

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE COMPLAINT)
FILED BY CARLET D. WARD AGAINST)
DELMARVA POWER & LIGHT COMPANY) PSC COMPLAINT DOCKET
CONCERNING DISPUTED BILLING) NO. 373-11
CHARGES)
(Filed March 1, 2011))

ORDER NO. 8098

AND NOW, this 9th day of February, 2012, the Delaware Public Service Commission (the "Commission") having reviewed the record in this case; and having received and reviewed the "Findings and Recommendations of the Hearing Examiner (Amended Version)" dated January 10, 2012; and having read the Motion of Delmarva Power & Light Company ("Delmarva" or "Respondent") for Partial Reconsideration dated January 6, 2012; and having reviewed the Letter of Exception of Ms. Carlet D. Ward, complainant ("Ward"), filed on January 20, 2012; and having heard oral argument from the participants at its regularly-scheduled February 9, 2012, meeting; and having deliberated in public at that February 9, 2012, meeting;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That the "Findings and Recommendations of the Hearing Examiner (Amended Version)" dated January 10, 2012 ("HE's Report"), attached as Exhibit A, are adopted by the Commission as the Commission's own decision with the following changes, additions, and clarifications:

a. The Commission has jurisdiction in this matter pursuant to 26 *Del. C.* §201 and 29 *Del. C.* §10125(c).

b. Ward has the burden of proof for this case. 29 Del. C. §10125(c); 26 Del. Admin. C. §1001-2.12.3.

c. In both Ward's original complaint filed on March 1, 2011 ("Complaint"), and her amended complaint filed on August 24, 2011 ("Amended Complaint"), Ward alleged Delmarva had overcharged her on a regular basis beginning in 2006.¹

d. In both her Complaint and Amended Complaint, Ward requested,² among other remedies, a refund of all charges that Ward alleges were in excess of the "billing charges."³ As support for this requested remedy, Ward attached to her Amended Complaint a document entitled "Carlet Ward v. Delmarva Power on File Billing Statements." This document listed dollar amounts which Ward claimed Delmarva had charged her for electric services for dates between May of 2005 and December of 2009.

e. Pursuant to 26 Del. Admin. C. §1001-2.2.2, the Commission's consideration of whether Delmarva properly billed Ward is limited to a review of the Delmarva bills for electric services provided to Ward and her electric consumption between February 28, 2009 and March 1, 2011. This review includes whether Delmarva improperly billed Ward for the electricity consumed by the residents in the double-wide mobile home located behind Ward's residence.

¹ See Complaint, p. 3, and Amended Complaint, p. 1.

² See Complaint, p. 3, Amended Complaint, p. 3, and attachment to Amended Complaint entitled "Carlet Ward v. Delmarva Power on File Billing Statements."

³ See Complaint, p. 3.

f. The Hearing Examiner properly dismissed Ward's allegations in the Amended Complaint regarding the deceit and dishonesty of Delmarva⁴ because the Commission lacks jurisdiction over such allegations. See 26 *Del. C.* §201.

g. At the evidentiary hearing held on December 8, 2011, Ward presented to the participants a "Statement of Facts" which the Hearing Examiner admitted into evidence as Exhibit 3. In the HE's Report, the Hearing Examiner ruled that this document was essentially a Second Amended Complaint and did not allow its late filing.⁵ Under 26 *Del. Admin. C.* §1001-2.14.3, such ruling would have been permissible had the Hearing Examiner made it during the evidentiary hearing. However, once the Hearing Examiner admitted this document into evidence, it became part of the official record of the case. Under Delaware law, the Commission must make its final decision and order based on the entire record of the case. 29 *Del. C.* §10128(a); see also 26 *Del. C.* §503(b).⁶ Thus, the Commission includes this document in its review and consideration of the HE's Report as well as a review of the entire record of this case.

h. The Commission finds no merit to Ward's allegations in the Letter of Exception filed on January 20, 2012. As shown by the record, the Hearing Examiner in this case showed no prejudice or bias

⁴ These allegations are detailed in both the Amended Complaint and the HE's Report, p. 2-3.

⁵ See HE's Report, p. 4, footnote 3.

