

BEFORE

DEC 11 1985

PENNSYLVANIA PUBLIC UTILITY COMMISSION

SECRETARY'S OFFICE
Public Utility Commission

For Commission Use Only:

COMPLAINT DOCKET NO. R-850152C012 REF. # _____ UTILITY CODE 110550
 PENNSYLVANIA FOOD MERCHANTS ASSOCIATION VS. PHILADELPHIA ELECTRIC COMPANY

PLEASE PRINT:

ORIGINAL

1. YOUR NAME, ADDRESS AND TELEPHONE NUMBER.

Name Pennsylvania Food Merchants Association
224 Pine Street
 Street P.O. Box 1047
 City Harrisburg State PA Zip 17101
 County Dauphin Home Telephone-Area Code (717) 234-60
 Work Telephone-Area Code () _____

2. COMPANY YOU ARE COMPLAINING ABOUT.

Name Philadelphia Electric Company

3. WHAT IS YOUR COMPLAINT (DESCRIBE PROBLEM).

The Pennsylvania Food Merchants Association is an association
of retail grocers and convenience stores whose members
receive electrical service supplied by Philadelphia Electric
Company under rates set by this Commission. Supplement
No. 15 to Tariff Electric - Pa. P.U.C. No. 26, the electric
utility rate filing of Philadelphia Electric Company filed
with the Commission on or about September 26, 1985, in
PUC v. Philadelphia Electric Company, Docket No. R-850152
has proposed rates which are not fair and reasonable and,
in particular, which do not track the intra-class costs
of service and discriminate fairly among types of users,
to the harm and detriment of members of the (More Space On Back)

DOCKETED
 DEC 12 1985

DOCUMENT

For Commission Use Only:
 DATE FILED 12/11/85

MONITOR _____ BUREAU ALJ

PENNSYLVANIA PUBLIC UTILITY COMMISSION

UTILITY CODE

REF #

COMPLAINT DOCKET NO. For Commission Use Only

PLEASE PRINT

YOUR NAME, ADDRESS AND TELEPHONE NUMBER

(If You Need More Space Attach Paper)

4. WHAT DO YOU WANT US TO DO?

Suspend and investigate the Philadelphia Electric Company rate filing. Permit the Pennsylvania Food Merchants Association to take part in all hearings which the Company may hold as a result of the rate increase filing, and set rates which are fair and reasonable to members of the Association.

(If You Need More Space Attach Paper)

David L. McCorkle

Signature of complainant or attorney for corporate complainant

YOU MUST SIGN HERE

David L. McCorkle

PUT TODAY'S DATE HERE

December 5, 1985

Today's Date

YOU DO NOT NEED A LAWYER

If you DO have a lawyer PLEASE PRINT the lawyer's name, address and telephone number below.

Lawyer's Name: Edward S. Wardell and Constance B. Foster
Dilworth, Paxson, Kalish & Kauffman

Street: 2600 The Fidelity Building

City: Philadelphia State: PA Zip: 19109-1094

Telephone Number-Area Code (215) 875-7000

FOR COMMISSION USE ONLY

AFFIDAVIT (Natural Person)

COMMONWEALTH OF PENNSYLVANIA }
_____ County } ss.

_____, being duly sworn (affirmed) according to law, deposes and says that the facts above set forth are true and correct; or are true and correct to the best of his knowledge, information and belief and he expects to be able to prove the same at the hearing hereof.

Signature of Affiant

Sworn and subscribed before me this _____
day of _____ 19 _____

My Commission Expires _____

Signature of Official Administering Oath

AFFIDAVIT (Corporation)

COMMONWEALTH OF PENNSYLVANIA }
Dauphin County } ss.

David McCorkle, being duly sworn (affirmed) according to law, deposes and says that he is Vice President of Pennsylvania Food Merchants Association (Office of Affiant) (Name of Corporation); that he is authorized to and does make this affidavit

for it; and that the facts above set forth are true and correct; or are true and correct to the best of his knowledge, information and belief and he expects the said Pennsylvania Food Merchants Association (Name of Corporation) to be able to prove the same at the hearing hereof.

