the Respondent, PECO Energy Company, has violated the Public Utility Code or regulation or Order of the Commission. See - *Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Complainants must show that the utility company, PECO, is responsible or accountable for the problem described in the Complaint. See *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. P.U.R. 300 (1976).

In the instant case, Complainants have raised three main issues, namely, 1) PECO overbilled Complainants as demonstrated by an ^{increased} monthly kilowatts usage from 212.88 to 284.46 and then dropping to 208.53; 2) PECO violated their Due Process Rights by transferring service charges from other properties to the 7500 North 21st Street Account; and 3) PECO engaged in fraud or that PECO and AEP energy considered to extort money from the Complainants. However, in its Brief PECO ignored all relevant material facts and evidence to argue that Complainants have not met their burden of proof, pursuant to § 332(a) to succeed in their claim, which is completely without merit.

7/1 PECO, as a public utility, is required to maintain adequate, safe, efficient and reasonable service. 66 Pa.C.S.A. § 1501. PECO

has the responsibility to provide accurate billing by insuring that the required six monthly meter equipment testing calibration is strictly complied with; otherwise PECO ~~would~~ would be in violation of 66 Pa. C.S.A. § 1501. Here PECO failed to calibrate the meter equipment testing and thus did not comply with 66 Pa. C.S.A. § 1501.

Further, in transferring the other properties accounts to Compliments Account at 7500 N. 21st Street PECO failed to notice Compliments and provide ^{them the} opportunity to contest the Accounts' accuracy and validity in clear violation of § 1501. For, under due process, Compliments were entitled to notice and an opportunity to be heard and verify the accuracy of the billings of said Accounts from the other properties before transferring them to 7500 N. 21st Street Account and lack of such notice and the opportunity to be heard is violative of due process which invalidates said Account.

PECO's actions and inactions noted above was intended to defraud the complainants and using AEP to extort money from them. So, contrary to PECO's argument that complainants did not meet their burden of proof, complainants met their burden and the Commission should find in their favor.

ARGUMENT

✓ It's settled law that complainants have the burden of proof and that they must show that PECO is responsible or accountable for the problems described or identified in the complaint through a violation of the code, a regulation or order of the Commission. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. ~~196~~ 196 (1990). Such a showing must be by a preponderance of evidence. *Samuel J. Lansberry, Inc v. Pa P.U.C.*, 578 A.2d 600 (Pa Cmwlth 1990) *alluz. denied.* 602 A.2d 863 (Pa 1992). Thus, the complainant's evidence must be more convincing, by even the smallest amount, than that presented by the respondent. *Se-ling Hosiery, Inc v. Mangulies*, 70 A.2d 854 (Pa 1950). *Guagenti v. PECO Energy Co.* No. F-2018-3001891, 2019 WL 740353, at *3 (Dec. 19 2019).

A. PURSUANT TO §332(a) COMPLAINANTS HAVE MET THEIR BURDEN OF PROOF THAT PECO OVERBILLED THEM AS DEMONSTRATED BY THE FACT THAT BETWEEN JUNE 2016 AND MAY 2018 THE AVERAGE MONTHLY KILOWATT USAGE JUMPED FROM 212.88 FOR THE PERIOD JANUARY 2015-MAY 2016 TO 284.46 FOR THE PERIOD JUNE 2016-MAY 2018 AND THEN AFTER INITIATING THE COMPLAINT THE AVERAGE MONTHLY KILOWATT USAGE DROPPED TO 208.53

The required proof ~~is~~ by a preponderance of evidence of overbilling can be established by a prima-facie case through ^{the following}: 1) the number of occupants in a household has not changed; 2) the potential for the energy utilization was low; 3) the complainant's prior billing history showed no previous abnormalities; or 4) "any other evidence showing

that the bills were unreasonably high." *Wilson v. PECO Energy Co.*, No. F-2011-2272410, 2013 WL 839961 at *3 (Feb. 28, 2013). Wilson Court's holding is known as the "Waldron Rule" which is concerned with preventing a complainant's complaint from being dismissed in the early stages of litigation, ~~and~~ *Dziadas v. Pennsylvania Pub. Util. Comm'n*, No 1951 LD 2010, 2012 WL 8699988 at *3 (Pa Commw Ct, Feb 3, 2012); and protects complaining customers who would otherwise be at a competitive disadvantage due to lack of technical savvy necessary to impeach an electricity meter's accuracy. *Burleson v. Pennsylvania Pub. Util Comm'n*, 461 A.2d 1234, 1235-36 (Pa 1983).