⁶ 26 *Del. C.* §503(b) states, in pertinent part, that the Commission's findings "shall be in sufficient detail to enable the court on appeal to determine the controverted question presented at the proceeding, and whether proper weight was given to the evidence."

towards Ward during the evidentiary hearing held on December 8, 2011, or within any statements in the HE's Report. Furthermore, the Commission finds that Ward failed to present the specific portions of the record which supported her exceptions as required by 26 *Del. Admin. C.* §1001-2.19.1.2. Finally, no new evidence may be presented at oral argument regarding any exceptions filed. See 26 *Del. Admin. C.* §1001-2.20.1. Thus, the Commission will not consider at this stage of the case the additional documents Ward attached to her Letter of Exception.

i. Based on the evidence and the findings set forth in the HE's Report, the Commission concludes that Ward failed to meet her burden of proof in this case and that Delmarva properly billed Ward for her electric consumption and for the services Delmarva provided to her for the time period at issue, i.e., February 28, 2009, and March 1, 2011. Thus, Ward's claims as set forth in her Complaint and Amended Complaint are denied.

j. Furthermore, although the Commission adopts the conclusions in paragraphs 16 and 17 of the HE's Report and finds that Ward failed to meet her burden of proof,⁷ the Commission rejects the recommendations in paragraphs 24, 25, and 26 of the HE's Report.⁸

⁷ The Commission reiterates that Ward had the burden of proof for this case -- not Delmarva. Thus, to the extent the Hearing Examiner presumed Delmarva had the burden of proof to "conclusively demonstrate" that Ward's Amended Complaint was "void of merit," (see HE's Report, p. 13, ¶27), we reject such presumption.

⁸ Based on the denial of Ward's claims, the Commission will rely on Delmarva to follow the provisions of its tariff currently in effect regarding collecting past due bills from Ward and disconnecting her electric services.

2. That the Commission reserves the jurisdiction and authority to enter such further Orders in this docket as may be necessary or appropriate.

BY ORDER OF THE COMMISSION:

Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary

EXHIBIT "A"

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF)
CARLET D. WARD AGAINST)
DELMARVA POWER & LIGHT COMPANY)
CONCERNING DISPUTED BILLING CHARGES) PSC COMPLAINT DOCKET
(Filed March 1, 2011)) NO. 373-11

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

Amended Version

DATE: January 10, 2012

MARK LAWRENCE
HEARING EXAMINER

Table of Contents

	<u>Page</u>
I. APPEARANCES	1
II. BACKGROUND.....	1
III. DISCUSSION.....	3
IV. JURISDICTION; BURDEN OF PROOF	9
V. RECOMMENDATIONS.....	9

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF)
CARLET D. WARD AGAINST) PSC COMPLAINT DOCKET
DELMARVA POWER & LIGHT COMPANY) NO. 373-11
CONCERNING DISPUTED BILLING CHARGES)
(Filed March 1, 2011))

AMENDED FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

Mark Lawrence, duly appointed Hearing Examiner in this Docket, as delegated by the Commission as follows:

I. APPEARANCES

On Behalf of the Complainant, Carlet D. Ward ("Complainant"):

CARLET D. WARD, *pro se*

On behalf of Respondent, Delmarva Power & Light Company ("DP&L"):

TODD L. GOODMAN, ESQUIRE

On behalf of the Public Service Commission Staff ("Staff"):

BY: JULIE M. DONOGHUE, ESQUIRE, Deputy Attorney General

II. BACKGROUND

1. This matter arises out of a formal complaint filed by Carlet D. Ward ("Ward") on March 1, 2011 against Delmarva Power and Light Company ("Delmarva"). Ms. Ward is one of Delmarva's residential electric customers in Dover. On August 5, 2011, I ordered Ms. Ward to file an Amended Complaint clarifying her allegations. On August 24, 2011, Ms. Ward filed her Amended Complaint. On September 21, 2011, Delmarva filed its Answer and Motion to Dismiss.