David McCorkle

David McCorkle

Signature of Affiant

Sworn and subscribed before me this 11th
day of December 19 95
My Commission Expires 2-4-86

Robert A. Hallenbergh

Signature of Official Administering Oath

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

December 12, 1985

IN REPLY PLEASE
REFER TO OUR FILE

R-850152C012

William E. Zeiter, Esq.
Morgan, Lewis & Bockius
One Logan Square
Philadelphia, PA 19103



Dear Mr. Zeiter:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by Pennsylvania Food Merchants Association (the complaining party)

To defend yourself against the claims stated in the following pages, you must act within twenty (20) days, by filing in writing with the Commission, either personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days.

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

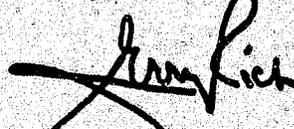
AN ADMINISTRATIVE LAW JUDGE MAY REVOKE OR SUSPEND ANY CERTIFICATE OR PERMIT HELD BY YOU, OR IMPOSE A FINE, OR ANY OTHER APPROPRIATE PENALTY OR REMEDY AUTHORIZED BY THE PUBLIC UTILITY CODE. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, Pennsylvania 17108
(800) 692-7375

Very truly yours,


Jerry Rich
Secretary

Attachment

...of the Public Utility Code, 66 Pa.C.S. § 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE, You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the Secretary of the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17120, an answer (original and two copies), in writing, under oath, which, as required by Section 35.35 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 35.35, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant.

Pennsylvania Food Merchants Association

Complaint Docket
R-850152C012

Philadelphia Electric Company

DOCKETED
DOCKET
DEC 19 1985

**FORMAL COMPLAINT
NOTICE TO RESPONDENT
TO ANSWER OR SATISFY**

To: Mr. William E. Zeiter

DOCUMENT
FOLDER

TAKE NOTICE: That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa.C.S. § 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the Secretary of the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17120, an answer (original and two copies), in writing, under oath, which, as required by Section 35.35 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 35.35, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant.

2. If you fail to either satisfy this complaint or to file an answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 35.35 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 35.35. In that event, an Administrative Law Judge of the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy.

Corrected Mail
Receipt Requested
12/19/85

authorized by the Public Utility Code, 66 Pa.C.S. §101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Administrative Law Judge is not limited to the relief sought by the complainant in paragraph 4. of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint will be dismissed by an Administrative Law Judge in accordance with Section 703(a) of the Public Utility Code, 66 Pa.C.S. §703(a), unless the Judge determines that such dismissal would be contrary to the public interest, in which event he may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, an Administrative Law Judge will, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa.C.S. §101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Administrative Law Judge is not limited to the relief sought by the complainant in paragraph 4. of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in this complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa.C.S. §101 et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4. of the attached complaint.

Jerry Rich
Secretary
12/12/85
(SEAL)

Certified Mail
Return Receipt Requested
JEP:ahn

MORGAN, LEWIS & BOCKIUS

ORIGINAL

WASHINGTON
NEW YORK
LOS ANGELES

COUNSELORS AT LAW
2000 ONE LOGAN SQUARE
PHILADELPHIA, PENNSYLVANIA 19103
TELEPHONE: (215) 963-5000
CABLE ADDRESS: MORLEBOCK
TELEX: 83-1315

MIAMI
HARRISBURG
LONDON

WILLIAM E. ZEITER
DIAL DIRECT (215) 963-5367

December 16, 1985

RECEIVED

Secretary Jerry Rich
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17120

DEC 16 1985

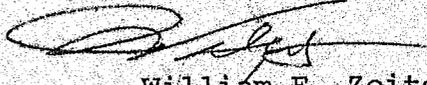
Re: City of Philadelphia v,
Philadelphia Electric Company ^{SECRETARY'S OFFICE} Public Utility Commission
Docket No. R-850152C006

Dear Secretary Rich:

Enclosed are an original and two copies of an Answer filed on behalf of the Philadelphia Electric Company in the above-captioned docket.