In the case sub judice, contrary to PECO's fatally flawed and unsupported factual assertions that complainants failed to establish even a prima facie case for overbilling and did not meet their burden of proof under §332(a), complainants sufficiently and indisputably met their burden of proof not only under the preponderance of evidence requirement but beyond reasonable doubt, a higher standard of proof not required under civil case.

First, at the hearing Steve Atwater used the ^{fact of} the complaint to establish complainants' case through examination by Honorable ALJ Angela Jones and the facts alleged and testified to ^{the material} facts which ^{were} uncontested, thus establishing ^{beyond} a prima facie case. Further, PECO's own Exhibit I admitted into evidence ~~uncontested~~ uncontroversially established beyond doubt that there were overbillings due to a problem with the meter and equipment functionality resulting in fatal and material charges of high billings.

10. Secondly, the complainants sustained their burden

of proof for high billings due to problem with the meter resulting from lack of calibration of the meter testing equipment between July 23, 2014 and November 18, 2019 despite the fact that PUC regulation requiring calibration of the meter equipment every six months. The lack of meter testing equipment's calibration within the period in question led to monthly average kilowatts usage ^{exorbitant} increase from 212.88 to 284.46, an increase of 33.62% and then dropped ^{from} ~~from~~ 284.46 to 208.53.

In its Brief PECO asserted:

"... the meter passed the field inspection, with scores ranging from 99.89 and 99.92 accurate, and PECO verified the meter's accuracy... What is more, complainants' meter was accurate at all relevant times because PECO verified the meter's accuracy in November of 2014 as well."

PECO's above-quoted statements underscore its failure to understand and appreciate the magnitude of complainants' complaint. First, the PUC regulation according to PECO's own testimony is that the Meter Testing Equipment has to be calibrated every six months to assure meter accuracy. Here, there was no calibration of the Meter Testing Equipment between the period July 23, 2014 and November 18, 2019, a period of more than 5 years. This is no way to gloat about the accuracy of the Meter readings and resultant billings. Really, this is the worst indictment of PECO's billings.

Further, if the Commission was ~~to~~ accept the November 19, 2019 reading as the standard then the whole billing should be based on the average monthly usage of 208.5 kilowatts ~~from~~ for the period of complainants usage.

Hence, for the foregoing analysis, pursuant to §332(a) complainants have met their burden of proof that PECO overbilled them as demonstrated by the ~~many~~ indisputable facts that between June 2016 and May 2018, the average monthly kilowatts usage jumped ~~to~~ from 212.88 for the period January 2015 - May 2016 to 284.46 for the period June 2016 - May 2018 and then when complainants initiated their complaint with the Commission the average monthly kilowatt usage dropped to 208.53 and according to PECO's own argument this 208.53 was clearly the accurate reading since there was ~~appropriate~~ calibration of the ~~to~~ Meter Testing Equipment which had not been tested for over 5 years.

Therefore, complainants will request that the average monthly kilowatts usage of 208.53 should be used to bill the complainants for the period of their utility usage up to date.

B. COMPLAINANTS, PURSUANT TO §332(A), HAVE MET THEIR BURDEN OF PROOF THAT PECO VIOLATED THEIR DUE PROCESS RIGHTS BY TRANSFERRING CHARGES FROM OTHER PROPERTIES WHICH CHARGES WERE INCURRED BY TENANTS WITHOUT COMPLAINANTS KNOWLEDGE, TO THE ACCOUNTS OF 7500 NORTH 21ST STREET ADDRESS WITHOUT NOTICES AND OPPORTUNITY TO CHALLENGE THE ACCURACY AND VALIDITY OF SAID TRANSFER ACCOUNTS.