2. For purposes of this background section, I will first describe the allegations in Ms. Ward's Amended Complaint and Delmarva's Answer and Motion to Dismiss. The Amended Complaint alleges that Delmarva billed Ms. Ward for energy consumed by a double-wide mobile home behind Ms. Ward's residence which was not consumed by Ms. Ward. (Delmarva Answer, ¶3) Ms. Ward's Amended Complaint further alleges, albeit improperly, that Delmarva has committed the following crimes and causes of action involving deceit and dishonesty:

- a. Theft of Services
- b. Fraud
- c. Embezzlement
- d. Conversion
- e. Trespass
- f. Public Corruption
- g. Insider Trading
- h. Kickbacks
- i. Falsifying Records
- j. Extortion
- k. Consumer Fraud
- l. Espionage
- m. Eavesdropping
- n. Transporting, Transferring, Transmitting and Possessing Stolen Property
- o. Wiretapping
- p. Violation of the Petitioner's rights under the Fourth Amendment to the U.S. Constitution
- q. Deceptive Practices

- r. Infliction of Pain and Suffering
- s. Abuse
- t. Unlawful Consumer Practices
- u. Mail Fraud
- v. Invasion of Privacy.

(Delmarva Answer, ¶4)

3. In its Answer, Delmarva strongly denied all of these allegations. Moreover, Delmarva maintained that it properly billed Ms. Ward for electricity and service delivered to and properly measured by the meter at Ms. Ward's premises. (*Id.*) At the December 8, 2011 evidentiary hearing, I granted Delmarva's Motion to Dismiss the Amended Complaint containing the allegations in Paragraphs a-v above because the Commission does not have jurisdiction over these claims.⁹ I held that the only claim within the Commission's jurisdiction is whether Delmarva had properly billed Ms. Ward for her electric consumption since March 1, 2011 when Ms. Ward filed her original Complaint.¹⁰ (Tr. 7-12; See Title 26, *Delaware Code.*)

III. DISCUSSION

4. At the time she filed her original complaint on March 1, 2011, Ms. Ward's Delmarva account was delinquent in the amount of

⁹The Commission's jurisdiction is further discussed in Section IV, *infra*. As will be demonstrated herein, at the evidentiary hearing, Ms. Ward introduced absolutely no proof of the allegations in Paragraphs a-v of her Amended Complaint.

¹⁰ Exhibits from the evidentiary hearing will be referred to as "Exh. __." References to the transcript from the evidentiary hearing will be referred to as "Tr.-page number." Two exhibits are attached to this Report. Those exhibits will be referred to as "Exhibit 1 or 2," using the complete word "Exhibit."

\$579.16. (Exhs. 3, 5F) As of the evidentiary hearing date, December 8, 2011, Ms. Ward's unpaid balance had increased to \$748.03. (Exh. 5F) This occurred despite Ms. Ward's agreement with Delmarva to timely pay her future electric bills while her formal Complaint was being resolved by the Commission.¹¹ (*Id.*)

5. Ms. Ward lives in a two-story "cape style" residence with an unfinished basement. (Tr.-33-34) She testified that the only electrical appliances she uses are her refrigerator, microwave, television, VCR and some lighting. (Tr. 16-17) Ms. Ward's residence does not have a washer, dryer, or air conditioner. (Exh. 2, Amended Complaint, p.3; Tr.13-14). She does not currently have natural gas service, she does not have hot water, and only eight (8) of her home's electrical outlets work. (*Id.*; Tr. 16)). Some of the electrical outlets appear to be scorched or "burned out."¹² (Tr.-41)

6. Ms. Ward's only heating sources are two (2) portable, 1500 watt, electric space heaters, which each have "high" and "low" settings. (T-43-44, 56-60). One space heater is located in Ms. Ward's first floor kitchen and the other is located in her first floor living

¹¹ At the evidentiary hearing, Ms. Ward filed a "Statement of Facts" claiming that Delmarva owed her \$10,503.94 for improper billings dating back to May, 2005. (Exh. 3; Tr.-21) This Statement of Facts is essentially a Second Amended Complaint. I do not allow this late filing. If allowed, Delmarva would have been prejudiced at the evidentiary hearing in trying to establish, without notice, what energy Ms. Ward used in her home between May, 2005 and March 1, 2011, when Ms. Ward filed her original Complaint. (See *Del. Super. Ct. Rule 15(a).*) However, for the reasons described herein, Delmarva is not liable for this claim anyway.