By the enclosed Certificate of Service I certify that I am this day serving copies of the enclosed Answer on Complainant.

Sincerely,


William E. Zeiter
Counsel for Philadelphia
Electric Company

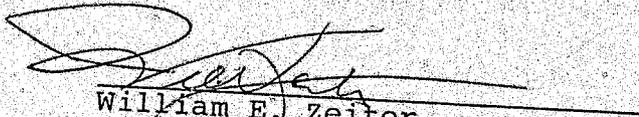
ddq
Enclosure

cc: Mark P. Widoff, Esquire

Mark P. Widoff, Esquire
Widoff, Reager, Selkowitz
& Adler
129 State Street
Harrisburg, PA 17101

Michael Browne, Esquire
Reed, Smith, Shaw & McClay
1600 Avenue of the Arts Building
Broad & Chestnut Streets
Philadelphia, PA 19107

Alan R. Squires, Esquire
Greenstein, Gorelick, Price,
Silverman & Laveson
900 Two Penn Center Plaza
Philadelphia, PA 19102



William E. Zeiter
Counsel for Philadelphia
Electric Company

CERTIFICATE OF SERVICE

I hereby certify that I have caused copies of the Philadelphia Electric Company's Answer to the Complaint of the Utility Users Committee of Philadelphia, Inc. and the Board of Trustees of the University of Pennsylvania filed on December 16, 1985 to be served by first class mail, postage prepaid on all active parties in the Limerick No. 1 Rate Proceeding at Docket No. R-850152C006.

Mr. Jerry Rich, Secretary
Pennsylvania Public Utility Commission
New Filing Section
Secretary's Bureau, Room B-18
North Office Building
Commonwealth and North Streets
Harrisburg, PA 17120

Janet Parish, Esquire
Community Legal Services, Energy Project
3638 North Broad Street
Philadelphia, PA 19140

David M. Kleppinger, Esquire
100 Pine Street
Harrisburg, PA 17108-1166

Irwin A. Popowsky, Esquire
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Zori G. Ferkin, Esquire
Governor's Energy Council
P.O. Box 8010
300 N. 2nd Street
Harrisburg, PA 17105

Mildred E. V. Pitts, Esquire
Information Resources & Utilities Division
General Services Administration
Room 4002
18th and F Streets, N.W.
Washington, DC 20405

Charles E. Rainey, Jr., Esquire
One Reading Center, 5th Floor
1101 Market Street
Philadelphia, PA 19107

approximately \$670.7 million, or 28.2% of test year revenue, based on budgeted sales for a future test year ending June, 30, 1986. Regarding the averment that the Company's \$207.5 million estimate of the average annual energy cost savings anticipated from the operation of Limerick 1 may or may not actually occur, the amount of energy cost savings is necessarily a projection based on anticipated future conditions. Actual conditions may vary from projections, and the actual energy savings produced by Limerick 1 may be above or below the Company's estimate. Nevertheless, under well-established Commission procedure, any difference between the projected and actual energy costs, including Limerick 1 energy savings, will be reflected in the over/under collection provisions of the Energy Cost Rate assuring that ratepayers will receive the full benefit of the operation of Limerick 1. The Company denies that the increase proposed by Supplement No. 15 is in any way unjust, unreasonable or unlawful or that the proposed increase is not supported by the evidence filed therewith. The Company further denies that the proposed increase is based on unreasonably high costs associated with the generating facilities or on costs associated with plant that is not used and useful in the public service, and avers further that the commercial operation of Limerick 1 will result in energy costs savings.

As previously stated, the Company lacks sufficient knowledge and information to admit or deny averments as to the

customer classes which the Complainants aver they represent and therefore demands proof thereof, but the Company denies that the proposed rate structure allocates a disproportionate share of the requested revenue increase to any particular class of the Company's customers and further avers that the requested revenue increase has been distributed uniformly among customer classes based upon class revenue contributions including fuel costs except that those classes (OP, SLP and SLS) whose return was above 140% of the system average at present rates received a zero increase, and the Residential Heating class received an increase which maintained its 116% index of relative return to the class average. This allocation of the increase places all major classes of service within 25% of the system average return and moves all classes toward system average, except R and RH which remain constant.