PECO in its argument ^{stated} that "complainants have not met their burden of proof, pursuant to §332(a), that PECO violated their Due Process Rights by transferring charges from other properties ~~in their~~ to the Account relating to 7500 N. 21st Street" ^{and} cited some codes and cases to support its contention. However, those cases and circumstances are completely distinguishable from the case before the Commission.

First, 52 Pa Wde §56.16 and Holmes v. PECO, No. C-2015-2478698, 2016 WL 3615208, at *6-7. (June 30, 2016) did not implicate violation of due process of complainants' ^{rights} as established in this case. In the instant case complainant Agnes Atuahere testified that she obtained service for the Transfer Service Properties for tenants to move ^{into} ~~into~~ ^{subject properties} and after a month or so contact ~~the~~ PECO to discontinue service". See line 21 of page 94 through line 25 of page 95 of Transcript of the Hearing. Mrs Atuahere's testimony was incontroverted and not disputed or challenged. PECO allowed said accounts to exist for some time in some cases for about a year without any action to collect or terminate the account and then transferred to Mrs Atuahere's Accounts years after without notice and opportunity

to verify or challenge the accuracy of the Accounts and their validity in clear violation of Complainants substantive due process rights. //

Further, to support PELO's factually unsupported legal conclusion PELO wrote:

"... Mrs Atuahene's testimony established 1) at least some of the transferred properties were rented out by Mrs. Atuahene; 2) Mrs Atuahene did not always notify PELO that the service at the rental properties should be discontinued in Mrs Atuahene's name; and 3) PELO bills would occasionally remain in Ms Atuahene's name when the rental properties were occupied, if the tenant was delayed in contacting PELO. See Exhibit 1 at 92:7-14; ~~words~~ 94:2-25; 95:140."

In fact PELO's above-quoted statement of facts are not borne by the actual facts of the case or as the hearing transcript provides. The indisputable facts of Mrs Atuahene's statement of testimony is as follows:

"JUDGE: Ms Atuahene, when you say that you have a property in your name for a short time, is that based on you finding a tenant for that property? And then having the tenant assume responsibility for the utility service at that property?"

MRS ATUAHENE: Yes

JUDGE: When you rent properties to tenants, do you call the utility to tell them to discontinue service in your name? Or do you assume the tenant will call to initiate service in their name?

MS ATUAHENE : I assume the tenant will, but if they don't, then I - I call PECO.

JUDGE : So it's your practice to assume the tenant will call to initiate service?

MS ATUAHENE : Yes

JUDGE : How do you determine they don't?

MS ATUAHENE : In a month or so;

JUDGE : So you wait about a month - ?

MS ATUAHENE : A month, yeah, to give them a chance to apply.

JUDGE : And then you contact the utility?

MS ATUAHENE : Yes

JUDGE : Okay. I have no further questions for this witness. Mr. Fisher, do you have questions based on the questions that I've asked?

ATTORNEY FISHER : No, Your Honor.

JUDGE : Thank you Mrs. Atuahene. "

~~See~~ PECO b1 Exhibit 1/1/11 page

See Hearing Transcript page 94 line 21-25 and page 95 ~~row~~ line 1 through to line 25.

The Hearing Transcript is a document that needs no interpretation. However, there are some observations to be made here. First, there is nothing in the Transcript to suggest ~~that~~ PECO's contention that: "2) Mrs. Atuahene did not always notify PECO that service at the rental properties should be discontinued in Mrs. Atuahene's name". On the contrary, the examination of ALJ Honorable Angela Jones of Mrs. Atuahene amply established that she always notified PECO that service at the rental properties should be discontinued in Mrs. Atuahene's name as this dialogue demonstrates:

"JUDGE : So it's your practice to assume the tenant will call to initiate service?"

MS. ATUAHENE : Yes

JUDGE : How do you determine they don't?

MS. ATUAHENE : In a month or so.

JUDGE : So you wait about a month --?

MS. ATUAHENE : A month, yeah, to give them a chance to apply.

JUDGE : And then you contact the utility?

MS. ATUAHENE : Yes

JUDGE : Okay."

See Page 95: 8-19

PECO was given the chance for cross-examination however it passed up said chance and presumably it was okay with Ms. Atuahene's response and cannot now complain. Further, there was no evidence by PECO to assert or establish that it provided complainants due process notice of the existence of the Transfer Service Account and that they had opportunity to challenge them of their correctness or validity.

For the foregoing reason complainants met the burden of proof that PECO violated their due process right in the Transfer Service Account complaint.

C. COMPLAINANTS, PURSUANT TO § 332(A), HAVE MET THEIR BURDEN OF PROOF THAT PECO ENGAGED IN FRAUD OR PLANNED TO EXTORT MONIES FROM THEM AS EVIDENCED BY HIGH BILLINGS WITHOUT JUSTIFICATION AND THE USE OF AEP AS A CONDUIT FOR SUCH ACTIONS.

PECO, a public utility, is required under 66 Pa. CSA § 1501 to maintain adequate, safe, efficient, and reasonable service. see 66 Pa. CSA. § 1501.

In this instant case, as amply demonstrated that between June 2016 and May 2018 the average monthly kilowatt usage of electric from PECO jumped from 212.88 for the period January 2015 - May 2016 to 284.46 for the period January 2016 - May 2018 and then after the initiation of the instant complaint the average monthly kilowatt usage dropped to 208.53, all the factual data ~~is~~ is from PECO Exhibit I. Further, according to PECO's own PUC expert testimony PUC wide requires that the meter testing equipment, to ensure accuracy of meter functionality and reading, there should be calibration every six months. Yet PECO's own Exhibits 6 through 9 demonstrates that there was a calibration in 2014 and in 2019 only. This clearly demonstrates violation of PUC wide.

Based on the foregoing reasons complainants, pursuant to § 332(a), have met their burden of proof that PECO engaged in fraud and planned to extort monies from them as evidenced by the high billings due to lack of calibration of the meter equipment testing which rendered faulty readings and billings.

CONCLUSION

Complainants, in their complaint, averred that:

- 1) Complainants were overcharged because of a faulty electric meter, which at the hearing through PECO's own Exhibits 6 through 9 established that the faulty meter billings was due to the fact that the meter testing equipment had not been calibrated for over five years, specifically from July 23, 2014 through November 18, 2019 there was no calibration of the meter testing equipment, despite the fact that Mr. Ralph Landolfi both PECO witnesses testified that PUC code requires that the Meter Testing Equipment should be calibrated every six months to assure accuracy of meter readings;
- 2) PECO violated their Due Process Rights by transferring charges from other properties to the account relating to the 7500 North 21st Street Property without notice and opportunity to question or challenge the accuracy and legal merit of said account;
- and 3) PECO engaged in fraud and conspired with AEP to extort money from Complainants by overbilling.

Complainants carry the burden of proving, by the preponderance of the evidence, that above stated issues were committed by PECO. As demonstrated in this Reply Brief Complainants have met their burden of proof for they have proved that PECO committed the errors raised in their complaint.

Hence, the Commission should find in their favor and against PECO on all issues raised herein and grant all reliefs requested in this complaint and in this Brief and any relief the Commission deem appropriate under the circumstances.

RESPONSIBLE SUBMITTED

AGNES ATUAKENE

STEVE ATUAKENE

CERTIFICATE OF SERVICE

I, STEVE ATUAHENE, hereby certify that a true and correct copy of the foregoing motion/petition and accompanying papers, was served on the below listed addresses by first-class United States mail, postage pre-paid on

6/11/20 (date).

Name: Hon. Angela T. Jones

Address: P U C

Address: Office of Administrative Law Judge
801 Market Street, 4th Floor, Ste 4063

City, State, zip: Phila PA 19107

Name: Edward T. Fisher Esq

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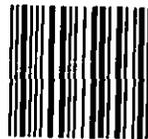
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