¹² Delmarva's Energy Engineer testified at the evidentiary hearing that Ms. Ward should have an electrician immediately examine the "burned out" electrical outlets at her home to determine if a fire hazard exists. (Tr.41,47) Space heaters account for 32% of home heating fires and 79% of deaths caused by home heating. (See National Fire Protection Association website, www.nfpa.org.)

room. (Id.) Generally, Ms. Ward operates only the space heater in the kitchen during the day. (Tr.-58; Exh. 4, p.2).

7. However, according to Ms. Ward, when her manual thermostat indicates that the temperature has dropped below fifty (50) degrees, Ms. Ward operates both space heaters. (Id.; Tr.-68) In an attempt to conserve heat, Ms. Ward placed a cardboard divider between her living room and the rest of the house because she spends most of her time in her kitchen or in another room. (Tr.-24-25) Ms. Ward testified that she does not use (or heat) either of her two (2) upstairs bedrooms. (Tr.-17,25)

8. According to Delmarva, Ms. Ward's two (2) electric space heaters are causing Ms. Ward's electric bill to be more costly than Ms. Ward believes it should be. Delmarva's Energy Engineer, David Tancredi, testified at the evidentiary hearing. Mr. Tancredi received an electric engineering degree from the University of Delaware in 2003. (Tr.-38). Since 2003, Mr. Tancredi first worked in Delmarva's Reliability Department and now works as an Energy Engineer. (Tr.-38) Mr. Tancredi's job responsibilities include performing customer service work, such as that he performed for Ms. Ward's benefit. (Tr.-38-39).

9. Pursuant to my direction, Mr. Tancredi (along with Energy Engineer Robert Rountree) inspected Ms. Ward's home on December 6, 2011, two (2) days prior to the evidentiary hearing. (Exh. 4; Tr. 40-41) Mr. Tancredi issued a written report the following day based upon his inspection of: a) the interior of Ms. Ward's home, including her space heaters; b) the exterior electric poles, lines and connections

serving Ms. Ward's meter, and the meter serving the neighboring double-wide trailer; and c) the real-time readings from Ms. Ward's "smart meter." (*Id.*) The Report was marked as Exh. 4 at the evidentiary hearing. For your convenience, this Report is also attached hereto as Exhibit "1" and will be hereinafter be referred to as Exhibit "1."

10. Mr. Tancredi's findings are as follows: 1) Ms. Ward's electric bill and usage is consistent with the energy use Mr. Tancredi observed and what Ms. Ward told him about during his inspection of Ms. Ward's residence on December 6, 2011; and 2) Ms. Ward is not being charged for any electricity or service used by her relative living in the double-wide trailer located behind Ms. Ward's home. (Exhibit 1)

11. In his report, Mr. Tancredi persuasively reported as follows regarding Ms. Ward's electricity use:

"3) Her electricity usage contrasts greatly between winter and summer. I believe this is from her space heaters. Ms. Ward expressed that she thought it impossible that she was using as much electricity as her meter was reporting. Over the summer, her usage has dropped well below 400kWhrs per month. In the winter, over 2,500. Compare this summer to last winter:

<u>Summer</u>		<u>Winter</u>	
<u>Month</u>	<u>kWhrs</u>	<u>Month</u>	<u>kWhrs</u>
5/11	551	11/10	1023
6/11	321	12/10	1698
7/11	249	1/11	3065
8/11	226	2/11	2678 ¹³

The reason for such low [summer] usage is that, without air conditioning or hot water, Ms. Ward is using the most basic of electrical equipment. Television, refrigerator, microwave. I believe

¹³ The average Delaware electric utility customer consumes 942 kWhrs per month. See U.S Energy Information Administration (EIA), ESR Table No.5, most recent data-2009 (Report Released Nov. 2010)

the high usage in the winter is from the two space heaters that she uses to heat the home. As evidence, please see the graph below of her last week [of] electricity usage.

