

**IN THE COMMONWEALTH OF PENNSYLVANIA PUBLIC
UTILITY COMMISSION**

**JACQUELYN B. N'JAI
CLAIMANT**

VS

C-2020-3016134

**PEOPLE'S NATURAL GAS COMPANY LLC
RESPONDANT**

**EXCEPTIONS OF JACQUELYN B. N'JAI, COMPLAINANT
PURSUANT § 5.533(a)(b)(c)(d) § 1. 4, or § 1. 37 (b)
COUNTER TO INITIAL DECISION ON 9/13/2021
BEFORE MARK A. HOYER DEPUTY CHIEF ADMIN. LAW JUDGE
AND EMILY DEVOE, ADMIN. LAW JUDGE**

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EXCEPTIONS

1. Whether N’Jai’s exhibits, complaint, testimony, briefs and other parts of the record, prove that Peoples Natural Gas Company made inaccurate bills that they claimed to be actual, when in fact the actual pictorial meter readings etc. shows otherwise?
2. Whether N’Jai’s exhibits submitted multiple times to the PUC (from **1/14/2020-12/2020**, by USPS Priority mail in 4/2020, **[at the address the ALJ provided], by email, and then on the record**, were given prompt attention, any response to briefs for resolutions, and if they were used as a basis for the ALJ’s initial decision to dismiss, in accordance with Sections 1.1, 1.2, and/or 4.2? In accordance with Title 66(a), (b), (c), (d), (e), and (g).
3. Whether the real inconsistencies of Peoples Natural Gas Company readings and testimony, [that are in violation of PUC Section 56.12(1)-(3), (5)(iii)-(6) and (9) regulations], **constitute justifiable proof on the part of Peoples? (NO)**

4. Whether the People's Natural Gas Company met its **the burden of proof pursuant to §315(c) and (d)**, by mere statements of its one witness' hearsay, verses what the meter actually read? No.

5. Does the **98% weight** of the ALJ in favor of Peoples' irrational statements, and on the Utility's provable contrary exhibits, constitute impartiality as required by 301(f)(a), 319(a)(1)(2)(5) and (6)?

6. Whether the Judge's UNEXPLAINED alterations [of the quality of exhibits 1-11 series], in a way that was not originally submitted by N'Jai in 4/2020, through the 10/5/2020 hearing, and then put on the record], constitute suppression of the record or an abuse of discretion, in order to justify a dismissal? Are the ALJ's actions in contradiction to Sections 331(c), (d)(3),(8);332(a)(b and (c)?

7. Whether the Judge's accepting the offers of proof on prior to and on 10/5/2020, were based upon the exhibits being relevant to prove that PUC made multiple errors? If not, why would the ALJ accept irrelevant evidence?

I. Whether N'Jai's exhibits, complaint, testimony, briefs and other parts of the record, prove that Peoples Natural Gas Company made inaccurate bills that they claimed to be actual, when in fact the actual pictorial meter readings etc. shows otherwise? **(Yes)**

A. Material Facts:

According to the initial findings of the PUC, N'Jai allegedly failed to prove that Peoples Natural Gas Company made erroneous and/or inconsistent billing, and that even though the evidence does show differences between the bill's alleged actual readings and the pictures of the accurate readings at the address where NJai lives, that was not enough to prove error.¹

¹ See Initial Decision of Emily DeVoe and/or Mark A Hoyer, page 1, first paragraph-Introduction.

This is notwithstanding, OTHER Peoples' employees in the Customer Care of People's Natural Gas, along with N'Jai, [clearly saw as a material fact], that the actual reading for December was only 610.7, while the bill claiming to be an actual reading reads 704.8, prior to the filing of this Complaint.²

Also, it is clear by the preponderance of the evidence that other pictures of meter readings do not match from 12/2019-about 2/2020, and the contrary rationalization from the witness should have been discredited as pretextual.

B. Page Number of the decision³

According to the ALJ, he summed up that the facts were as follows:

1. That "N'Jai alleges she discovered that her meter reading on her gas bill was inaccurate when she reviewed the Company's reading obtained on December 4, 2019."
2. "As relief, Complainant requests that the Commission determine that her gas meter was read inaccurately, correct the problem, assist her in finding another gas company and impose a civil penalty on Peoples." p. 1 first paragraph.

C. Supporting reasons for the exceptions

3. *In Section 4.2 (A) "An ALJ is supposed to build a complete record in cases over which he or she presides to ensure that all material issues are raised and discussed. ALJs decide issues, subject to court and Commission policy and precedent. All material issues should be discussed by the ALJ so that when the decision reaches the Commission there is an adequate record upon which it can base its*

² See Peoples Customer Care stating it changed the reading from 704.8 to 610.7 in an email to NJai, prior to another witness fabricating another version of the email. Reply Brief page 6.

³ See Complainant's exhibit #1 (December meter reading), and the December 2019 bill with different readings.

review and then act. ALJs cite appropriate statutes, regulations, and policies.”

4. Not only is the Decision devoid of the complete record of relevant documentation, testimony of N’Jai, and even copies of erroneous billing, submitted by N’Jai, but also, the ALJ has not mentioned any statutes, regulations, nor policies, and have only taken a one sided view based upon what People’s stated without proof, or only with People’s fabricated proof, even though one picture of a meter can be determine not to be hers, because of distinctive characteristics on her meter, verses the one submitted in Peoples’ exhibits.

5. Also, on page 3, # 3, according to the Decision,
“Complainant has been a customer of Peoples at the service address since July 2012 (Tr. 86: Exhibit A).

6. Yet, Complainant submitted facts and proof that she was not a customer in July of 2012, at the address People’s was charging her for, and that she did not move into the address in question **until August 15, 2012.**

7. It’s a fact, that the address for the July 2012 bill in her name, was for another similar address where she never resided **116 LLoyd Avenue, Swissvale, PA 15218**, but was being charged, and that charge was added onto her August/September bill at **7801 Lloyd Avenue #**

116, Swissvale Pa, 15218. See Reply Brief and Brief, documentation to prove her real address.

