

Legal Department

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Business Services
Company

Exelon Business Services Company
2301 Market Street/S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Direct Dial: 215.841.6841

October 26, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

Re: **Dolores Sarno v. PECO Energy Company**
PUC Docket No.: C-2012-2329048

Dear Ms. Chiavetta:

Enclosed for filing with the Commission are the following documents in the matter referenced above.

<input type="checkbox"/>	Answer
<input type="checkbox"/>	Answer & New Matter
<input type="checkbox"/>	Motion to Dismiss
<input type="checkbox"/>	Motion for Judgment on the Pleadings
<input checked="" type="checkbox"/>	Preliminary Objection
<input type="checkbox"/>	Exceptions
<input type="checkbox"/>	Reply Exceptions
<input type="checkbox"/>	Main Brief
<input type="checkbox"/>	Reply Petition

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Very truly yours,



Shawane Lee
Counsel for PECO Energy Company

SL/lo

Scheduling Recommendation: Call of the docket Non Call of the docket

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DOLORES SARNO	:	
Complainants	:	
v.	:	DOCKET NO. C-2012-2329048
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §§ 5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Preliminary Objection within 10 days from service of this notice, a ruling may be entered against you. Your response must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Shawane L. Lee, and where applicable, the Administrative Law Judge presiding over the issue.

File with:
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

With a copy to:
Shawane L. Lee
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated at Philadelphia, PA, October 26, 2012



Shawane L. Lee
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103
(215) 841-6481
Shawane.Lee@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DOLORES SARNO	:	
Complainants	:	
v.	:	DOCKET NO. C-2012-2329048
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

**PRELIMINARY OBJECTION OF RESPONDENT,
PECO ENERGY COMPANY**

Respondent, PECO Energy Company (“PECO Energy”), pursuant to 52 Pa. Code § 5.101(a)(4) respectfully petitions this Honorable Commission to dismiss the instant Complaint as legally insufficient.

1. On October 15, 2012, PECO Energy was served with a formal complaint filed by Dolores Sarno (hereafter “Complainant”). A copy of the Complaint is attached hereto as Exhibit “1”.

2. In her Complaint, Complainant alleges that she had a PUC hearing concerning a balance over \$26,000. She said that she cooperated fully at the hearing and testified that the balance could not be possible because she lives alone and has oil/wood stove heat. She claims that she received no definitive answer why her bill is that high. See Exhibit “1”.

3. The Complainant additionally alleges that she is unable to pay the payment arrangement “decided on” in the amount of \$4,900 per month because she does not make that much income. See Exhibit “1”.

4. The Complainant alleges that she has been on and off of PECO Energy's Customer Assistance Program ("CAP") because her income is always hovering on the border of the income requirements. See Exhibit "1".

5. In her request for relief, the Complainant requests that her electric service be restored, and that she obtain the inspector's report as to why he thinks her bills are so high. The Complainant also requests a more reasonable payment arrangement and to be permitted to enroll in the CAP program. See Exhibit "1".

6. Pursuant to 52 Pa. Code § 5.101, preliminary objections may be filed against a complaint and dismissed for legal insufficiency. 52 Pa. Code § 5.101(a)(4).

7. Commission procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil procedure.¹

8. In deciding preliminary objections, the Public Utility Commission must determine, based on the factual pleadings of the petitioner, if relief or recovery is possible.²

9. A complaint must be able to recover under the law to survive a preliminary objection.³

10. All of the non-moving party's averments must be taken as true for the sake of deciding the preliminary objection.⁴

11. The court does not, however, need to accept, "unwarranted inferences from facts, argumentative allegations, or expressions of opinions."⁵

¹ *Equitable Small Transportation Interveners v. Equitable Gas Co.*, 1994 Pa.PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994)

² 2006 Pa. PUC Lexis 111, *7.

³ *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. Ct. 1998) ("preliminary objection should be sustained only where it appears with certainty that, upon the facts averred, the law will not allow the plaintiff to recover").

⁴ *Id.* at 7-8.

⁵ *Feingold v. McNulty*, 2009 Phila. Ct. Com. Pl LEXIS 167, *3.

12. Section 703 of the Public Utility Code, 66 Pa. C.S.A. § 703(b) provides that the Commission may dismiss any complaint without a hearing of, in its opinion, a hearing is not necessary to the public interest.

13. A hearing is required only when there is a disputed question of fact, and is not required to resolve questions of law. *Dee-Dee Cab, Inc. v. Pa.Pub. Util. Comm'n*, 817 A.2nd 593 (Pa.Commw. Ct. 2003), petition for allowance of appeal denied, 836 A.2d 123 (Pa. 2003).

14. Here, there are no genuine issues of fact and PECO Energy is entitled to judgment as a matter of law with respect to all of the allegations in the Complaint.

15. All of the allegations raised in the Complaint were previously raised by the Complainant in a prior former complaint and were dismissed.

16. The Complainant filed a formal complaint raising the same allegations of a “large outstanding PECO balance”; a “payment agreement” on a \$20,000 plus balance; and her desire to be “placed back on PECO’s Customer Assistance Program (CAP)” at Docket number C-2011-2263549. See Formal Complaint at Docket Number C-2011-2263549, attached hereto as Exhibit “2”.

17. Specifically, in the formal complaint at Docket Number C-2011-2263549, the Complainant alleges regarding her large balance:

They refuse to allow me to have electric unless I come up with \$21,000. It is only me here and I can’t do that. I watch what I use, I am 61.5 years old. That balance goes back to 1985 + when I had a family and there were two incomes.

See Exhibit “2”.