In the attached graph [Exhibit "1" hereto, last page], Ms. Ward's usage increases drastically at night and drops back to normal by the afternoon the following day. The times and dates are highlighted on top. It's my belief that this is due to the first of Ms. Ward's space heaters turning on after sunset and turning off after the sun has warmed the house. According to Ms. Ward, she keeps one space heater on in the kitchen. During especially cold days, when her thermostat drops to around 50 degrees, she uses the second space heater in the living room. I can attest, when we arrived today, the space heater in the kitchen was plugged in and running while the one in the living room was unplugged.¹⁴

Both [of] her space heaters are 1500 watt units.¹⁵ On the 29th and 30th, [of November] after sunset, her electricity usage increases by approximately 1000 watts. The pattern is consistent with space heating.¹⁶ (emphasis supplied) Along the bottom of the chart is the minimum temperature as reported by weather underground (www.wunderground.com) for those evenings. On the night of the 2nd through the 4th the weather dipped below 35 degrees Fahrenheit. I believe that during those cold spells Ms. Ward plugged in her second space heater, thus the electricity usage doubled again. It warmed up again in the last day and she returned to using the single space heater.

From October 18th to November 16th Ms. Ward used 917 kWhrs. As winter begins in earnest the space

¹⁴ Consistent with Mr. Tancredi's Report, the low temperature recorded in Dover on Dec. 6, 2011 was 57 degrees Fahrenheit. (See Exhibit 2 hereto, Weather Underground Exhibit.) Mr. Tancredi's analysis of Ms. Ward's hourly energy use illustrates one benefit of Delmarva's new "smart meters." The smart meters are part of Delmarva's Advanced Metering Infrastructure ("AMI") which records and stores energy use and provides two-way communication between the customer and the utility. (See Delaware PSC's website for a description.)

¹⁵ Ms. Ward testified that her electric space heaters, which are rather inexpensive, were manufactured by the Patton and Holmes companies. The Patton space heater is approximately five (5) years old and the Holmes space heater is approximately three (3) years old. (Tr.34-35, Exh. 3)

¹⁶ Consistent with Mr. Tancredi's Report, the low temperatures recorded in Dover on November 29, 30 and December 2, 3, 4, 2011, were 47, 40, 44, 30 and 31 degrees, respectively. (See Exhibit 2 hereto, Weather Underground Exhibit.)

heaters will begin to run longer and work harder to keep the kitchen and living room warm. Thus, she's drawing thousands of kWhrs of electricity in the winter. The space heaters explain her electricity pattern.

I attempted to discuss the issue with Ms. Ward after my inspection of the property but she made it plain that she does not believe the space heaters could use that much electricity."

(emphasis supplied)

12. As to Ms. Ward's belief that she was being charged for some electricity generated by her relative in the neighboring double-wide trailer, Mr. Tancredi's inspection established otherwise:

"I examined both her and her neighbor's meter and service. This is the neighbor directly behind her, [name withheld and account number withheld], that lives at an unnumbered trailer off Voshell Mill Rd. From a visual examination of the metering at both the trailer and [Ms. Ward's home] there does not appear to be any sign of tampering and the Delmarva Power service drops meet [Delmarva's] construction standards. When talking to Mrs. Ward she voiced her belief that her neighbor was drawing power from her home and driving up her electricity. There was no evidence of an electrical tie between the two homes and I took pictures of the service drops as verification which I can provide."

(emphasis supplied)

13. Finally, after Ms. Ward reported her claim of overbilling to Delmarva in late January 2011, Delmarva sent a Field Representative to inspect the exterior electrical connections and meter of Ms. Ward and her neighbor. (Exh. 5D) The Field Representative, Raymond Blanchette, reached the same conclusions which Mr. Tancredi later did. (Id.)