The Company denies that the rates proposed by Supplement No. 15 will result in an excessive rate of return on the Company's property used and useful in the public service and avers that the proposed rates are just, reasonable non-discriminatory and lawful under the Public Utility Code, and that such rates will produce total revenues no greater than are needed by the Company to earn a fair return on the value of its plant used and useful in the public service as is its entitlement under the Public Utility Code.

5. For the reasons stated above, the Company denies that either of the Complainants is entitled to the relief requested.

WHEREFORE, for the foregoing reasons the Complaint of the Utility Users Committee of Philadelphia, Inc., and the Board of Trustees of the University of Pennsylvania should be dismissed.

Respectfully submitted,



William E. Zeiter
Counsel for
Philadelphia Electric Company

OF COUNSEL:

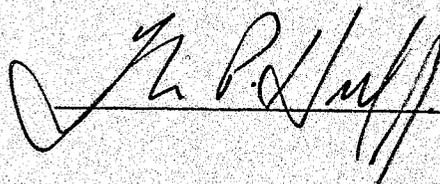
Edward G. Bauer, Jr., Esquire
Vice President & General Counsel
Philadelphia Electric Company
2301 Market Street
Philadelphia, PA 19101

Robert H. Young
J. H. Calvert, Jr.
Walter R. Hall
Frederick H. Knight
David B. MacGregor
MORGAN, LEWIS & BOCKIUS
2000 One Logan Square
Philadelphia, PA 19103

DATE: December 13, 1985

VERIFICATION

THOMAS P. HILL, JR., as provided by 52 Pa. Code §1.36(a) and (d), affirms under the penalties provided for in 18 Pa. Code §4904 that he is Assistant Manager, Rate Division of the Philadelphia Electric Company, that he is duly authorized to make this verification, that the facts set forth in the attached Answer are true and correct to the best of his knowledge, information and belief, and that he expects Philadelphia Electric Company to be able to prove the same at any hearing thereon.



DATE: December 11, 1985

**Pennsylvania
Food
Merchants
Association**

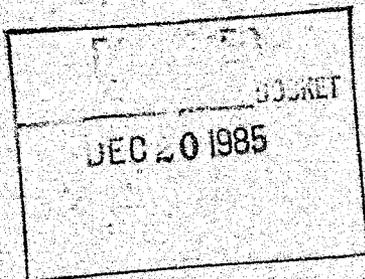
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DEC 19 1985

SECRETAR
Public Utility Commission



December 16, 1985

Jerry Rich, Secretary
Pennsylvania Public Utility Commission
New Filing Section
B18 North Office Building
Harrisburg, PA 17120

Dear Mr. Rich:

R-850152012

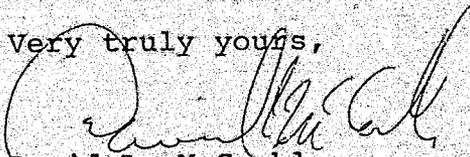
On December 11, 1985, we filed with the Pennsylvania Public Utility Commission a Complaint against Philadelphia Electric Company in which we named Edward S. Wardell, Esq., and Constance B. Foster, Esq., of the law firm of Dilworth, Paxson, Kalish & Kauffman as our legal counsel. We hereby inform you that we withdraw their names and that of Dilworth, Paxson, Kalish & Kauffman as our legal counsel in this matter.

We will name another law firm to represent us in this matter, however, until that time please forward all correspondence and notices to our general counsel at the following address:

Scott C. Penwell, Esquire
Duane, Morris & Heckscher
203 Pine Street
P.O. Box 1003
Harrisburg, PA 17108-1003

If you have any questions, please do not hesitate to call me.

Very truly yours,


David L. McCorkle

DLMcC:pdm

Enclosure

cc: Administrative Law Judge Joseph P. Matuschak

All Counsel

09121685