8. Had the ALJs read the documentation, testimony, briefs, and other parts of the record, in a light more favorable and or fair to the Complainant, then they would have known not to put such inaccurate information in their decision, claiming she moved in on **7/2012, into an apartment when she was living at a completely different apartment on East End Avenue, and then a hotel 7/31/2012-8/15/2012, because of the discovery of dangerous mold and lead, until the apartment at 7801 was ready [i.e. another tenant moved out].**

9. This was testified to, and can be proven with a pro rated lease, etc., that she did not live at either of the addresses where People was charging her at, in July of 2012, but despite the facts, the ALJ used People's provable and erroneous facts, to avoid Peoples being penalized for filing false documents and information, just like the ALJ did about the actual pictures of readings vs a device without pictures submitted by Peoples based upon hearsay.

10. Since the weight of her evidence was not considered in its entirety, and was even modified by the ALJ herself, then surely to N'Jai Section 4.2(a) have been violated, because the complete record was not considered, documents were made illegible and most of N'Jai's

information was omitted, or based only on what Peoples's said employees who were not there to cross, said or did.

11. Even more disturbing is the fact that the ALJ, is aware [in the findings of fact, # 6-7], that there was a discrepancy between the Peoples's reading and the Complainant's reading and picture she gave as evidence which was a true picture of the meter reading that shows the dial was on the 6 and NOT the 7.

12. Despite that awareness of that material fact, the ALJ believed Peoples's refutable rationalization without any evidence to back it up, and despite the fact that the Defendant did not meet its burden of proof, but the Complainant did with proof of the actual readings and the support of other Peoples employees.

13. There are simply no grounds for which to base nor refute the fact that more than one actual photos of a reading of a meter cannot be overruled by stating a technician came out and did not bother to read the meter manually, nor take pictures, but only used a device, to point at the meter and then left.

14. Given the following facts that:

(A) Peoples put false readings on the bills, that did not match the actual meter reading and overcharged N'Jai (a customer);

(B) Peoples got one of it's employees to make up a story about there not being an error after other employees determined there was an error;

(C) Peoples came to the meter on 1/22/2020 (**shortly after the complaint was filed on 1/14/2020**), denied being there until a picture of the People's truck was offered and that was taken on the same day, and then Peoples changed story to he did come on that day, but saw a different reading that Peoples never gave a picture to prove it.

(D) Suddenly the meter disfunctioned and Complainant presented pictures of how the meter was changed physically changed, shortly thereafter 1/22/2020, going to 7 then back to 6, and then to 7 again in 2/2020; and

(E) Peoples filed a document(s) using another meter, that N'Jai's meter photos show do not have some of the same features as her meter has to use as a deceitful means to trick the PUC and N'Jai;

15. To Complainant, these are all legal and legitimate reasons why the PUC should have not problem as a matter of law, and/or relief, to **grant Complainant requests that the Commission determine that her gas meter was read inaccurately, correct the problem, assist her in finding another gas company and impose a civil penalty on Peoples.**" p. 1 first paragraph of the Decision.

16. Finally, on page 4 of the Initial Decision, #12, the ALJ erroneously stated,

“People witness, Denice Claudon, asked Complainant if she would like her gas meter changed out for a meter test in July 2020 and Complainant declined the offer.”

17. Yet, the ALJ lefted out, and it was on record that, Complainant stated she did not trust Peoples doing a test in Johnston, PA where Plaintiff could not have been present to, and even if present would not technically know what Peoples whom she does not trust would be doing after the 1/22/2020 incident, **but N’Jai agreed that the test be done by PUC, or in the presence of PUC, and let the truth be told, she thought that was why from 12/2020-9/12/2021, there was no action being taken, because she thought PUC was doing a test or an investigation.**

18. Why the ALJ left those significant facts out of his decision is disheartening to N’Jai the Complainant, and draws even more questions and concerns about whether the ALJ’s decision was based upon fair and/or impartial applications of the law/PUC Codes, and in accordance with the facts and the evidence.

D. Conclusion of Law

19. Since, the answer to the question whether N’Jai’s exhibits complaints, testimony, briefs, reply brief, and other parts of the record prove that Peoples’ Natural Gas Company LLC made inaccurate bills is yes, then she OBJECTS to the ALJ use of inconsistent hearsay of a

witness to claim otherwise, verses the entire record that contradicts what the witness stated;

19. **because all the relevant evidence** [to the contrary of what Peoples claim], Complainant contends that a review of the Commission is necessary pursuant to §332(h) of the Public Utility Code, 66 Pa. C.S. §332(h) and 52 Pa.Code §5.536, on the grounds that **there is evidence to prove and clear facts that People's made multiple long term errors**, refused to correct them, and over charged the Complainant for more gas usage than was being used, despite the PUC's initial statements to the contrary.

II. Whether N'Jai's exhibits submitted multiple times to the PUC (from **1/14/2020-12/2020**, by USPS Priority mail in 4/2020, **[at the address the ALJ provided], by email, and then on the record**, were given prompt attention, any response to briefs for resolutions, and if they were used as a basis for the ALJ's initial decision to dismiss, in accordance with Sections 1.1, 1.2, and/or 4.2? In accordance with Title 66(a), (b), (c), (d), (e), and (g).

A. Finding of facts

1. On 1/14/2020, Complainant filed a formal complaint against Peoples Natural Gas Company LLC.
2. On 4/29/2020, another/changed pre-Hearing Order from ALJ Emily DeVoe was filed.
3. On 4/30/2020, N'Jai filed a Brief Outline of her issues for the hearings and had attachments.

4. A Certificate of Service was filed showing that she submitted the outline and the exhibits to the address on the pre-hearing order.
5. Not until 9/9/2020, did Complainant hear from the Court, and according to the Court due to covid-19 issues, the documents sent via USPS mail, were not in the ALJ's possession yet.
6. On 10/5/2020, a telephone hearing was given by ALJ Devoe, and N'Jai, People's attorney, and a witness were present.
7. Again, N'Jai made offers of proof, and even though the Court is stating Ex.1-11, the Ex. Were in series of multiple documentation. For example Documents were multiple pictures of the meter, multiple bills from 12/2019-10/5/2020,etc.
8. There were writings on the billing showing that prior to 12/4/2019, showing that she was concerned about being overcharged, but did not know how and was confused. But the bills submitted were clear plain, readable bills, as were other documents submitted to and accepted on the record.
9. The bills showed a pictorial graph of how even when the heating was not being used [except cooking], April through about November, the Complainant was still being overcharged, and there were inconsistent bars on the graphs showing increases in usage not being used.
10. But somehow the pictorial proof of overcharges/graphs on some of the bills [as were the meter readings claimed to be from a device], became hard to understand and read while in the hands of ALJ Devoe, and then they were published, the record was closed, and then DeVoe left from the case without explanation.
11. On 10/27/2020, an Interim Order establishing a briefing schedule was posted onto the docket.
12. In a timely manner, on 12/16/2020, N'Jai filed her Brief and resubmitted the hundreds of documents in support thereof, Ex. 1-11.
13. After Complainant waited from 1/20/2020, through 6/1/2021, to get a disposition of the Complaint, she filed a Motion for Formal Disposition of Case.

14. On 6/15/2021, another Interim Order was filed by the ALJ, attaching Exhibits to the Record and Closing the Record. {460EAD77-52DC-CCD4-864D-7A1019000000}

15. Upon receipt, 6/15/2021, N’Jai noticed the handwriting, editing, notes etc., on the bills or exhibits that she filed and got approved, that were not there before, nor done by her.

16. From 6/15/2021, through 9/12/2021, there was no word from the PUC, ALJ Emily DeVoe, so N’Jai made another inquiry via email, as she now has waited from 1/14/2020-9/12/2021 (approximately 270 days) to get some kind of disposition of the case.

17. Suddenly, on 9/13/2021, a Judge Change Notice (hearing notice), was filed changing ALJ from Emily DeVoe to Deputy Chief Administrative Law Judge.

18. Complainant N’Jai was/is confused about the changes in ALJ, and why, as well as being given a hearing notice to a hearing that she does not nor was notified to participate in that occurred ex parte., another initial Decision on the same day.

19. On the same day, and in more shock, on 9/13/2021, Judge Mark A. Hoyer made a decision to dismiss the case, for alleged failure of N’Jai to prove that her gas meter was inaccurately read by People Natural Gas Company LLC.

B. Conclusion of Law

1. According to the Office of Administrative Law Judge Operating Procedure Manual,

“The Office of Administrative Law Judge (OALJ), **provides fair, prompt conflict resolution** whether by formal on-the-record proceedings or by use of alternative dispute techniques.” See Section 1.1. p. 1.

2. But the record shows that there was no fair nor prompt conflict resolution in this case from 1/14/2020-9/25/2021.

3. **The idea of** (a) making a significant part of some of the bills illegible by the ALJ, without explanation, (b) changing ALJ’s without

explanation, (c)having a hearing about the change of ALJ without N’Jai’s understanding or input, ex parte, and then (d) dismissing on arbitrary and capricious grounds contrary to the evidence, or record, **are not fair dealings.**

4. To Complainant these actions are in direct contravention to Section 1.1, and 1.2, and nowhere in this section does it state that an ALJ should deface some of the evidence as it was submitted by a party, and seek to minimize the evidence out of serious consideration.

“ According to Section 1.2 Administrative Law Judges are responsible for fair, prompt conflict resolution of formal on-the-recording contested proceedings assigned to them. They are responsible for determining and following a schedule for the proceedings assigned to them, ruling on motions, presiding over the hearing process, encouraging settlements, controlling and ensuring a well-developed record, and preparing Initial or Recommended Decisions to assist the Commission in meeting its statutory responsibilities under Public Utility Code.”

C. Supporting Reasons for Exceptions

5. Even though there is a legitimate excuse for a reasonable delay in proceedings during the pandemic, that began on or about March of 2020, a case taking **588** days [and 2 requests for action by the complainant], is unacceptable, and reflective of the apparently bent mind on how the Judge really felt about N’Jai’s complaint.

6. Looking at the docket sheet, on 11/16/2020, through 12/16/2020, both the Complainant and the Respondent filed Briefs, but

from 12/16/2020 through 9/13/2021, at no time did Emily DeVoe respond to any of the the Briefs at all, even though they are a significant part of proving Peoples acts and omissions were arbitrary and capricious.

7. Also, on Brief and Reply Brief, [with specific parts of the accepted Ex. 1-11 documents embedded in them], there is strict proof that

- (A) . Peoples not only erroneously billed N’Jai for People’s misreadings of the meter,
- (B) but also the pictures show how her meter has specific characteristics,
- (C) that were clearly different than the few meter pictures submitted by Peoples Gas Company [for 2 years prior to the sudden jump from the 6 to 7 dial in 2018 or Ex F],
- (D) as a “pretextual” justification for Peoples being seen by N’Jai, tampering with the meter on 1/22/2020.

8. For example there is a black indented dot in her meter, that has been there throughout all the picture takings of the meter, but on the exhibit “F” given by Peoples, there is no such mark.

9. Those facts, and evidence, coupled with the fact that Peoples came to the meter and physically tampering with it to reflect the billing

approximately a week later, after a complaint was filed, are troubling facts that the ALJs questionably ignored.

10. To N'Jai, the answer to this exception, and that is based upon all of the above, is that there are legitimate reasons why the PUC must penalize Peoples Natural Gas Company for violating the PUC Code, and indicate that the actions of the ALJs were not done in accordance with Sections 1.1, 1.2, nor 4.2(A). (not prompt, nor based upon ALL of evidence submitted, not based upon the factual truth, nor the law, and are not fair), and are not accordance with Title 66(a), (b), (c), (d), (e), and (g).

III. Whether the real inconsistencies of Peoples Natural Gas Company readings and testimony, [that are also in violation of PUC Section 56.12(1)-(2), (5)(iii)-(6) and (9) regulations], **constitute justifiable proof on the part of Peoples? (NO)**

A. According to Section 56.12, that involves Meter reading; estimated billing; customer readings:

“(2) If a public utility bills on a monthly basis, it may estimate usage of service every other billing month, so long as the public utility provides a customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills must be based on the information provided, except for an account when it is apparent that information is erroneous.” See Register Vol. 50, No. 37, September 12, 2020, Section 56.12.

1. According to the Decision, the Complainant allegedly did not prove that People's made erroneous bills that costed N'Jai more money for gas not used. P. 1.
 2. It was relying on statements and People's generated, and inconsistent documents, made by Peoples' one employee witness[as People's main source for its burden of proof].
 3. **This is notwithstanding, that witness, was not the same employee(s) who wrote to the Complainant, who followed Section 56.12, and stated otherwise, that there was an error and according to the employee, in an exhibit imprinted on page 6 of N'Jai's Reply Brief, she/Peoples' Employee, changed the 708.4 to 610.7 on N'Jai's account.**
 4. This document was submitted into evidence, and accepted.
 5. December 19, 2020, at 7:04 AM, after N'Jai sent in the identical same photo of the actual reading as she did with this PUC, this is what Peoples Natural Gas Company Customer Care employee(s) stated in an email.
-

“198F25D8500 Response from Contact Us,contactus@peoples-gas.com, to Jacquelyn N'Jai , <jredeemed@gmail.com>

“Good Morning:

Thank you for contacting People Gas. I have entered the meter read of 610.7 on your account. If you have any further questions or concerns,

please feel free to contact us via Email, Chat or through our Customer Service Department at 800-754-0111. We are available from 7a-5p, EST, Monday-Friday.

Thanks You,

Tammy

6. The ALJ ignored exculpatory this evidence against Peoples, and the ALJ decided, that since the agent/witness stated that some unknown technician, went to read the meter with some kind of device other than a physical picture, that allegedly proves by the preponderance that the bill reading of **708.4** is accurate, despite the fact that the real picture of the meter at the same time frame, showed a reading of only **610.7**. **ALJ determined Peoples own other employees were** inaccurate, just because they say so, ignoring the evidence that is was not accurate.

7. The ALJ also ignored this **absolute contradiction** between what the witness stated on the record, and what People's as a Company did on December 19, 2020 at 7:04 am, and what was told to the Complainant by Tammy.

Also, according to (5)(iii), when reading from a remote reading device:

“When the actual meter reading establishes that the customer was over billed due to an error in the readings of the remote reading device, the public utility shall credit or refund to the

customer the amount over billed plus interest calculated under C2A7 56.181(3) (relating to duties of parties; disputing party's duty to pay undisputed portion of bills; public utility's duty to pay interest whenever overpayment found)."

8. To the Complainant the ALJ followed /**her** original decision to prejudge a dismissal, despite the evidence, when she asked N'Jai what will she do if she/ALJ dismisses the case prior to even accepting the evidence on the record.

9. Complainant contends that these decisions are not fair, nor rational, since the decisions were based upon provable falsities.

10. To N'Jai she did more than proved error on the part of People's and that to dismiss the case without even mentioning, nor considering the above evidence/exhibits/facts/even PUC Code, is not fair, nor lawful.

11. See Main Brief and Reply Brief filed efile with evidence showing Peoples burden of proof was pretextual to its own decision).

12. See also Appendix Parts 1-1V Complainant's Burden of Proof By the Preponderance of the Evidence Title 66: §332(a)(b)(c) and (d), sent to ALJ Devoe, Secretary Rosemary Chivetta, Jennifer Petrisek, and Andrew Weisner, on or about 4/9/2020 by USPS Priority mail at the address DeVoe provided on her order, and by email on 4/14/2020.

13. These appendices make up the Ex. 1-11 offered and accepted on 10/5/2020, but not consider proof, or not considered in the ALJs' Decision(s).

14. They were also attached to the Complainant's Main Brief on 4/23/2020 resent more than once, after a mistype of a letter in one of the receiver's name.⁴

IV. Whether the People's Natural Gas Company met its **burden of proof pursuant to §315(c) and (d)**, by mere implicitly false statements of its one witness' hearsay, verses what the meter actually read? No.

According to Section 315(c),

A. "In any proceeding upon the mention of the Commission involving the service or facilities of any public utility, the burden proof to show that the services and facilities involved are adequate, efficient, safe, and reasonable shall be on the public utility."

(1). When N'Jai showed other Peoples' employees, in the Customer Care that there was proof of an error, People's had a burden of proof to show it was not, but instead agreed to **changed it to the actual meter amount**.

(2). Why someone other than the Customer care, decided to change the facts and refused to credit N'Jai for its mistake(s), should make the burden of proof be on Peoples to accurately refute the evidence, with a NON PRETEXTUAL, clearly documented, and provable basis.

(3) The burden of proof should have not been on N'Jai to show anything else other than **the hundreds of proof** in the **1-11** series that she

⁴ See email proof of all documents sent to all parties, including ALJ DeVoe, some 6 months in advance to the 10/5/2020 hearing, that DeVoe once again was ill prepared for.

submitted to the Judge and the secretary, but was suppressed. There were more than 11 exhibits that constituted EX. 1-11, as mentioned above.

(4) Each one proves that the Complainant N'Jai more than was even necessary, proved that Peoples natural Gas Company LLC, did over charge her by readings improperly obtained and by erroneous readings.

(5) The contradictory statements of the witness for Peoples, is not lawfully nor creditably consistent with the facts, nor the evidence.

B. Also, according to Section 315(d), in re to Justification of Accounting Entries,

“The burden of proof to justify every accounting entry questioned by the Commission shall be upon the Public Utility making, authorizing, or requiring such entry, and the Commission may suspend any charge or credit pending submission of such proof by such public utility.”

(6) In this case, the billing (accounting), the service/facilities of the so-called technician who came to the meter and did not physically read it nor take a picture, are at issue, but the burden to proof was allegedly on the Complainant and not really on the Utility Company, Peoples.

(7) Even though it was made perfectly clear that there was an error, Peoples still never came to the meter, took a picture and submitted it as proof for 1/22/2020 to impeach the Complainant's pictures or meter

(8) As Complainant stated above, and according to the ALJs' Initial Decision, "N'Jai somehow failed her burden of proof and not Peoples" that is not a truthful, nor fair decision.

V. Does the 98%-99% weight of the ALJ decision, lean in favor of Peoples' non-credible statements, and lack of sufficient evidence (as listed below 1-8, constitute impartiality as required by 301(f)(a), 319(a)(1)(2)(5) and (6)? Or, 332(a)(b) and (c) regarding evidence?

According to §319(a)(2), "An ALJ should perform all duties impartially and diligently."

But to the Complainant, excluding her exculpatory evidence, facts and testimony, because the ALJ does not want to penalize Peoples, is not aligned with this section, and does not appear to N'Jai to be impartial.

Peoples' witness:

1. was not at the meter,
2. was not the technician, and the one who was did not take a picture of the meter but used a remote device.
3. was not the witness named Tammy from the Peoples Customer Care who agreed with N'Jai that there was error, in writing?
4. Since N'Jai/Court/PUC did not have due process to cross them, is that not the Judge relying on hearsay verse documentary proof?
5. In good faith, why did Peoples not get those employees at the hearing to testify about what the "one and only witness" of Peoples

claims? Why not get the employee Tammy to testify, why they[members of the Customer Care Department, initially decided to change the 708.4 to 610.7?

6. But N'Jai's pictures of her gas meter outside her garage, from 12/2019-10/25/2020, were clearly not at 708.4, on nor about 12/2019, but at 610.7, and no matter what unrealistic untrue rationalization the witness can say, she has not changed that material fact.

7. Even if the technician came or not, if the technician did not bother to get out of the truck and physically check to see if the real meter, matched what was on the alleged electronic reader, but only allegedly pointed an object at the meter and left, or even remotely, that is not authentic proof that the readings from the pictures of the meter are to be discarded, as less favorable proof for showing otherwise.

According to Section 332(a)-(c),
“Burden of proof is on the proponent of a rule or order has it except as §315 (b) admissibility of evidence: any oral or documentary evidence may be received, but the commission shall as a matter of policy provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence.”
“No sanction shall be imposed or rule or order be issued except upon consideration of the whole record, or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative and substantial evidence.”

(A) According to the Decision, it considered 5 things that are unreasonable, bias and not based upon law, nor reliable.

(1) That a device without a picture of the actual meter, holds more weight than an actual picture of meter- reading, because Peoples witness say so.

(2) That even though Peoples agreed to put **610.7 vs 708.4**, after N'Jai submitted the picture (s) of the meter and Peoples corrected their error on her account initially, it was somehow ok for Peoples witness to make contradictory statements on the record that what Peoples intended to do was something else, other than what they stated they did.

(3) On January 11,2020, even though the meter pictures showed the dial to still be on 6, since Peoples stated it sent a technician [despite that on the record it denied even being there until photos of the truck and person were submitted on the record by N'Jai], then it held more burden of proof than the actual picture of the meter-reading.

(4) To refute any pictorial picture of the Complainant's meter that contradicted the bills of Peoples, according to this discredited witness of Peoples,

(A) Read the meter a different way than the PUC itself requires, from right to left.

(B) Take the highest number if it is apparent that the dial has not reached the tick, and

(C) If Peoples [who caused the long term problems from refusing to correct its mistakes], were to give a refund for the errors, then Complainant would not have to pay any amount of ever from 2012-2020.

(5) When N'Jai refused to buy into those illogical explanations, then the witness claimed that even though the evidence shows discrepancies, read the meter using a different method and that somehow rebutted evidence by the preponderance.

(6) The witnesses statements made no sense.

(7) Yet, the ALJs decided to dismiss this Complaint, based namely upon this other witness, without calling in the witnesses from the Customer Care who initially corrected the error, are virtually based upon hearsay, instead of strict proof.

B. As stated clearly in N'Jai Main Brief:

According to the **Ohio Public Utility Commission**, and the Gas Company the following requirements contradicts the Peoples Gas

Company witness's statements [as the other Peoples employee impeached the witness' testimony about there allegedly not being an error], as follows:

(8) "Read the meter from left to right and use the lower number when between numbers.

(9) Take a picture of the dial for your records

(10) Ignore any red dials that are marked "100 per rev" or any dial that is significantly larger than the other dials.

(11) Read the dials from left to right.

(12) Starting with the furthest left dial, write down the number that the dial hand hovers over.

(13) If the dial falls between two numbers, write down the lower number (even if it is closer to the higher number).

(14) If, however, the dial is between 9 and 0, write down 9 since technically the 0 marks the beginning of a new rotation and hence a higher number.

(15) If a dial is in between 9 and 0, write down 9 and then reduce the previous number by one. For example, if your second dial is 2, and the third dial fell between 9 and 0, write down 1 for the second dial and 9 for the third dial." Below is an example given by the Commission.

A typical gas meter has four dials. The first and third dials spin counter clockwise, while the second and fourth dials spin clockwise. When reading the meter, if the arm is between two numbers ALWAYS use the lower number.

Here, the pointer is between the 1 and the 2. This dial would be read as "1".

On this dial, the pointer is between the 9 and 0. Whenever the pointer is between 9 and 0, 9 is actually the lower of the two numbers. This dial would be read as "9".

Even though the pointer is near the 9, it still hasn't made it to the "tick" mark on the outside of the dial.* This dial would be read as "8".

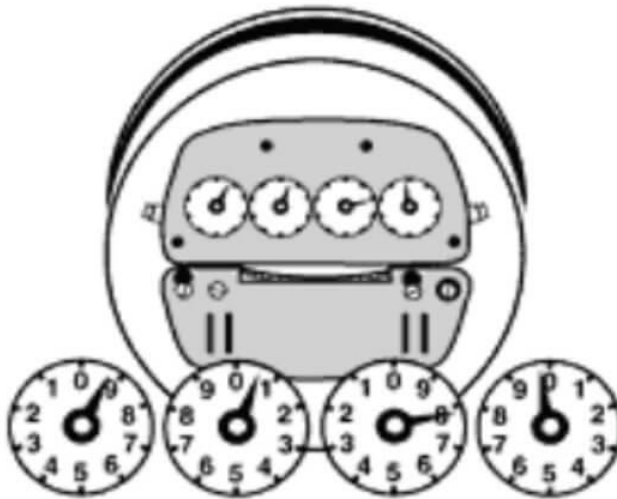
The pointer is directly on the 4. This dial would be read as "4".

1 8 9 4

* If you are having trouble telling if the pointer has passed a number, look at the dial to the right of the dial in question. If the dial to the right has passed the 0, use the higher number. If the dial to the right has not passed the 0, use the smaller number.

Other illustrations given that contradicts the Peoples witness statement

is:



The reading would be 9079.

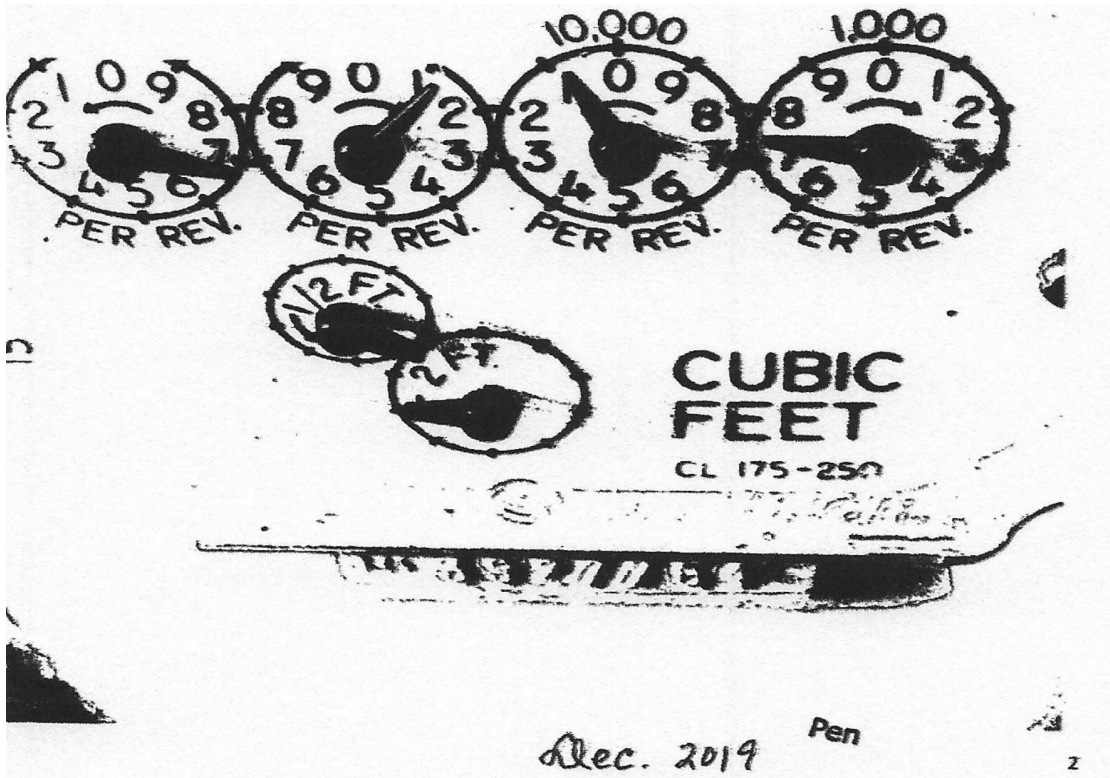
Here is another example:



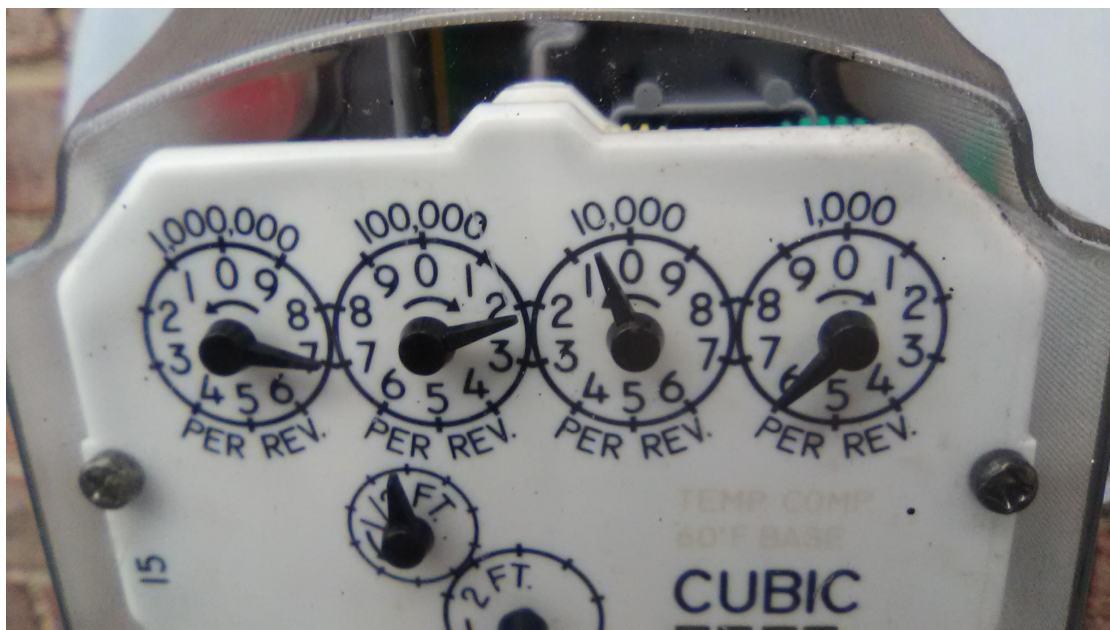
The reading would be 1935.

Source: psc.ky.gov

17. But, Peoples and the ALJ,wants the Commission agreed that the following 2 pictures of the Complainant's meter, must be read from right to left, even though reading right to left would not match the readings on the bills, and is in violation of the PUC Code.



Complainant's Meter Reading December 2019 Illustration 1



Complainant's 1/11/2020 Meter Reading illustration 2

18. The ALJ and People's witness ERRONEOUSLY claim that illustration 1 is 708.4 and illustration 2 is 721.6, allegedly read from an opposite direction, despite the PUC Code requirements.

19. N'Jai contends that if read according to the PUC Code, the Illustration 1 clearly reads 610.7, and illustration #2 reads 621.6.

VI. Whether the Judge's UNEXPLAINED alterations [of the quality of exhibits 1-11 series], in a way that was not originally submitted by N'Jai in 4/2020, through the 10/5/2020 hearing, and then put on the record], constitute suppression of the record or an abuse of discretion, in order to justify a dismissal? Are the ALJ's actions in contradiction to Sections 331(c), (d)(3),(8);332(a)(b and (c)?

§332(d), Record, briefs and argument

“The transcript of a public input hearing, the transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitute the exclusive record for decision, and shall be available for inspection by the public.”

A. Why would the Judge not include strict proof against Peoples, and then despite proof, rule that N'Jai failed to produce it?

1. Exhibits 1-11 consists of more than only 11 exhibits and pages, but are series, within 1 through 11.
2. Paper copies, of documents were sent to DeVoe, in Appendices prior to the hearings that were postponed, because DeVoe stated she did not get the documents from her office yet, 4/2020-prior to 10/5/2020.

3. Appendices or Copies were delivered also to the Secretary who acknowledged receipt, attached to the Brief outline of N'Jai for the hearing, ahead of time.
4. But viewing the closing of the of the record, [that was basically accepted by the ALJ, as exhibits 1-11 series with many pages; the record submitted to the public is not in the totality of N'Jai's proof that Peoples' defrauded her and specifically how it was done.
5. Instead the documents after the ALJ, are in some ways unreadable, and different from the original documents turned into to the PUC by N'Jai via efile.
6. Many were omitted and not considered, as was not Complainant's Brief and Reply Brief, that had parts of the ex.1-11 embedded within it. For example, see pages 6-7 in her Reply Brief.
7. N'Jai contends that the ALJ's acceptance of the 1-11 series, as offers of proof, on 10/5/2020, were because they were relevant to prove Peoples made errors, tampered with the meter, and then made inconsistent statements on the record that are contradicted by the evidence.
8. Contrary to all of the above: Section 332(c), regarding the submission of evidence,
"Every party is entitled to present his case in defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such

cross examination as may be required for a full and true disclosure of the facts.”

VII. Were the ALJ dilatoriness, statements and actions performed consistent with their duties and responsibilities as a ALJ with the PUC? How did it prejudice the outcome of Complainant’s Complaint?

A. The ALJ’s dilatoriness and predetermined bias were evidence on the record as follows:

§319(a)(2), [ALJ] **“must perform all duties impartially and diligently.”**

1. The actions of omissions and the dilatoriness of the ALJ from 1/14/2020, by

(a) By not going to get nor having evidence forwarded to nor delivered to the judge [even when N’Jai sent them by priority mail, at the address the ALJ provided], form the time N’Jai mailed them, until just prior to April of 2020;

(b) By the ALJ causing the first hearing to be postponed because the Judge claimed that the evidence [the Appendices I-IV= Ex 1-11], was not legible or in her presence, and at that time not explaining to N’Jai why because what the Complainant sent, via email and mail, were legible and reasonable sound.

2. By being sent multiple submissions of the same important documents via email to the Secretary who provided an email for Complainant to do so, and confirmed receipt thereof, prior to the first and then again the

second 10/5/2020, hearing, but still not able to be prepared for hearing that she the ALJ scheduled.

3. By the Judge constantly interrupting the many offers of proof by N’Jai who was reading them into the record, directly from the Appendices that she mailed, at both hearings (4/2020 continued), and (10/5/2020); and then
4. By claiming not to be able to read them nor follow along with N’Jai, at the first hearing, even though the documents were in front of her, and/or even though the ALJ had long time access to the documents many months in advance.
5. By stopping the offers of proof, and canceling due to what the Judge claimed was her needing more time to go over the documents.
6. All of the above 1-5 indicate on the record, that the ALJ was dilatorious, and did not performed on the standards consistent with her duties and responsibilities as an ALJ with the PUC, and these actions did prejudice the outcome of the Complaint.

VIII. Whether the Judge’s accepting the offers of proof prior to and on 10/5/2020,were based upon the exhibits being relevant to prove that PUC made multiple errors? If not, why would the ALJ accept irrelevant evidence?

A. “An ALJ, shall not perform duties inconsistent with their duties and responsibilities.” Sect. 304

(1) . To the Complainant, Jacquelyn B. N’Jai, at the onslaught of the Complaint, there were so many other dilatory red flags, such as the ALJ DeVoe’s question posed to N’Jai on the record or at one of the telephone hearings, **“What would you do if I dismissed the complaint?”** before the evidence was being accepted on the record, and after they could not claim her documents as being unreadable, not gotten from office yet, or any other excuse posed, like those submitted by DeVoe as a closing of the record, and then on the same day, prior secretly and questionably, exit off the case.

(2) From the above, Complainant feels she was or is being treated unfairly.

B. Section 332(e), **“When the commission decision rests on official notice of a material fact not appearing in the evidence in the record, upon notification that facts are about to be or have been noticed, any party adversely affected shall have the opportunity upon time request to show that the facts are not properly noticed or that alternative facts should be noticed.”**

To the Complainant,

1) All seem to the Complainant to be in violation of the Code of Ethics (a)(1)-(9).

2). The ALJ, violated the§319, Code of Ethics (a)(1)-(9), when DeVoe, and/or other ALJ, failed to:

- Avoid impropriety and the appearance thereof in this case.

- Did not observe the standards of fidelity and diligence that apply to the Commission and the ALJ.
- Did not refrain from expressing her personal view that she would dismiss the case and asked what the Complainant would do about it.
- Did not initiate proper disciplinary measures against Peoples/the Commissions personnel for unprofessional conduct, and if that is the reason why DeVoe was taken off the case, failed to inform the parties of the reasons related to this case.”
- There was no filing known to the Complainant of a timely and sufficient affidavit of personal bias or disqualification of DeVoe, nor of notice of the hearing to changed ALJs, in violation of §3329d)(3).
- There was no explanation how nor why the bills that were professionally readable, were altered and used in a way that made them hard to read, nor why the ALJ did not attach the **all of real 1-11 exhibits** to the closing of the evidence, and then was gone off the case without explanation. That in and of itself is the appearance of impropriety.

C. §312 Privilege and Immunity:

“No person shall be excused from testifying or from producing any book, document, paper, or account in any investigation or inquiry by, or hearing before the Commission or its representatives when ordered to do so, upon the grounds that the testimony or evidence, book, document, paper or account required may tend to incriminate him or subject him to penalty or forfeiture...No person

so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.”

N’Jai concludes that significant evidence was excused in the initial decision, and the decision is unfair, unethical, and is not consistent with the record, facts nor either Sections

301(b), (f), 302, 304(a), 301(g), nor any other Sections of the Code, and should not be affirmed by the Commission but reviewed.

She believes that Section 307(d) applies, as well as Section (d) and (g), because DeVoe was suddenly removed from this case, without explanation, even though it had to be for good cause.

So, she is requesting that the Bureau of Consumer Services, or the Commission, take official notice, investigate and issue the final determinations and make formal commission action on any matters presented in this Exception. §§307(d).

For Peoples to over charge customers, claiming to be actual readings, then when the customer proves the rates and usage on the bills do not match the actual readings, and then to alter the meter and records to cover up the company’s actions, to Complainant is a form interstate rates, facilities, and service fraud, in violation of §314.

D. “The Commission may investigate the services, etc., of any public utility within this Commonwealth, and when such rates, facilities, or services are in the determination of the Commission, unjust, unreasonable, discriminatory or in violation of any federal law, or in conflict with the rulings, order or regulations of any federal regulatory body, for relief or may present to the proper federal

regulatory body, all facts coming to its knowledge as to the violation of the rules, orders, or regulations of such regulatory body, or as to the violations of the particular federal law.”

“The burden of proof (a) reasonableness of rates is on the Public Utility.”

(1). The charging of Complainant, for usage, prior to her moving into a unit in 7/2012, or at a location where she never lived, as the Utility claimed, and by charging her \$90.00 for inaccurately 87.4 higher usage, is tantamount to whether Peoples is following the PUC current rates.

(2). The argument or conclusion that NJai the customer, has allegedly failed to meet the burden of proof to show that Peoples’ service and facilities, involved are adequate, efficient, safe, and reasonable is not consistent with §315(c) that requires that,

E. “In any proceeding upon the motion of the Commission, involving the service or facilities of any public utility, the burden of proof to show that the services and facilities involved are adequate, efficient, safe, and reasonable shall be on the public utility.”

Also, the **“burden of proof to justify every accounting entry questioned by the Commission shall be upon the Public Utility making, authoring or requiring such entry, and the Commission may suspend any charge or credit pending submission of such proof by such public utility.”**315(d)

To the contrary of this section, the ALJ wrote after suppressing evidence, that the Complainant did not submit proof, that Peoples contradictory and pretextual words of a witness for Peoples, were not true, nor rebutted.

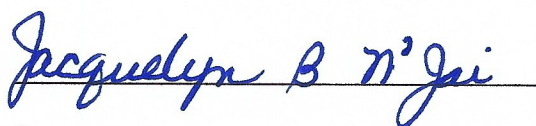
In the furtherance of the unfair decision(s), they claimed that the Complainant did not want any test of the meter (which is not up to her), when Complainant specifically put on the record and in briefs that she wanted the PUC to be present or to do the test. But the ALJ, claimed that she, N'Jai did not want any test of the meter, because Peoples wanted take the meter, to a city in Johnstown PA for which it could continue to tamper with the meter as it is on 1/6/2020 and 1/22/2020. That decision is absolutely not true.

“[I]n the discharging its burden of proof the utility may utilize a future test year or a fully projected future test year, which shall be the 12 month period beginning with the 1st month that the new rates will be placed.”

CONCLUSION:

As a result, the Complainant did NOT fail to provide evidence, did not fail to meet any burdens of proof, did not object to there not being any test by a neutral tester/the PUC AND REQUESTS IT, and therefore the Complaint should not be dismissed, AND Peoples should be penalized.

Respectfully Submitted,



Jacquelyn B. N'Jai

9/28/2020