14. After Mr. Blanchette inspected Ms. Ward's residence and the neighboring double-wide trailer on February 4, 2011, Mr. Blanchette

reported that: 1) there was no tampering of electrical service at either property; and 2) that the properties were separately metered and, during Mr. Blanchette's inspection, one meter was using 16 amps of service, while the other meter was using 23 amps. (*Id.*; Tr.82-83,99) Marianne Murphy of Delmarva's Executive Relations Department timely relayed Mr. Blanchette's findings to Ms. Ward. (Tr.-84)

15. At the evidentiary hearing, under seal to protect confidentiality, I examined Delmarva's bills issued to the resident of the double-wide trailer from August 2009 through October 2011, and found no irregularities. (Exh. 8-*Confidential*; see PSC Rule 11)

IV. JURISDICTION; BURDEN OF PROOF

14. The Commission has jurisdiction in this matter pursuant to 26 Del. C. §201, 26 Del. C. §502 and 26 Del. C. §10122.

15. According to Rule 24(C) of the Commission's *Rules of Practice and Procedure* effective May 10, 1999, the Complainant has the Burden of Proof "except where placed on another party by law...." Thus, Ms. Ward has the Burden of Proof in this case. (See 26 Del. C. 10121, 10125(c)(3).)

V. RECOMMENDATIONS

16. This Report's Discussion Section contains my Findings of Fact for this case. Based upon those Findings of Fact and my analysis below, I find that Ms. Ward has failed to meet her Burden of Proof in this case. Therefore, I recommend that the Commission deny Ms. Ward's claim.

17. I find that Ms. Ward has been properly billed for her electric use and service. I also find that Ms. Ward is not being improperly billed for any of the electric use and service in the neighboring double-wide trailer.

18. Below, I have further analyzed Ms. Ward's space heater use and billing charges for one entire billing period for the Commission. My analysis further demonstrates that Ms. Ward's electric bills are consistent with her usage, as Delmarva's Energy Engineer David Tancredi testified.

19. The formula for estimating electric consumption is as follows: *Wattage x Hours Used per Day, divided by 1,000 = Daily Kwhr consumption*. To derive the total number of Kwhrs used in a particular month, you then multiple this daily amount times the number of days you used an appliance during a particular month. (See U.S. Dep't of Energy website, www.energysavers.gov.)

20. I calculate that, if Ms. Ward had operated one of her 1,500 watt space heaters at only 1000 watts,¹⁷ twenty-four (24) hours per day, for 30 days, she would have used 720 Kwhrs or 40 Kwhr per day, excluding her use of her refrigerator, microwave, television, VCR and lighting. Ms. Ward's bill reflects that she used 609 Kwhrs for the period of October 18, 2011 through November 16, 2011, thereby

¹⁷ I have estimated 1,000 watts per space heater to give Ms. Ward the benefit of the doubt of using only the low setting on her space heaters. Ms. Ward never testified that she only uses the low setting.

incurring total electric supply charges¹⁸ of \$97.80, or about \$3.26 per day. (Exh. 3)

21. This estimated 1,000 watt usage figure was derived from the following: 1) Ms. Ward's testimony that she keeps one space heater on and she turns her second space heater on if her manual thermostat reflects that the temperature has dropped below 50 degrees; and 2) Delmarva's testimony that Ms. Ward's smart meter indicated that her usage increased by 1,000 watts after sunset on November 29 and 30, and December 2, 3 and 4, 2011, when the temperature dropped below 50 degrees. (Exhibit 1, Delmarva Report, Exhibit 2, Weather Underground Exhibit) Thus, it reasons that the second space heater must be using approximately 1,000 watts, probably because Ms. Ward is using the low setting.¹⁹

22. Attached as Exhibit "2" hereto is a listing of the average temperatures recorded for Dover, Delaware from October 18, 2011 through November 16, 2011. (See Weather Underground Exhibit). Ms. Ward's testimony is that she operates her kitchen space heater every day, but when the temperature drops below 50 degrees, she operates both space heaters. (Exhibit 1) Thus, according to Exhibit "2" hereto, Ms. Ward would have operated one space heater everyday during this 30 day period, and she would have operated both space heaters on the nine (9) days when the average temperature dropped below 50 degrees i.e. on Oct. 28, 29, 30 and 31, as well as November 2, 4, 6, 9, and 12.

¹⁸ This amount does not include an additional \$32.11 of Ms. Ward's electric *delivery* charge. In addition to their electric supply charge, each Delmarva customer is also required to pay their electric delivery charge.