18. The Complainant also alleges in her prior formal complaint concerning CAP:

Since 2009 I was thrown off CAP and would constantly be told yes I qualified then no I do not. I send in the paperwork but it either is denied that the (sic) got it or it was never received. ...I lost my job – I contacted PECO + still could not get back on CAP either they would say I was \$100 over or some reason I could not get back on.

See Exhibit “2”.

19. In her request for relief, the Complainant requests:

I want a payment arrangement. I want them to be fair. I want to keep my electric on. I have animals and babies to care for... Please have them be fair and work out a payment plan, reasonable, not just say No – you must come up with \$22,000 when I make net 41300 or so.

20. The Complainant also requests:

I would like to be put back on CAP Rate. My clients vary and they want a steady monthly income mine is not steady.

21. PECO Energy filed an Answer to the Complainant’s formal complaints on October 10, 2011.

22. The matter was scheduled for a hearing before Administrative Law Judge Christopher Pell on February 29, 2012.

23. The Complainant attended the hearing and offered six exhibits, five of which were admitted into the record. See p. 2. Initial Decision, ALJ Christopher Pell, dated 6/22/12, attached hereto as Exhibit “3”.

24. Administrative Law Judge Pell determined the following relevant findings of fact:

- a. The Complainant previously participated in PECO’s CAP program. Tr. 16.
- b. The Complainant was due to recertify her eligibility for PECO’s CAP program in 2008. Tr. 35.
- c. The Complainant did not recertify her eligibility for PECO’s CAP program. Tr. 35.
- d. PECO removed the Complainant from the CAP program on December 8, 2008. At that time, the complainant had an outstanding balance of \$10,881.31. Tr. 35.
- e. The Complainant’s unpaid balance as of the time of the hearing totaled \$26,845.27. Tr. 47.

25. With regard to the Complainant's high bill allegation, concerning her balance Judge

Pell stated:

In her Complaint and at the hearing, the complainant challenged her large outstanding balance, which as of the date of the hearing totaled \$26,845.27. However, aside from stating her belief that this bill is outrageous and that she does not know how her bill go so high, the complainant did not offer anything to demonstrate that this balance is incorrect. The Complainant's evidence on this issue consists mostly of assertions. A customer cannot establish a case merely by stating his or her personal beliefs. These assertions, no matter how honest or strong cannot form the basis of a finding in her favor. Assertions, personal opinions or perceptions do not constitute evidence. Pennsylvania Bureau of Corrections v. City of Pittsburgh, 532 A.2d 12 (Pa. 1987). Moreover, PECO's witness testified that the complainant's electric bills are based on actual meter readings. Since the complainant did not demonstrate that PECO overcharged her for service or in some way billed her incorrectly, I must conclude that the outstanding balance on her bill is incorrect.

See Exhibit "3", p. 6.

26. Judge Pell also decided the Complainant's allegations and request to be placed on the CAP program as follows:

The complainant also indicated that she would like to be placed back on PECO's Customer Assistance Program (CAP) so that she can receive a CAP rate discount on her electric service. The complainant maintained that, following her initial removal from CAP, she has tried to get back on the program, only to be informed she is income ineligible. However, aside from this testimony, the complainant did not offer anything to demonstrate that PECO improperly removed her from CAP, or that she meets the requirements to participate in PECO's CAP program. Consequently, the complainant failed to meet her burden on this issue.

See Exhibit "3", p. 7.

27. Finally, with regards to the Complainant's request for a payment agreement on her \$26,845.27 balance, Judge Pell determined:

The complainant indicated that she would like a payment agreement to help her pay off her balance. As noted previously, the complainant's current outstanding balance is \$26,845.27.

The complainant is entitled to a Commission-issued payment agreement.

Therefore, it is ORDERED:

2. That complainant shall pay respondent her regular monthly bills as they come due, plus one-sixth (1/6) of the arrearage owed on this account, on the date due for the payment of each monthly bill, effective with the first monthly bill received after entry of the Commission's Final Order in this case and continuing thereafter on the due date for the payment of each regular monthly bill, until the arrearage on this account has been paid in full.

See Exhibit "3", p. 12.

28. The Pennsylvania Public Utility Commission adopted ALJ Pell's Initial Decision in a Final Order, dated August 16, 2012. See Opinion and Order, dated 8/16/12, attached hereto as Exhibit "4".

29. The doctrine of res judicata operates to prevent re-litigation of claims already litigated on the merits. As stated by the Commission in Frank Tomazin v. Pennsylvania-American Water Company, 1997 Pa. PUC Lexis 52 (1997), "the policies underlying the doctrine of res judicata are minimizing judicial energy devoted to individual cases, establishing certainty and respect for court judgments, and protecting the party relying on the prior adjudication from vexatious litigation."

30. The doctrine of res judicata, which is also known as claim preclusion, holds that a final judgment on the merits by a court of competent jurisdiction will bar any future action on the same cause of action between the parties and their privies. Hopewell Estates, Inc. v. Kent, 435 Pa. Superior Ct. 471, 476, 646 A.2d 1192 (1994).

31. The doctrine of res judicata applies to cases before the Commission. See, O'Toole v. Bell Telephone Co. of Pennsylvania, Inc., 77 Pa. P.U.C. 98, 104 (1992). The doctrine of res judicata reflects the refusal of the law to tolerate the re-litigation of a matter decided by a court of competent jurisdiction. For the doctrine to prevail four conditions must be met:

- (1) Identity of issues;
- (2) Identity of causes of action;

- (3) Identity of persons and parties to the action; and
- (4) Identity of the quality and capacity of the parties suing or sued.

Day v. Volkswagenwerk Aktiengesellschaft, 318 Pa. Superior Ct. 255, 474 A.2d 1313, 1316, 1317 (1983).

