

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

**Orlando Franco Wooten** :  
-vs- :  
**The Peoples Gas Light & Coke Company** : **04-0732**  
: :  
**Complaint as to billing and/or charges.** :

**ADMINISTRATIVE LAW JUDGE'S PROPOSED ORDER**

By the Commission:

On December 4, 2004, Orlando Franco Wooten (RSI) (hereinafter referred to as "Mr. Wooten," or "Wooten," or "Complainant") filed a Verified Formal Complaint with the Illinois Commerce Commission ("Commission") against The Peoples Gas Light and Coke Company ("Respondent" or "Peoples") alleging that he has been billed for accounts not belonging to him and that in other cases gas service for accounts he controlled had been disconnected with improper notice. In 2004, he paid \$37,556 to have the gas turned back on at several buildings.

This matter came on for status hearings before a duly authorized Administrative Law Judge ("ALJ") on January 6, February 10, March 15, April 12, May 26, June 30, August 9, and September 28, 2005. Hearings were held and evidence was introduced on November 1 and December 19, 2005. Both parties were represented by counsel. At the hearing on December 19, 2005, a Joint Stipulation of facts was agreed to by the parties and subsequently made part of the record.

At the hearings, the Complainant testified on his own behalf. Respondent presented three witnesses: Stephen J. Krol, Susan Anderson and Patricia Medina. All of the witnesses testified under oath. At the close of the evidentiary hearing on December 19<sup>th</sup> the case was marked heard and taken subject to the receipt of late filed exhibits from the Respondent. At the close of the hearing, the Complainant agreed to file his post trial brief on January 18, 2006. No brief was filed. Peoples to file a reply brief on or before February 3, 2006.

A copy of the Administrative Law Judge's Proposed Order was served on the parties on March 7, 2006. Briefs on exceptions were due on March 21, 2006. Reply briefs on exceptions were due on March 28, 2006.

**Hearing Session 1, November 1, 2005.**

By agreement, on November 1, 2006 because of scheduling issues, Stephen J. Krol testified for the Respondent before Complainant had introduced any evidence. His testimony (recounted in detail below) concerned his investigations of metered gas accounts on building units owned or controlled by Mr. Wooten in September 2004. He observed that gas lines shut off by Peoples for non-payment had been turned back on without authorization. He also testified that he observed gas meters that had been circumvented to provide un-metered gas at other buildings believed to be owned by Mr. Wooten. The addresses of the properties he testified about were 2200 E. 93<sup>rd</sup> St., 8615 S. Marquette, 8620 S. Marquette, 9326 S. Cottage Grove, 9349 S. Cottage Grove and 9605 S. Halsted. He offered no testimony about an additional property mentioned in the Complaint located at 7847 S. Coles. All of the properties are located in Chicago.

After Mr. Krol had finished, Mr. Wooten also testified on November 1, 2005. This testimony was meant to be responsive to that of Mr. Krol. On direct examination, Mr. Wooten stated that he is not a tenant at any of the properties mentioned in the Complaint. He does not use the gas at those locations. . He stated unequivocally that his only tie to the buildings was that he managed them. He is aware of how many units are at each building. Mr. Wooten disputed whether some of photographs exhibited by Mr. Krol actually showed the condition of the meters at the addresses he identified. He also questioned the amount of some of the bills. Mr. Wooten did not present any leases or other documentation that these gas bills should have been charged to third parties.

On cross examination, Mr. Wooten testified that he resides at 9625 S. Halsted. He stated that he had no identification because he had been the victim of an armed robbery a week before the hearing. Mr. Wooten said he manages 8615 S. and 8620 S. Marquette and 9326 and 9349 S. Cottage Grove. During another time period he also managed 2200-2202 E. 93<sup>rd</sup>. Street, a nine unit building. He stated that he did not own any of the buildings.

In response to questions from the ALJ, Mr. Wooten said that silent investors owned the buildings. He stated he performed his management duties for a trust. He denied he received any paychecks for his work. He only takes petty cash from rents he collects for the trust. He stated he had forgotten the name of the trust people he deals with other than "Camar," a female. He did not know the business address for the trust. He met Camar on the street to conduct business. He was hired through mutual "street associations." He only knows the first name of the man who introduced him to his employer. He does not get a W-2 form or an IRS 1099 form from his employer. He has managed the buildings for "three to four years . . . since 2001."

He stated he did not know if the buildings are all owned by the same party. His father, Camon, owns the building at 9625 S. Halsted. To Mr. Wooten's knowledge, that building is the only one owned by his father. There are 24 units in the buildings he manages. In the years he has managed them, he has not received any checks or tax

forms reporting his income. He stated that he helps out at the buildings. He is a nurse and a schoolteacher by training. He does plumbing, electrical repairs and cleaning at those locations. He does not get much money from the trust. He denied receiving any documentation for the money paid to him. He occasionally collected rent, but that was not part of his regular job. He stated he did not know how "they" handled evictions for non-payment of rent. He admitted that he was the plaintiff in one eviction suit. He does not know the name of the trust and he denied that it had an office. When he had rent money, he would see "someone named Camar" on the street and give it to her. She called him. The number he had for her had been disconnected.

On redirect, Mr. Wooten stated that it was not his business to be concerned about gas for the tenants at these properties. It was also not his business to be concerned about ownership of the properties. Mr. Wooten said that "the same person named Camar" promised him "certain interests in the building" in return for his work. In response to questions from his attorney he acknowledged that "sometimes those interests turn out to be nothing," but he "does it anyway."

On recross, Mr. Wooten admitted that he had paid in excess of \$37,000 of his money in order to have gas restored to these properties. He confirmed that he had no ownership interest in any of the properties listed in the complaint. He stated that the only account properly in his name from 2002 to 2005 was for the second floor at 9625 S. Halsted. He stated that Peoples had put the other accounts in his name without his authorization.

### **Session 2, December 19, 2005**

Mr. Wooten presented further evidence in support of his complaint. In response to leading questions from his attorney, Mr. Wooten contradicted his prior testimony, stated that he owned all of the properties listed in the complaint other than 9625 S. Halsted. He said that when he denied knowing who owned the properties, the name of the trust, the trustee, the beneficiaries, the name of its agent (his sister, Camar), or, the location of its business office, he had been confused. He stated that he had thought that he could not be the owner of a property held in trust.

He said that gas to all of the buildings was cut off between September 1 and October 1, 2004. He said the tenants in these buildings had the gas service in their names. His tenants stopped paying rent. He called Peoples Energy and asked what was going on. He said a lot of the bills were already paid. A lot of the tenants were in good standing with Peoples. Nothing was scheduled for shut-off. People moved out or refused to pay rent. He had not agreed to pay the tenant's gas bills. Except for a few accounts, he had not requested that gas for these units be put in his name. He told the tenants that the gas was their responsibility.

He had requested that gas for 8615 S. Marquette, second floor, be put in his name. At 8620 S. Marquette he had the hot water heater in his name. At 9326 S. Cottage Grove only the basement account was in his name. At 9349-53 S. Cottage

Grove only 9353, 2<sup>nd</sup> floor was in his name. All of the other accounts for units in these buildings were in the names of tenants.

At 9625 S. Halsted, he had the 2<sup>nd</sup> floor cooking gas account. He ended up paying \$2117 for that cooking account. He was forced to pay the bills for all of the accounts in those buildings. He called Peoples Energy and was told that the gas was being cut off to any building tied to his name. He sold a building at 5226 S. Michigan over a year ago and the gas there was shut off because he had been the owner. He was told by Peoples that there were gas problems with buildings he owned, including tenants who never had the accounts transferred to their names, so Peoples was holding him responsible.

He was required to pay \$37,556 on October 19, 2004. Despite his payment, gas service was not reestablished until at least January, 2005. When he inquired, he was told no one answered when the Peoples' employees came out to reestablish service. He paid people to sit at the buildings on the days scheduled by the Company but the gas service people never showed up. The Company representative told him or his lawyer that no one was at the buildings to let them in. This was not true. He got the runaround for months after he paid the bill.

On many occasions at different locations the Company reestablished service to only part of the building. Then he would have to call to get them to come again and do more. He said Ms. Medina told him he needed to move all of his meters outside. Even though he had paid more than \$37,000, she told him he would have to hire a contractor to move the meters. His lawyer got the company to rescind that demand.

The Company made him pay a bill in the name of Kimmeon Ruff. They did not explain why. The company made him pay the bill at 9625 S. Halsted for the first floor and the basement in the name of Camon Wooten. Only the 2<sup>nd</sup> floor cooking account, which was paid up, was in his name. He was told that no service to any of his buildings would be put back on until all of the bills had been paid. On October 24, 2004, the company put bills in his name that were the responsibility of tenants. For 9625 S. Halsted, he received two separate bills totaling \$8344. He also received a \$2100 for his cooking gas account for his unit in that building. That bill was transferred from another property. He believes he paid that bill twice, but he does not know where it was transferred from.

He said that 9326 S. Cottage Grove had three meters, but the company gave him six bills. All six bills were in the amount of \$97.42. On the basement account he was billed \$5000 for the hot water tank account. He was billed \$1600 for a tenant account at 8620 S. Marquette. At his property on Coles St. the Company cut off the gas in the tenant's name even though she was current in her bill. She stopped paying rent after that.

Although this was not part of his written Complaint, Mr. Wooten said that the gas service at this building was cut off again, in mid November 2005 allegedly because the

company did not like the leases he had provided. They demanded and he recently paid \$12,000 to have the gas turned back on but there was still no gas service. On December 19, 2005, the day of the hearing the outside temperature had been below freezing for a prolonged period of time. He said pipes were breaking and people were freezing in the building. The Company made him pay \$7000 from a 1993 bill and \$5000 more but the heat had not been turned on.

Mr. Wooten provided documents indicating that he had paid \$12,000 the previous week to have gas service restored. The ALJ ordered Peoples to put the gas back on immediately at these locations. Ms Medina indicated that Peoples would send someone out that day. I have received no communication from Mr. Wooten indicating that Peoples did not comply with that directive.

On cross examination, Mr. Wooten produced identification indicating he lived in Calumet City. He was a teacher at Julian High School in 2000. He is a nurse working through a temporary agency. He stated he did not file tax returns from 2002 to 2004 because his tax preparer died and he was unable to get his records back. He admitted that Camar was Camar Wooten, his sister. Mr. Wooten identified a lease for his apartment at 9625 S. Halsted between his father, as lessor, and himself, as lessee, dated 2001. Mr. Wooten admitted that his father has been deceased since 1996. Earlier in the day Mr. Wooten had testified that this building was still owned by his father. He said his sister had presented him with the signed lease and that she controlled their deceased parent's business interests and used his name in transactions.

He stated that the 9625 S. Halsted building was in a trust of which he may be a beneficiary. He does not own the building and he paid rent for the apartment. He said he paid cash and did not use checks and has no receipts.

### **Respondent's Evidence**

Stephen Krol is a filed investigator for the Gas Diversion Detection Department of Peoples Gas. He described his inspections of properties listed on Mr. Wooten's complaint. He usually becomes informed of alleged thefts after reports by other employees result in an investigation. He prepares a report after a field investigation. He produced reports and photographs as discussed below.

He and his crew investigated the 8615 S. Marquette, 2<sup>nd</sup> floor account on September 14, 2004. He found that gas was being supplied to the building but that the gas meter was missing and that the gas supply pipes had been tampered with and reconnected. Pipes were loose and unauthorized materials were used in the pipe connections. Krol shut off the service and removed the pipe connecting to the meter bar.

Krol investigated 2202 E. 93<sup>rd</sup> St, 2<sup>nd</sup> floor rear, on September 16, 2004. He found that un-metered gas was being diverted from the 2<sup>nd</sup> floor front apartment pipes

before it reached the meter for the front apartment. He then caused gas to the 2<sup>nd</sup> floor rear to be shut off and secured.

On September 21, 2004, he inspected 8620 S. Marquette, 1<sup>st</sup> floor front. Krol had been denied access on an earlier occasion. He found that the meter was missing but gas was available. The connections to the service pipe were incorrect and unsafe. He locked off the gas service to this unit. On the same day he inspected the gas service to the first floor rear unit at the same address. Krol found that the service pipes had been tampered with and that locking pipe caps to prevent the use of un-metered gas had been replaced with ordinary caps that would allow someone to steal gas. No gas was being used from those pipes at that time.

On September 21<sup>st</sup>, Krol also inspected the basement at 9326 S. Cottage Grove. Early in the day, a tenant let them into the basement. The meters were in a cabinet to which they did not have access. They could see in the cabinet that for two meter setups, the gas supply pipes were connected by flexible range connectors to the apartment service pipes. Krol told the tenant they needed access to the pipes. The tenant said he would contact Mr. Wooten. Krol and his team left and returned later in the day. When they returned they were allowed access. They found the connectors had been removed but the pipes were improperly connected. He determined that the connectors he observed had been supplying un-metered gas to a central air-furnace.

Krol inspected the 1<sup>st</sup> floor rear apartment service on that same day. He observed that the meter had been removed from this service and that it had been replaced by a flexible connector. His crew removed the connector and installed secure connections shutting off the flow of gas.

Krol returned to that location on October 5, 2004 and found un-metered gas being supplied to the 1<sup>st</sup> floor front and rear apartments and the 2<sup>nd</sup> floor front apartment. The unauthorized connections included fittings from flexible gas range hoses. There were no gas meters in place.

The next address Krol investigated was 9349 S. Cottage Grove. That occurred on September 15, 2004. He found a meter that did not register gas usage, supplying gas to furnaces in the basement and on the second floor. He removed the meter and had it tested. Tests indicated that someone had tampered with the meter and dirt was found inside the meter.

On September 14, 2004, Krol also inspected 9353 S. Cottage Grove. He found a meter operating and in place at that address that belonged at 9326 S. Cottage Grove, 1<sup>st</sup> floor rear. He removed the meter and turned off the service.

The last place Krol inspected on September 14, 2004, was 9625 S. Halsted. They found that the cap seals on meter had been removed to allow access to underlying screws that appeared scratched. In other words, the meter had been tampered with. His crew removed the meter.

### Cross Examination

On cross examination, Mr. Krol stated that he did not claim that gas was stolen from other accounts at buildings mentioned in the complaint. He did not get a reward for finding "a steal" at any location. He makes notes at the time of the inspection of which numbered meter photograph relates to each meter so he can identify the photograph later. He tracks the view finder number with the number on the digital photograph.

He admitted that the photos for 8620 S. Marquette show tampering but not active theft of gas. He relies on company records to know which numbered meter provides gas to what unit in the building. Krol stated that his job is to make the gas service safe and to stop theft of gas.

At 2202 E. 93<sup>rd</sup> St. the meters are located in a hallway. Tenants would have access to the hallway and the meters. The account in question provided gas to stoves or water heaters on the 2<sup>nd</sup> floor rear but not heat for the building. The unauthorized piping was dangerous.

The report for 9326 S. Cottage Grove was written by Mr. Krol's partner, Mr. Walters. He referred to tenants telling them that the building is owned by "the notorious Rootin Tootin Orlando Wooten." The photographs show tampering but not unmetered gas being stolen.

At 9349 S. Cottage Grove the investigation was started as a result of a report of a non-registering meter. No pictures were taken at that location. He removed the meter because it was not working and he needed to remove it to determine if it had been tampered with. On September 3, he had shut the gas off. On September 14, 2004, when he returned, the gas had been turned back on but not by a Peoples employee.

The significance of finding a meter at 9353 S. Cottage registered to 9326 S. Cottage is that the Company is not reading the meter at the new location because it does not know the meter is there to read. The correct location of the meter was clearly indicated in Company records. Its then present location, was due to someone other than the Company moving it.

The reason gas mains to these buildings were turned off is that when the Company only turned off the gas to the buffalo box, someone turned the gas back on. To make sure that the service was safe, it was necessary to turn it off at the main. He admitted that at some locations, metered gas to paying customers in some Wooten buildings were turned off in order to prevent tampering, theft and unsafe conditions. 9326 S. Cottage Grove was one such location.

On redirect examination, Krol testified that it is possible that all of the tenants of a building could have benefited from the thefts.

Susan Anderson

Ms. Anderson testified that she is employed by Peoples as a gas diversion special investigator for the revenue protection area. She stated that she determines whom the account holder is after receiving reports of thefts of gas service or unauthorized usage of gas. She testified regarding 19 of the 22 accounts set forth on Appendix A. She differentiated a theft or steal of gas service from an unauthorized gas usage. A steal occurs when there is un-metered gas or tampering with Respondent's service. Unauthorized usage occurs when there is metered gas that is not being billed.

Ms. Anderson testified about the billing process when a theft of gas service is detected. Respondent's Exhibit 21 indicates how to calculate and measure a degree day. She then went through the 19 accounts shown on Appendix A and described the billing process.

Ms. Anderson testified regarding various bills for 2202 East 93<sup>rd</sup> Street. She testified that she issued a bill for \$97.42 (Respondent's Exhibit 25) for the second floor rear because of a theft of gas service. She testified that gas was cut off on June 17, 2004. Mr. Krol discovered an unauthorized connection in September. She billed both the accountholder, Ms. Kimmeon J. Ruff and the owner, Mr. Wooten, because there was no evidence provided to Respondent that Ms. Ruff was a current tenant. There was a theft of gas service and Mr. Wooten was the building owner. For the third floor rear, she testified that the meter providing gas service was cut off on April 24, 2004 and was found back on September 15, 2004. Mr. Wooten was billed \$179.27 (Respondent's Exhibit 26) for the unauthorized gas usage.

Ms. Anderson then testified regarding the billing for gas service at 8615 South Marquette. For the first floor account, she billed Mr. Wooten \$2,005.81 (Respondent's Exhibit 27) for unauthorized gas usage between July 30, 2002, the date the meter was locked off, and September 3, 2004, the date the meter was found on. For the second floor, she billed \$97.42 (Respondent's Exhibit 28), which is a minimum bill for a non-heating account. The previous account was in the name of Mr. Wooten. The service was cut off on June 15, 2004 and found to be on as of September 3, 2004.

Ms. Anderson testified regarding 8620 South Marquette. Respondent's Exhibit 29 was a bill for \$1,883.58 for the first floor front. At this location there was unprotected service on the meter drop and the meter was missing. Mr. Wooten was billed from September 11, 2003 to September 21, 2004 based on a history of previous billing. She introduced evidence demonstrating how she calculated the heating and non-heating factors of the billing.

Respondent's Exhibit 35 was a bill for \$1,624.58 for the first floor rear. Respondent's Exhibit 36 was the account history for the first floor rear. Respondent Exhibits 37-40, provided the billing process for the first floor account. Ms. Anderson testified how she based her degree day analysis upon an actual reading from January 19, 2001 to the next actual reading on June 2, 2003. Respondent's Exhibit 38 was her

calculation of degree days for the September 11, 2003 to September 21, 2004 period. Respondent's Exhibit 40 is the bill issued to Mr. Wooten for \$1,624.58.

Ms. Anderson provided detailed testimony about the billing for 9326 South Cottage Grove. The account history for that bill was from December 27, 1996 to June 24, 1997 because that was the last time it was billed. The new account billing was based upon old account usage. Respondent's Exhibit 44 showed Mr. Wooten as the owner and September 20, 2002 to September 21, 2004, as the billing period for the theft of gas service. She calculated the bill to be \$5515.37. There was an additional minimum bill for \$97.42 issued for the basement apartment. The billing period was from September 21 to October 5, 2004, when Peoples Gas discovered that the meter had been tampered with again.

The bill for the first floor rear was \$728.21. The report indicated a theft of gas service because the meter was missing and there was an illegal connection. She introduced documents showing the calculation for the billing period in question, October 30, 2003 to September 21, 2004. ; Respondent's Exhibit 52 was the meter index worksheet; Respondent's Exhibit 53 showed the various inputs to generate the \$728.21 bill. Respondent's Exhibit 54 was an additional bill to Complainant for \$97.42, again a minimum bill from September 21, 2004 to October 5, 2004 date that Peoples Gas went back to the unit and found new meter tampering.

She provided the bill for the second floor front, \$105.56, Respondent's Exhibit 55. This bill was for unauthorized, unbilled gas from May 26, 2004, the date service was cut off, until September 3, 2004 when it was found to be back on. A second bill minimum gas bill was issued for the second floor front, \$97.42 (Respondent's Exhibit 56) when Peoples Gas returned to the location on October 5, 2004 and found meter bar tampering. All of the 9326 South Cottage gas bills were billed to the Complainant.

Ms. Anderson also testified regarding her billing for 9349 South Cottage Grove. Respondent's Exhibit 57 was the bill for the basement unit, \$1,883.79. Respondent's Exhibit 58 was an account history for the second floor. She explained that the second floor account history was used because there was no basement account history. She said that investigation revealed an unauthorized connection was providing gas to a furnace in the basement. The second floor meter was servicing the basement gas appliance. She produced documents showing her calculation of the net total bill of \$1,182.79, sent to the Complainant.

The bill prepared by Ms. Anderson for the store at 9353 South Cottage Grove was \$2,010.68. The account history for the store was from December 13, 1995 to September 27, 1996. She explained that this period was chosen because it was the last time an actual bill had been generated on the account. She computed the bill using a degree day analysis for the billing period December 14, 2003 until September 14, 2004. The December 14, 2003 date was chosen by her because that was the day before a leak was found in the first floor rear apartment. The September 14, 2004 date was chosen because it was the day the stolen meter was removed.

Ms. Anderson testified regarding her billing of 9625 South Halsted. Mr. Wooten was billed this based upon his residence in the building, his ownership of the other buildings and the fact that the alleged owner, Mr. Wooten's father, Camon Wooten had been dead for about 10 years. The account history was between November 1, 2000 and October 8, 2002. The billing was from October 8, 2002 was because service was cut off on that date until September 7, 2004, when Mr. Krol discovered unauthorized gas was being supplied. The total basement bill was \$339.75. Respondent Group Exhibit 73, A-F, are the various bills issued to Mr. Wooten totaling \$3,147.69 for the first floor apartment. The total bill was for unauthorized gas usage was between November 23, 2003 and September 14, 2004.

### Cross Examination

On cross-examination, Ms. Anderson testified that she attempted to determine the occupants of the various accounts shown on Appendix A, but was unable to determine who the tenants were. She was not provided any leases by Mr. Wooten for any of the accounts. Respondent's Cross Exhibit 1 was the only lease of record herein, Mr. Wooten's lease for 9625 South Halsted, (second floor) allegedly executed post mortem by his father. She further testified that the service was off on all the accounts prior to her billing the accounts. The 19 accounts were billed to the Complainant either as building owner, account holder or both.

### Patricia Medina

Ms. Medina is a billing specialist for Peoples. She testified about various accounts that were transferred to Mr. Wooten's name including: 2202 East 93<sup>rd</sup> Street, second floor rear east; 8620 South Marquette, second floor front; and, 9625 South Halsted, second floor. She described how an account of a customer is transferred to another account of that customer. She testified that if there is an unpaid balance on a final account and it is not paid by the due date, those unpaid charges are transferred into the next active account of that customer.

Ms. Medina testified regarding the Kimmeon Ruff account ("Ruff account") for 2202 East 93<sup>rd</sup> Street, second floor rear, east. (Respondent's Group Exhibit 74, 12 pages) She testified about the various other accounts that were transferred into the Ruff account. She explained that Respondent billed both the Complainant and Ms. Ruff because Peoples Gas had received gas payment checks on April 3, 2003 from both parties.

Ms. Medina testified about the transfers of accounts to Mr. Wooten's name at 8620 South Marquette, second floor front. (Respondent's Group Exhibit 75, A through I) She testified regarding the various other accounts that were transferred into the subject account. She testified that Mr. Wooten paid various bills and he was the accountholder. She also testified: "...at some point in time, he must either have requested it (the account) in his name or stated that he was responsible for the charges."

Ms. Medina testified about the transfers to Mr. Wooten's account at 9625 South Halsted, second floor. (Respondent's Group Exhibit 76) The final bill was \$2,117.06 on this account, which Mr. Wooten paid on October 20, 2004. Ms Medina testified that the three accounts were disconnected for non-payment of bills and that all the bill transfers were from one residential account to another in accordance with 83 Ill. Adm. Code 280.50.

Finally, as part of the record, Respondent submitted late-filed Group Exhibits 77, 78, 79 and 80. Group Exhibit 77 A through R, sponsored by Ms. Anderson provided information on various accounts, including turn on requests after payment. Group Exhibit 78 A-K, were the various disconnection notices for the three properties testified to by Ms. Medina. Group Exhibit 79 A-H, sponsored by Ms. Medina, was the various billing for 8620 South Marquette, showing the balance owed of \$6,976.42 and the agreement by the attorney to pay the billing. Group Exhibit 80 A-C, is for the 9326 South Cottage Grove address, basement, first and second floor, sponsored by Ms. Medina. This Exhibit shows that gas service was cut off for non-payment on September 21, 2005, but was found to have been restored by someone other than Peoples employees on November 5, 2005. The Exhibit also shows that Complainant failed to make payments pursuant to previous agreements.

Mr. Wooten had also complained that the reinstatement of service was delayed for months after he paid the bill. Peoples' records (9 late filed Exhibit 81) show that 15 of 22 accounts were turned back on between November 3, and November 17, 2004, that is within a month of payment. One account was not restored until April 15, 2005 but Company records show two attempts were made in early November, 2004 to reestablish service. There are four accounts where requests for service were made but service has not been restored although company records reflect that attempts to do so were made in early November, 2004. The records indicate that access to the meters at these accounts was denied. At one of the never restored accounts, Peoples discovered unauthorized gas service in April of 2005. Company records do not document a request for service at the two remaining accounts and Peoples has not turned the gas on to those accounts. Mr. Wooten did not specifically complain about these six, never restored accounts.

### **Commission Analysis and Conclusions**

Mr. Wooten's testimony at the November hearing explicitly contradicted his testimony at the December hearing as well as his December stipulation that he owned seven of the eight buildings in question.

On cross-examination, Mr. Wooten testified regarding the accounts in the name of Kimmeon Ruff at 2202 East 93<sup>rd</sup> Street and Camon Wooten at 9625 South Halsted. He noted that Ms. Ruff is no longer living at that address and could not recall whether she had a lease. He testified in November that his father, Camon Wooten, owned the property at 9625 South Halsted, but then acknowledged in December that his father died in September 1996. (Tr. 285)

He first contended that he only managed the various properties, but did not own them. He conveniently stopped managing the building at 2202 East 93<sup>rd</sup> Street in July or August, 2004 (Tr. 168), just prior to September 2004, when Respondent alleged that there were gas thefts at the building. He initially testified that a trust of silent partners, none of whom he could identify, owned 8615 South Marquette. Later he testified that he owned all of the properties except for the one currently owned by his long deceased father. (Joint Stipulation Exhibit 1)

He also claimed to have no identification, no tax records and no proof of employment. When asked about rent collection and how he passed the rent money to the owners, he stated: "I said, I give it to someone named Camar, a young lady" whose last name he did not recall. Camar is his sister.

It is obvious from the foregoing examples that Mr. Wooten's testimony has no probative value.

Complainant's contentions were that he was forced to pay gas bills for accounts where he was not the account holder and that service was terminated to the buildings prior to the due date. He eventually acknowledged ownership of 7 of the 8 buildings and that he had an ownership interest in the 8<sup>th</sup> building at 9625 South Halsted. As Respondent's witnesses Anderson and Medina noted in their testimony, the Complainant failed to produce any leases for any of the building accounts to establish that someone else was responsible for the bill. The only lease in evidence, Respondent's Cross Exhibit 1, is Complainant's "lease" of the second floor at 9625 South Halsted from his deceased father executed several years after his death.

Mr. Wooten's only challenge to Mr. Krol's testimony regarding the thefts of gas was that some of the photographs entered into evidence were of the wrong meter or building. He did not challenge Mr. Krol's evidence concerning thefts or unauthorized usage of gas service or of the dangerous conditions that existed at the various building which justified termination of service for safety reasons.

Mr. Wooten's did not challenge the billing procedures Ms. Anderson performed in providing the bills to 19 of the 22 building accounts. Other than gas bills sent by Respondent to him, the Complainant failed to provide any written proof to contradict the testimony of Ms. Anderson. While he alluded to certain tenants at some of his buildings, he failed to provide any leases or other evidence of tenancy. Complainant did not really challenge Ms. Medina's testimony. He challenged the legitimacy of the bill for \$2,117.06 for his gas cooking account at 9625 South Halsted. (Respondent's Exhibit 76)

Ms. Medina explained the basis for the transferred bills, but also provided proof that account balances in Mr. Wooten's name were properly transferred to his 9625 South Halsted account as well as his accounts at 2202 East 93<sup>rd</sup> Street and 8620 South Marquette. (Respondent's Exhibits 74 and 75, respectively)

## Administrative Law Judge's Proposed Order

Contrary to Mr. Wooten's assertions, Respondent demonstrated: 1) that adequate notice of disconnection was provided; 2) that an old balance of almost \$7,000 was properly attributable to Mr. Wooten; 3) that service was properly terminated to the 9326 South Cottage Grove building.

Respondent witnesses Krol and Anderson testified to the thefts and unauthorized gas usage at the 8 buildings owned by the Complainant. In each instance, the Respondent proved by a preponderance of the evidence that thefts of gas service occurred through meter tampering, Complainant apparently benefited from the tampering and that the re-billing was reasonable.

There is no evidence that Respondent did not comply with the provisions of Section 280.105 regarding the unauthorized usage and illegal taps of service at the buildings owned by Mr. Wooten. Respondent investigated the various Complainant buildings, found illegal and dangerous taps and terminated service to prevent an unsafe and dangerous condition at the buildings.

The transfer of balances of accounts from one residential account to another active account was consistent with the applicable provisions of Sections 280.60 and 280.50 of the Commission's rules. Ms. Medina provided evidence that those transfers to Mr. Wooten's active accounts were proper and in accordance with Section 280.50.

The evidence shows that there were thefts of gas service and unauthorized gas usage at the 8 buildings owned by Complainant or in which he had an ownership interest. Peoples had the burden of proof in establishing that Mr. Wooten was responsible for the gas bills resulting from the thefts and unauthorized gas usage. We find that Respondent has met that burden. Respondent properly billed the Complainant for the gas thefts and unauthorized usage. Respondent also properly transferred unpaid balances from other Complainant accounts to Complainant accounts at 2202 East 93<sup>rd</sup> Street, 8620 South Marquette and 9625 South Halsted.

Mr. Wooten also complained that the reinstatement of service in 2004 was delayed for months after he paid the bill on October 19th. Peoples' records show that 15 of 22 accounts were back on in within a month of payment and that many of the accounts took more than one service call to reinstate. Company records show that attempts were made to turn the gas back on at the other accounts where a request for service was made. One account was not restored until April 15, 2005 but Company records show two attempts were made in early November, 2004. Service was not restored to six accounts according to Peoples either because no access was provided or no request for service was made. Mr. Wooten did not specifically complain about the six never restored accounts.

Commission regulations do not establish any time parameters for restoring service to accounts where the customer has tampered with gas pipes to provide unmetered gas. Nor do they provide for penalties for failing to reestablish service under these circumstances. Mr. Wooten lacks credibility. We find that the Company's records

establish that reasonable efforts to reestablish service were made. However, we further find that for the six accounts that currently do not have authorized service, Peoples should take necessary action to promptly reestablish service for each account not in arrears where a new request for service is made by a qualified customer.

Based on the foregoing, the Commission concludes that the complaint should be denied.

### **Findings and Ordering Paragraphs**

The Commission, having considered the entire record herein, and being fully advised in the premises thereof, finds that:

- (1) Respondent, Peoples Gas Light and Coke Company, is an Illinois corporation engaged in furnishing natural gas service in the State of Illinois and, as such, is a public utility within the meaning of the Illinois Public Utilities Act;
- (2) the Commission has jurisdiction over the parties and the subject matter herein;
- (3) the findings of fact and the conclusions of law set forth in the prefatory portion of this Order conform to the evidence of record and the law and are hereby adopted as findings of fact and law herein;
- (4) Respondent has calculated bills for the accounts in question in a manner consistent with Commission regulations;
- (5) bills for accounts at buildings owned by or held in trust for the beneficial interest of Mr. Wooten were transferred to Mr. Wooten consistent with Commission regulations;
- (6) there is no credible evidence that notices of disconnection or disconnections were improper; or that efforts to reconnect service were untimely or unreasonable;
- (7) based on Findings (4), (5) and (6), the subject Complaint should be denied.

IT IS THEREFORE ORDERED that the Complaint filed by Orlando Franco Wooten on December 2, 2004 against Peoples Gas Light and Coke Company be, and is hereby, denied.

IT IS FURTHER ORDERED that all motions, petitions and objections made in this proceeding which are not disposed of, be and are hereby disposed of consistent with the ultimate conclusions contained herein.

Administrative Law Judge's Proposed Order

IT IS FURTHER ORDERED that service should be promptly restored to each of the six accounts where service has not been restored if the account is not in arrears and a request for service is made by a customer who qualifies for service.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

DATED:

March 7, 2006

BRIEFS ON EXCEPTION DUE:

March 21, 2006

REPLIES ON EXCEPTION DUE:

March 28, 2006

Terrance Hilliard  
Administrative Law Judge