¹⁹ Delmarva's Energy Engineer Tancredi testified that "1,000 watts is perfectly within the range of [these] space heater[s]." (Tr.-45)

23. Thus, if Ms. Ward used two space heaters on the nine (9) days below 50 degrees, she would have used 720 Kwhrs on those days alone. This number exceeds her 609 Kwhr of use during this billing period. Even assuming Ms. Ward did not operate a second space heater during some warmer nights or did not use any space heater during some warmer days, when you also consider Ms. Ward's use of her lighting, refrigerator, television, VCR and microwave, it reasons that Ms. Ward clearly used the 609 Kwhrs of electricity reflected on her bill.

24. In conclusion, Ms. Ward is currently delinquent in the amount of \$748.03 as of December 8, 2011. I recommend that Ms. Ward's electric service be disconnected if she does not make full payment of her then current Delmarva residential electric account within seven (7) days of the Commission's Order. This assumes that the temperature on the disconnect day exceeds thirty-two (32) degrees Fahrenheit as required by Delmarva's Tariff. Delmarva's paying customers should no longer subsidize Ms. Ward. I also recommend that, if Ms. Ward's electricity is disconnected, her electricity should remain disconnected pending any appeal.

25. Of course, even if her electricity is disconnected, Ms. Ward may re-instate her service by paying any disconnect fees required by Delmarva's Tariff, plus the entire unpaid balance as of the date of the disconnect.

26. I also direct Delmarva to immediately mail and email its information on energy assistance programs to Ms. Ward. I also ask Ms. Ward to immediately pursue all avenues of energy assistance programs available to her.

27. I recommend to the Commission no longer invest its resources in time and personnel in prosecuting this case because Delmarva has conclusively demonstrated that Ms. Ward's Amended Complaint is void of merit. Accordingly, this case should be dismissed with prejudice and this case closed. A proposed Order is attached as Exhibit "B."

Respectfully submitted,

Dated: January 10, 2012

/s/ Mark Lawrence
Mark Lawrence
Hearing Examiner

EXHIBIT "B"

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF)
CARLET D. WARD AGAINST)
DELMARVA POWER & LIGHT COMPANY)
CONCERNING DISPUTED BILLING CHARGES) PSC COMPLAINT DOCKET
(Filed March 1, 2011)) NO. 373-11

ORDER NO. 8098

AND NOW, this ___ day of _____, 2012

WHEREAS, the Commission has received and considered the Findings and Recommendations of the Hearing Examiner issued in the above-captioned docket, which was submitted after a duly-noticed, formal evidentiary hearing on December 8, 2011, and which is attached to the original hereof as Attachment "A";

AND WHEREAS, the Hearing Examiner recommends that the Complainant Carlet D. Ward's Complaint be dismissed with prejudice;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF
NO FEWER THAN THREE COMMISSIONERS**

1. That, by and in accordance with the affirmative vote of a majority of the Commissioners, the Commission hereby adopts the January 4, 2012 Findings and Recommendations of the Hearing Examiner, appended to the original hereof as Attachment "A."
2. That Complainant Carlet D. Ward has failed to meet her Burden of Proof in this case. Delmarva properly billed Carlet D. Ward for electricity and service delivered to and measured by the meter at Ms. Ward's residence.

3. That Ms. Ward's Amended Complaint is hereby dismissed with prejudice. Within seven (7) days of the date of this Order, Complainant Carlet D. Ward shall pay to Delmarva Power and Light Company her unpaid residential electric charges through the date of this Order, totaling _____.
4. If Ms. Ward does not timely make such payment, Delmarva is hereby authorized to disconnect Ms. Ward's residential electric service, provided that the temperature exceeds 32 degrees Fahrenheit on the disconnect day, as required by Delmarva's Tariff. If Ms. Ward's electric service is disconnected due to non-payment, Ms. Ward may re-connect her service by paying all re-connect fees required by Delmarva's Tariff plus the entire unpaid balance as of the date of the disconnect. If these amounts remain unpaid, however, any disconnect will remain in effect pending any appeal filed by Ms. Ward.
5. This is a final Order.

BY ORDER OF THE COMMISSION:

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary