

**Docket No:** 01-0453  
**Bench Date:** 5/13/03  
**Deadline:** 5/14/03

**MEMORANDUM**

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**TO:** The Commission

**FROM:** David Gilbert, Administrative Law Judge

**DATE:** May 7, 2003

**SUBJECT:** Virginia W. Dieh  
-vs-  
Peoples Gas Light and Coke Company

Complaint as to alleged tapping of services and incorrect billing of current services in Chicago, Illinois.

**RECOMMENDATION:** Deny Application for Rehearing.

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The Commission entered its final Order in this proceeding on March 26, 2003. Complainant, Virginia W. Diehl, filed an Application for Rehearing on April 24, 2003.

Complainant had alleged improper billing by Respondent, The Peoples Gas, Light and Coke Company ("Peoples"), at her residence in Chicago, Illinois ("Premises"). More specifically, she asserted that Peoples wrongfully billed her for gas purportedly consumed, but not metered, due to tampering with gas service equipment at the Premises over several years. Complainant argued that no such tampering occurred, that if tampering did occur, it was ascribable to some other person or entity, including Peoples, and that, in any event, Peoples had not correctly or reasonably measured the un-metered gas allegedly consumed at the Premises.

Peoples replied that Complainant, or someone acting for Complainant's benefit, indeed tampered with Peoples' gas service equipment at the Premises, that irrespective of who performed the tampering, Complainant had benefited from the consumption of un-metered gas diverted by tampering, and that Peoples has reasonably estimated the quantity of diverted gas and billed in accordance with that estimate. The amount Peoples billed for un-metered fuel was \$13, 917.11.

In the final Order in this docket, the Commission concluded that: (1) tampering occurred at the Premises during the period from November 20, 1992 to March 15, 2001; (2) Complainant benefited from the tampering by consuming un-metered gas during that period; and (3) the reasonable bill for the un-metered gas consumed by Complainant, as proven by Peoples' estimation methodologies and other evidence, is \$7011,38. To

the extent that Complainant sought to be relieved of the obligation to pay that amount, the Complaint was denied. To the extent the Complainant sought to be relieved of the obligation to pay anything in excess of that amount, the Complaint was granted.

The Rehearing Application is best understood in the context of prior events in this docket. Prior to evidentiary hearings, Complainant was advised by the Administrative Law Judge that she had the right to secure the services of an attorney, and that the proceedings would be abated while she engaged counsel. Nonetheless, Complainant and her husband, Mr. Sulaiman Asim, initially elected to present their case to the Administrative Law Judge without a lawyer. Mr. Asim presented documentary evidence, testified regarding the significance of those documents and conducted cross-examination of Peoples' witnesses. However, after Peoples completed its case, Complainant requested an opportunity to engage counsel and present additional evidence. That request was granted, with the proviso that evidence already admitted would remain in the record.

Complainant then engaged an attorney and an additional hearing was conducted, during which both sides presented more testimony and documentary evidence. Thereafter, the record was closed and the parties submitted original and reply briefs. Complainant's briefs were prepared and signed by her attorney. However, after an ALJ's Proposed Order was served on the parties, Complainant apparently discharged her attorney. She and Mr. Asim then drafted their own briefs on exceptions. Those documents were filed late, failed to provide mandatory alternative language for the order, and were accompanied by extra-record and irrelevant materials (addressing, for example, Complainant's and Mr. Asim's medical conditions). Nevertheless, in recognition of Complainant's pro se status, her briefs on exceptions were considered (although extra-record and irrelevant materials were ignored).

The Rehearing Application was also apparently prepared by Complainant and her husband. It is accompanied by several documents that are either already in the evidentiary record or were previously, and improperly, attached to Complainant's Briefs on Exceptions. It contains allegations that are both intemperate and unwarranted (e.g., perjury and fraud by Peoples' witnesses). It requests relief that this Commission cannot provide – \$4125 in attorney's fees for Mr. Asim (who is not an attorney), expert witness fees, transcript costs, compensation for Mr. Asim's lost work time, and "discipline" for Peoples (as an entity) and its attorney (as an individual).

Insofar as the Application properly requests rehearing, it repeats arguments and allegations that were already reviewed and rejected by the Commission. Much of the Application, like Complainant's evidence and briefs on exceptions, advances the claim that Peoples has carried out a scheme to defraud Complainant. There is simply no support for that claim in the record, and there is no basis for granting rehearing to re-examine that claim. Peoples carried the burden of proof with respect to tampering and billing and Complainant was accorded ample – indeed, more than ample - opportunity to present her evidence and arguments. Despite the admirable tenacity of Complainant

and her husband, they have presented no cognizable reason for conducting further proceedings before this Commission.

For the foregoing reasons, I recommend that Complainant's Application for Rehearing be denied.

DG:jt