32. In the present case all four elements of res judicata are met. Clearly, the parties are identical in both Complaints. The thing sued upon is identical in both Complaints. Both the current Complaint and the 2011 Complaint relate to a request for a payment agreement on a bill in excess of \$20,000; complaints that the bill is too high; and a request to be placed on PECO Energy's CAP program. All of the allegations are attributable to the same service address – 291 Twin Oaks Drive, Perkasie, PA 18944. The cause of action is identical. Indeed, the Complainant states in her new formal complaint that she already had a PUC hearing concerning these issues and cooperated fully. Finally, the quality and capacity of the parties is identical in both Complaints. The Complainant is the electric customer in both Complaints, and PECO is the public utility providing service to the Complainant.

33. The Commission entered an Order, dismissing the Complainants' previous allegations as a matter of law, with the exception of a payment agreement on her \$26,845.27. With her new Complaint, the Complainant has ignored the Commission's clear dismissal Order and has attempted to re-file her Complaint.

34. For purposes of determining whether res judicata applies, the essential inquiry is whether the ultimate and controlling issues have been decided in a prior proceeding where the parties had an opportunity to appear and to be heard. Stevens Painton Corp. v. First State Ins. Co., 746 A.2d 649, 654 (Pa. Super. 2000) (emphasis added). The Complainant was provided with a hearing before ALJ Christopher Pell, who heard the merits of her Complaint.

35. Because the present Complaint asserts the same factual and legal basis for relief as the dismissed 2011 Complaint, the Complainant is estopped from attempting to re-assert her claims here.

36. The doctrine of res judicata is meant to protect against just the type of re-litigation that the Complainant is attempting with her present formal Complaint. It is pointless and a waste of the Commission's time and resources to permit the new Complaint to go forward with respect to any issues raised in the Complaint.

37. For the reasons set forth above, all of the Complainant's claims should be dismissed on the grounds of res judicata.

REQUEST FOR RELIEF

WHEREFORE, for the reasons set forth above, PECO Energy Company respectfully requests that your Honorable Commission summarily dismiss the Complainant's Complaint, and all issues which were raised in the 2011 Complaint at docket number C-2011-2263549.

Respectfully submitted,



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
(215) 841-6841
Fax: 215.568.3389
Shawane.Lee@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DOLORES SARNO	:	
Complainants	:	
v.	:	DOCKET NO. C-2012-2329048
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

VERIFICATION

I, Shawane L. Lee, hereby declare that I am counsel for PECO Energy Company; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Pleading are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. § 4904 pertaining to false statements to authorities.



Date: October 26, 2012

Shawane L. Lee

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DOLORES SARNO	:	
Complainants	:	
v.	:	DOCKET NO. C-2012-2329048
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

I, Shawane L. Lee, hereby certify that I have this day served a copy of PECO Energy Company's Answer in the above matter upon all interested parties by mailing a copy, properly addressed and postage prepaid to:

Dolores Sarno
PO Box 513
Dublin, PA 18917

Dolores Sarno
291 Twin Oaks Drive
Perkasie, PA 18944

Dated at Philadelphia, Pennsylvania, October 26, 2012



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
(215) 841-6841
Fax: 215.568.3389
Shawane.Lee@exeloncorp.com

Legal Department

Fax 215.568.3389
www.exeloncorp.com

Exelon Business Services Company
2301 Market Street/S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Direct Dial: 215 841-6841

October 26, 2012

Dolores Sarno
P.O. Box 513
Dublin, PA 18917

Dolores Sarno
291 Twin Oaks Dr.
Perkasie, PA 18944

Re: Dolores Sarno v. PECO Energy Company
PUC Docket No.: C-2012-2329048

Dear Ms. Sarno:

Enclosed is a copy of PECO Energy Company's response to the formal complaint filed in the above-referenced docket. The law requires PECO Energy to file an answer to your Public Utility Commission complaint. Keep these papers for your records. This is not a decision on your complaint. PECO's response may include a New Matter, Motion or Preliminary Objection. Please note that if you do not respond to a New Matter, Motion, or Preliminary Objection an unfavorable decision may be rendered against you. Responses to New Matters and Motions must be filed within 20 days. Responses to Preliminary Objections must be filed within 10 days. If there is no New Matter, Motion or Preliminary Objection included, no response is required.

Soon, the Public Utility Commission will schedule either a settlement conference or a hearing on your complaint. The Commission will let you know by mail whether there will be a conference or a hearing and will include instructions on what to do next. If the matter is set for hearing, the notice will provide you with information about the date, time and place of the hearing. If we are unable to resolve your complaint and have to proceed with a hearing, a judge will be at the hearing and will decide your complaint. You must call the Public Utility Commission if you have any questions about the hearing or if you cannot attend the hearing.

Thank you for your time and attention on this matter.

Very truly yours,



Shawane Lee
Counsel for PECO Energy Company
Enc.
SL/lo

EXHIBIT “1”

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: October 15, 2012

DOLORES SARNO

Complainant

v.

PECO ENERGY COMPANY

Respondent

Complaint Docket

No: **C-2012-2329048**

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: PECO ENERGY COMPANY

TAKE NOTICE:

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

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265**, an answer (original and three copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if

you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

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

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

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



Rosemary Chiavetta
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

Formal Complaint Form

Please print in ink or type.

C-2012-2329048

1. CUSTOMER (COMPLAINANT) INFORMATION

Your name, mailing address, county, telephone number, utility account number and service address:

Name DOLORES SARNO

Street/P.O. Box PO Box 513 Apt # _____

City DUBLIN State PA Zip 18917

County BUCKS

Daytime Telephone Number Where We Can Contact You: (267) 471-3620 Cell ^{OK}

E-mail Address (optional): SMARTYDRD@GMAIL.COM

Utility Account Number 73923-01000
(from your bill)

phone is out
power is off
NORMALLY
* 215 2491
Home phone

If your complaint involves utility service provided to a different address than your mailing address, please list this information below.

Name DR Dolores SARNO KRISTOFITS

Street/P.O. Box 291 TWIN OAKS DAWE

City PERKASIE State PA Zip 18944

2. FULL NAME OF UTILITY COMPANY (RESPONDENT):

PHILADELPHIA ELECTRIC COMPANY PECO

3. TYPE OF UTILITY (check one)

ELECTRIC

GAS

WATER

TELEPHONE(local, long distance)

STEAM HEAT

WASTE WATER

MOTOR CARRIER

(e.g., taxi, moving company, limousine)

RECEIVED

OCT 12 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

A. In general, what is your complaint?

- I want to oppose the company's proposed rate increase.
- There are incorrect charges on my bill.
- There is a reliability, safety or quality problem with my utility service.
- I received a notice that my utility service is being terminated.
- I would like a payment agreement.
- Other (explain).

B. State the facts of your complaint.

AFTER THE HEARING.

Include any specific dates, times or places that may be important. If the complaint is about a bill, tell us about any charges that you believe are not correct. Use additional paper if you need more space. Provide copies of all relevant documents you believe will support your complaint.

RECEIVED
2012 SEP 26 AM 10:41
PA P.U.C.
SECRETARY'S BUREAU

① The PUC HAD A HEARING CONCERNING A BALANCE OF OVER \$28,280 THEY SAID I HAVE. I COOPERATED FULLY AND STATED THIS COULD NOT BE POSSIBLE AS I LIVE ALONE AND HAVE OIL / WOOD STOVE HEAT. I ALLOWED AN INSPECTOR FROM PECO TO COME. HE DID, I NEVER GOT HIS RESULTS AND HE SAW I HAVE OIL HEAT. HE STATED THAT HIS GUESS AS TO WHY I HAVE SUCH A HIGH BILL IS THAT I NEED A NEW WATER HEATER WHILE I AGREE, THIS WOULD NOT ACCOUNT FOR HOW HIGH THIS BILL WAS. I HAVE BEEN ON AND OFF ON CAP. AS I DO NOT EARN MUCH AND AM ALWAYS HOVERING ON THE BORDER. COMPLAINT I - IS THERE IS NO DEFINITIVE ANSWER ON WHY OR HOW THIS BILL IS SO HIGH. I ECONOMIZE, PUT CLOTHES ON THE LINE, HAVE NO CHILDREN WORK. IT IS IMPOSSIBLE TO BE THIS HIGH.

(OVER)

How do you want your complaint to be resolved? Use additional paper if you need more space.

① I WOULD LIKE MY SERVICE RESTORED. IT WAS TURNED OFF OCT 2, 2012 BECAUSE THEY DID NOT HEAR FROM THE PUC THAT ANOTHER COMPLAINT WAS FILED. THEIR RECORDS GO TO ~~BY~~ 9 OCT 2012. PLEASE.

② I WOULD LIKE THE INSPECTORS REPORT AS TO WHY HE THINKS THE BILLS ARE SO HIGH.

③ I MAKE \$1500-2070 PER MONTH I CANNOT PAY AN ARRANGEMENT FOR \$4900+ UTILITY PER MONTH I DO NOT MAKE THAT MUCH

④ I WOULD LIKE IF THERE ARE MEDICAL REASONS THEY WOULD RESPECTED AND NOT TOLD I HAVE TO PAY \$12,000 ALSO TO KEEP POWER ON. I AM IN MEDICINE THAT IS UNETHICAL

⑤ MY PATIENTS ARE DEPENDENT ON MY COMPUTER AND PHONE, THEY CANNOT REACH ME. THIS IS DANGEROUS AS THEY (SOME) ARE SUICIDAL AND/OR HOMICIDAL I WORK IN PSYCHIATRY.

⑥ I AM COOPERATIVE. I HAVE TRIED & TRIED TO WORK WITH 7 THEM. AND I WOULD LIKE

TO PAY MY UTILITY BILLS AS THEY COME UP & INVESTIGATE THIS \$30,000 BALANCE.

RECEIVED

OCT - 4 2012

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

661739
Rev. July 2007

Answer the following question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility **AND** your complaint is about a billing problem, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection from Abuse" order for your personal safety or welfare?

YES

NO

7. PRIOR UTILITY CONTACT

Answer the following question only if you are a residential customer and your complaint is against an electric distribution utility, natural gas distribution utility or a water distribution utility.

Have you spoken to a utility company representative about this complaint?

YES (includes appeals of BCS determinations)

NO

If you tried to, but could not speak to a utility company representative about your complaint, please explain why.

I HAVE TALKED SEVERAL TIMES TO CREDIT. MANY TIMES, THEY WANT VERIFICATION FROM THE PUC. THEY WILL NOT DO ANYTHING. I HAVE TRIED TO WORK OUT AN ARRANGEMENT I CAN PAY. THEY SAID NO.

8. LEGAL REPRESENTATION (IF ANY)

If you are represented by a lawyer **in this matter** you must provide your lawyer's name, address, telephone number, and e-mail address, if known.

Lawyer's Name NONE

Street _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (If Known) _____

You must print or type your name below on the line provided for the verification paragraph, and you must sign and date (in ink) this form on the lines provided.

Verification:

I DOLORES MARIE SARNO - KRSTIC hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dolores M Sarno Krstic 10-11-2012
(Signature) (Date)

Title of authorized employee or officer

10. FILING

Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
---	--

Facsimiles and/or electronic filings of the complaint will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your complaint for your records.

EXHIBIT “2”

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint Form

Please print in ink or type.

1. CUSTOMER (COMPLAINANT) INFORMATION

Your name, mailing address, county, telephone number, utility account number and service address:

Name DOLORES M SARNO

Street/P.O. Box 513 Apt # _____

City DUBLIN State PA Zip 18917

County BUCKS

Daytime Telephone Number Where We Can Contact You: (267) 471-362 cell

E-mail Address (optional): SMARTYDRD@GMAIL.COM 215 249-1273

Utility Account Number 73923-01000
(from your bill)

If your complaint involves utility service provided to a different address than your mailing address, please list this information below.

Name DOLORES SARNO

Street/P.O. Box 291 TWIN OAKS DRIVE - (RESIDENTIAL ADDRESS)

City PERKASIE State PA Zip 18944

2. FULL NAME OF UTILITY COMPANY (RESPONDENT):

PA ELECTRIC COMPANY PECO

3. TYPE OF UTILITY (check one)

ELECTRIC

STEAM HEAT

GAS

WASTE WATER

WATER

MOTOR CARRIER

RECEIVED

SEP 12 2011

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

TELEPHONE
(local, long distance)

(e.g., taxi, moving company, limousine)

4. COMPLAINT (check one)

A. In general, what is your complaint?

I want to oppose the company's proposed rate increase.

There are incorrect charges on my bill.

There is a reliability, safety or quality problem with my utility service.

I received a notice that my utility service is being terminated.

I would like a payment agreement.

Other (explain).

B. State the facts of your complaint.

Include any specific dates, times or places that may be important. If the complaint is about a bill, tell us about any charges that you believe are not correct. Use additional paper if you need more space. Provide copies of all relevant documents you believe will support your complaint.

I HAVE BEEN A PECO CUSTOMER AT THE SAME ADDRESS SINCE OCT 1985. I HAVE BEEN A GOOD STEADY CUSTOMER.

OVER THE YEARS I HAVE HAD FAMILY DEATHS AND DIVORCE AND CIRCUMSTANCES HAVE CHANGED. I CONTINUE TO WORK WITH THEM CONTINUOUSLY, I HAVE BEEN A CAP RATE CUSTOMER FOR A LONG TIME AFTER MY HOME BURNED DOWN, 2003 APRIL, EVERYONE IN MY FAMILY DIED OR HAD CANCER AND I WAS SOLE SURVIVOR. I NEED MY ELECTRIC.

SINCE 2009 I WAS THROWN OFF CAP AND WOULD CONSTANTLY BE TOLD YES I QUALIFIED THEN NO I DO NOT. I SEND IN THE PAPERWORK BUT IT EITHER IS DENIED THAT THE GOT IT

OR IT WAS NEVER RECEIVED. IN NOV 2009 I WAS WORKING ON A STATE CONTRACT AT NORRISTOWN STATE HOSPITAL when the State suddenly cancelled the CONTRACT. I LOST MY JOB - I CONTACTED PECO + STILL COULD NOT GET BACK ON CAP - either they would say I WAS \$100 OVER OR SOME REASON I COULD NOT GET BACK ON. THIS HAS BEEN GOING ON FOR 3 YEARS. I WOULD PAY THEIR MONTHLY CHARGE MOST TIMES BEFORE ANY MORTGAGE + I COULD NOT PAY HEALTHCARE BECAUSE THEY WOULD TURN ME OFF. I HAVE A FARM WITH ANIMALS AND I HAVE SEVERAL MEDICAL PROBLEMS - SPONDYLOLISTHESIS, SPINAL STENOSIS ON MEDS FOR STRESS AND INJURIES FROM A EAR ACCIDENT AND A SEVERE HORSE ACCIDENT.

I STILL PAY. I WANT TO PAY. BUT NOW THEY SAID THEY WANTED \$21,000. OR NOTHING OR I COULD GET NO POWER. MY INCOME VARIES WITH WHETHER PATIENTS COME IN, I SENT MANY LETTERS, PAY STUBS - THE LAST TWO MONTHS I MADE \$1300 NET. AND \$1680 NET. I SENT THIS IN! THEY SAID NO - NO PAYMENT ARRANGEMENTS BECAUSE I BROKE AN AGREEMENT. I ASKED WHEN - THEY SAID IN APRIL 2003, EIGHT YEARS AGO WHEN MY HOUSE BURNED DOWN.

Twice now they turned me off AFTER PAY \$800.00 OUT OF AN \$1100 CHECK. THEY SAID THEY PUT IT ON THE PAST BALANCE. NOW THEY SAID THEY RETURNED MY LAST \$390 AND NO MORE MEDICAL REASONS THEY

5. RELIEF

How do you want your complaint to be resolved? Use additional paper if you need more space.
COWT

They REFUSE TO ALLOW me to have electric unless I come up with \$21,000. IT IS ONLY ME HERE AND I CAN'T DO THAT. I WATCH what I use, I AM 61.5 yrs OLD.

THAT balance goes back to 1985+ years when I had a family AND THERE WERE TWO INCOMES. When I qualified FOR CAP RATE - it disappeared AND I WAS CURRENT. Suddenly, they SAID NO AND IT APPEARED AGAIN.

I PAY every MONTH. ALOT. ^{\$}700 IN APRIL ^{\$}1100 - STILL THEIR POSITION IS ONLY ^{\$}22,000 OR NO ELECTRIC.

I GO TO THE ROTHMAN INSTITUTE AT JEFFERSON AND MY LOCAL DR. HAS SENT LETTERS. PECO NOW SAYS NO MORE.

I WANT A PAYMENT ARRANGEMENT. I WANT THEM to be FAIR. I WANT TO KEEP MY ELECTRIC ON. I HAVE ANIMALS + BABIES TO CARE FOR.

I WANT THEM TO LISTEN TO ME,

PLEASE DONT LET them turn off my

ELECTRIC AGAIN AFTER I HAVE PD.
THEM \$800 - OR AS MUCH AS I CAN. I
AM WORKING AS HARD AS I CAN.
PAYING EACH MONTH.

I WOULD LIKE TO BE PUT
BACK ON CAP RATE. MY CLIENTS VARY
AND THEY WANT A STEADY MONTHLY INCOME
MINE IS NOT STEADY.

PLEASE HAVE THEM BE FAIR
AND WORK OUT A PAYMENT PLAN,
REASONABLE, NOT JUST SAY NO - YOU
MUST COME UP WITH \$22.000 WHEN
I MAKE NET \$1300.00 OR SO.

THANK YOU FOR YOUR HELP

Dolores M SARNO

Dolores M Sarno

9. You must sign your complaint.

In Section Nine (9) of the formal complaint, you **must** print or type your name in the space provided in the verification paragraph, and you **must** sign and date your formal complaint form on the lines in this Section. If a complainant is a corporation or association, the verification must be signed by an authorized officer or other authorized employee. If you do not sign the formal complaint form, the Commission will not accept it.

10. Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
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Keep a copy of your complaint for your records.

Facsimiles and/or electronic filings of the complaint form will not be accepted.

6. PROTECTION FROM ABUSE

Answer the following question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a billing problem, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection from Abuse" order for your personal safety or welfare?

YES

NO

7. PRIOR UTILITY CONTACT

Answer the following question only if you are a residential customer and your complaint is against an electric distribution utility, natural gas distribution utility or a water distribution utility.

Have you spoken to a utility company representative about this complaint?

YES (includes appeals of BCS determinations)

NO

I spoke about the situation they said I had a right to contact the PUC

If you tried to, but could not speak to a utility company representative about your complaint, please explain why.

I did speak but they would not cooperate in any way.

8. LEGAL REPRESENTATION (IF ANY)

If you are represented by a lawyer in this matter you must provide your lawyer's name, address, telephone number, and e-mail address, if known.

Lawyer's Name _____

Street _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (If Known) SMARTY DRD @GMAIL.COM

9. VERIFICATION AND SIGNATURE

You must print or type your name below on the line provided for the verification paragraph, and you must sign and date (in ink) this form on the lines provided.

Verification: Dolores Marie Sarno, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dolores Marie Sarno (Signature) Sept 12, 2011 (Date)

Title of authorized employee or officer

DOLORES M SARNO
Dolores M. Sarno

10. FILING

Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
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Facsimiles and/or electronic filings of the complaint will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your complaint for your records.

EXHIBIT “3”



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

July 6, 2012

RECEIVED
JUL 9 2012

C-2011-2263549

Dolores Sarno

v.

PECO Energy Company **STEVENS & LEE**

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of the Office of Administrative Law Judge.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. An original and nine (9) copies of your signed Exceptions to the decision, if any, **MUST BE FILED WITHIN TWENTY (20) DAYS OF THE ISSUANCE DATE OF THIS LETTER**, WITH THE SECRETARY OF THE COMMISSION, 2ND FLOOR, KEYSTONE BUILDING, 400 NORTH STREET, HARRISBURG, PA; OR, MAILED TO P.O. BOX 3265, HARRISBURG, PA 17105-3265; OR DOCUMENTS MAY BE E-FILED ACCORDING TO THE E-FILING PROCEDURES.

IN ADDITION, **BY THE SAME DATE AND TIME INDICATED ABOVE**, A COPY OF EXCEPTIONS MUST BE IN THE HANDS OF THE OFFICE OF SPECIAL ASSISTANTS, 3RD FLOOR, KEYSTONE BUILDING, 400 NORTH STREET, HARRISBURG, PA; AND, A COPY IN THE HANDS OF EACH PARTY OF RECORD. 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of Exceptions or Replies to Exceptions.

Parties are also requested to provide the Commission's Office of Special Assistants with a copy of the Exceptions or Replies to Exceptions on CD-ROM or DVD, in Microsoft Word 2007 format. If Word 2007 is not available, any Microsoft Office compatible format is acceptable including PDF.

Replies to Exceptions, if any, must be served on the Secretary of the Commission, Office of Special Assistants, and each party of record, in the manner described above, **WITHIN TEN (10) DAYS OF THE DATE THAT THE EXCEPTIONS ARE DUE**.

It is your responsibility to serve all the parties with your Exceptions and Replies to Exceptions. Failure to do so may render your filing unacceptable. A certificate of service shall be attached to the filed Exceptions or Replies to Exceptions.

Exceptions and Replies to Exceptions shall obey 52 Pa. Code 5.533 and 5.535 particularly the 40-page limit for Exceptions and the 25-page limit for Replies to Exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)". Any reference to specific sections of the Administrative Law Judge's Initial Decision shall include the page number(s) of the cited section of the decision.

If no Exceptions are received, the decision of the Administrative Law Judge may become final without further Commission action. You will receive written notification if this occurs.

Very truly yours,

Rosemary Chiavetta
Secretary

JF
Encls.
Certified Mail
Receipt Requested

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Dolores Sarno

v.

PECO Energy Company

:
:
:
:
:

C-2011-2263549

INITIAL DECISION

Before
Christopher P. Pell
Administrative Law Judge

HISTORY OF THE PROCEEDING

On September 12, 2011, Dolores Sarno (Ms. Sarno or complainant) filed a formal Complaint (Complaint) against PECO Energy Company (PECO or respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the complainant indicated that she has a large outstanding PECO balance that dates back to 1985. Complainant maintained that PECO will not accept any more medical certificates from her, or enter into any additional payment agreements with her. Additionally, the complainant stated that PECO has twice terminated her service after she has made payments. As relief, the complainant wants a payment agreement and also to be placed back on PECO's Customer Assistance Program (CAP).

On October 10, 2011, respondent filed an Answer denying the material averments of the Complaint. PECO indicated that the complainant previously had three payment arrangements to address outstanding balances on her account and that she defaulted on all three. PECO further indicated that it accepted medical certificates from the complainant on March 25, 2008, August 24, 2010, and June 15, 2011, but that it would not accept any further medical certificates from the

complainant because she was previously given two renewals without making equitable payment as required by 52 Pa. Code § 56.116. Additionally, PECO denied that the complainant's electric service was improperly terminated, and maintained that the complainant is not entitled to another payment arrangement.

By Hearing Notice dated December 16, 2011, a hearing was scheduled for February 29, 2012, at 9:00 a.m., and the matter was assigned to me.

The hearing convened as scheduled on February 29, 2012. The complainant appeared pro se and testified. The complainant offered six exhibits during the hearing, five of which (complainant's Exhs. 1 through 5) were admitted into the record.¹ Respondent appeared and was represented by Dana Pirone Carosella, Esq., who presented the testimony of Renee Tarpley, a Senior Regulatory Assessor. Respondent offered five exhibits (PECO Exhs. 1 through 5) during the hearing, which were all admitted into the record.

The record in this case consists of a 68-page transcript and ten exhibits. The record in this case closed on March 27, 2012, when I received the transcript of the hearing.

FINDINGS OF FACT

1. The complainant in this case is Dolores Sarno. The complainant resides at 291 Twin Oaks Drive, Perkasio, Pa 18944 (service address).

2. The respondent in this proceeding is PECO Energy Company, a jurisdictional public utility providing residential gas and electric service in the Commonwealth of Pennsylvania.

¹ The complainant also offered a synopsis of her testimony as an exhibit. However, I declined to accept it since the complainant had been given a full opportunity to orally place her testimony on the record. Moreover, the complainant acknowledged that she had covered all issues in her complaint through her oral testimony.

3. Complainant receives electric service from respondent. Tr. 7.
4. The complainant lives alone at the service address. Tr. 9.
5. PECO's Customer Assistance Program (CAP) is a program that PECO offers to low income customers. It provides those customers with a discounted rate on their services or a portion of their services up to a certain number of kilowatts. Eligibility is determined based on the applicant's gross monthly income as well as the number of occupants in the service address. Under the CAP program, PECO will set an eligible applicant's then outstanding balance aside for possible forgiveness, provided that the customer complies with the program within a year. In order to remain in PECO's CAP program, participants must re-certify their eligibility every two years. Tr. 33-35, 44-45.
6. The complainant previously participated in PECO's CAP program. Tr. 16. The complainant first enrolled in PECO's CAP program on October 3, 2006. At that time, PECO set-aside \$1,146.00 for possible forgiveness. Tr. 34-35; PECO Exh. 2.
7. On December 27, 2007, PECO forgave the complainant's set-aside balance of \$1,146.00. Tr. 35; PECO Exh. 2.
8. The complainant was due to recertify her eligibility for PECO's CAP program in 2008. Tr. 35.
9. PECO issued recertification letters to the complainant on September 2, 2008 and again on September 17, 2008. PECO Exh. 2.
10. The complainant did not recertify her eligibility for PECO's CAP program. Tr. 35.
11. PECO removed the complainant from the CAP Program on December 8, 2008. At that time, the complainant had an outstanding balance of \$10,881.31. Tr. 35; PECO Exh. 2.

12. On March 22, 2011, PECO issued a 10-day notice of termination to the complainant for a past-due balance of \$19,680.40. PECO Exh. 3.

13. On March 29, 2011, PECO provided the complainant with a 72-hour notice of the pending termination. Tr. 38; PECO Exh. 3.

14. On April 12, 2011, PECO terminated the complainant's electric service. Tr. 38; PECO Exh. 3.

15. On or about April 12, 2011, PECO restored the complainant's electric service after she made a reduced restoration payment. Tr. 38; PECO Exh. 3.

16. On July 14, 2011, PECO issued a 10-day notice of termination to the complainant for a past-due balance of \$22,295.05. Tr. 37-38; PECO Exh. 3.

17. On July 20, 2011, PECO provided the complainant with a 72-hour notice of the pending termination. Tr. 38; PECO Exh. 3.

18. On August 4, 2011, PECO terminated the complainant's electric service. Tr. 38; PECO Exh. 3.

19. On or about August 5, 2011, PECO restored the complainant's electric service after the complainant supplied a medical certificate to PECO. Tr. 39; PECO Exhs. 3, 4.

20. In total, between June 16, 2009 and February 17, 2012, PECO issued 19 separate 10-day termination notices to the complainant for past-due balances. Tr. 37; PECO Exh. 3.

21. On September 2, 2010, the complainant supplied PECO with a medical certificate. PECO placed a 30-day hold on her account. Her account balance was \$17,441.87 at that time. Tr. 40-41; PECO Exhs. 3, 4.

22. Between September 3, 2010 and June 15, 2011, the complainant made nine separate payments towards her outstanding balance, for total payments made of \$3,094.43. PECO Exh. 1.
23. On June 15, 2011, the complainant supplied PECO with a medical certificate. PECO placed a 30-day hold on her account. PECO Exhs. 3, 4.
24. Between June 15, 2011 and August 5, 2011, the complainant made only one payment of \$800 towards her outstanding balance. PECO Exh. 1.
25. On August 5, 2011, the complainant supplied PECO with a medical certificate. PECO placed a 30-day hold on her account. PECO Exhs. 3, 4.
26. Between August 5, 2011 and September 4, 2011, the complainant did not make any payments towards her outstanding balance. PECO Exh. 1.
27. PECO will not accept additional medical certificates on the complainant's account unless she pays off the balance that existed at the time it received the first medical certificate from her. Tr. 41.
28. The complainant's unpaid balance as of the time of the hearing totaled \$26,845.27. PECO Exh. 1. The complainant has satisfied that portion of her outstanding balance that included CAP arrears. Tr. 47.
29. During the calendar year 2011, the complainant worked for Interface Psych Associates, and had gross earnings of \$27,646.00. Complainant Exh. 5.
30. During the calendar year 2011, the complainant also worked for Elder's Counseling Group, Inc., and had gross earnings of \$6,612.00. Complainant Exh. 3.
31. The complainant's gross annual household income totals \$34,258.00 (\$27,646.00 + \$6,612.00 = \$34,258.00).

DISCUSSION

The Public Utility Code, 66 Pa.C.S.A. § 332(a), places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, complainant has the burden of proof in this matter pursuant to 66 Pa.C.S.A. § 332(a).

To establish a sufficient case and satisfy the burden of proof, complainant must show that the respondent public utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Telephone Co. of Pa.*, 72 Pa.P.U.C. 196 (1990), *Feinstein v. Philadelphia Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Public Utility Comm'n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990), alloc. den., 602 A.2d 863 (Pa. 1992). That is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Public Utility Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Public Utility Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. Pa. Public Utility Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 194 Pa. Super. 278, 166 A.2d 96 (1960); *Murphy v. Commonwealth, Dep't of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

In her Complaint and at the hearing, the complainant challenged her large outstanding balance, which as of the date of the hearing totaled \$26,845.27. However, aside from stating her belief that this bill is outrageous and that she does not know how her bill got so high, the complainant did not offer anything to demonstrate that this balance is incorrect. The complainant's evidence on this issue consists mostly of assertions. A customer cannot establish a case merely by stating his or her personal beliefs. These assertions, no matter how honest or strong cannot form the basis of a finding in her favor. Assertions, personal opinions or perceptions do not constitute evidence. *Pennsylvania Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa.

1987). Moreover, PECO's witness testified that the complainant's electric bills are based on actual meter readings. Since the complainant did not demonstrate that PECO overcharged her for service or in some way billed her incorrectly, I must conclude that the outstanding balance on her bill is correct.

The complainant also indicated that she would like to be placed back on PECO's Customer Assistance Program (CAP) so that she can receive a CAP rate discount on her electric service. The complainant maintained that, following her initial removal from CAP, she has tried to get back on the program, only to be informed she is income ineligible. However, aside from this testimony, the complainant did not offer anything to demonstrate that PECO improperly removed her from CAP, or that she meets the requirements to participate in PECO's CAP program. Consequently, the complainant failed to meet her burden on this issue.

The complainant also raised the issue of medical certifications in her complaint and at the hearing. The complainant indicated that although respondent has accepted her medical certifications in the past, PECO refuses to accept any more medical certifications from her.

Regarding medical certifications, the Commission's regulations state that the ratepayer shall retain a duty to equitably arrange to make payment on all bills whenever service is restored or termination postponed pursuant to a medical certification. 52 Pa. Code §§ 56.114 & 56.116. The Commission's regulations also provide that "[i]n instances where a customer has not met the obligation in § 56.116 to equitably make payments on all bills, the number of renewals for the customer's household is limited to two 30-day certifications filed for the same set of arrearages." 52 Pa. Code § 56.114(2).

The evidence in this case does not show that complainant equitably arranged to make payment on her outstanding bills. To the contrary, PECO's records demonstrate that the complainant's outstanding balance totaled \$17,954.01 when it granted the complainant her second medical extension, and that she has paid only \$4,557.00 towards that balance since that

time.² Clearly, since the complainant has paid off less than one third of that starting balance, I cannot conclude that she has made equitable payments on her bills. Consequently, PECO acted properly in denying additional medical extensions.

In her Complaint and at the hearing, the complainant challenged PECO's decision to terminate her electric service on two separate occasions even though she had made payments towards her bills.

Regarding grounds for termination of utility service, 66 Pa.C.S.A. § 1406(a) provides in pertinent part that "[a] public utility may notify a customer and terminate service provided to a customer after notice as provided in subsection (b) for . . . [n]onpayment of an undisputed delinquent account."

Regarding notice requirements prior to termination of service, 66 Pa.C.S.A. § 1406(b) provides that prior to terminating service, a public utility shall provide written notice of the termination to the customer at least ten days prior to the date of the proposed termination, and that the termination notice shall remain effective for 60 days. Also prior to termination, the public utility shall attempt to contact the customer or occupant either in person or by telephone to provide notice of the proposed termination at least 3 days prior to the scheduled termination. After complying with a 3-day notice requirement, the utility shall attempt to make personal contact with the customer at the time the service is terminated. Termination of service shall not be delayed for failure to make personal contact. 66 Pa.C.S.A. § 1406(b)(1)(i);(ii);(iv).

Although the complainant, in her Complaint, challenged PECO's decision to twice terminate her electric after she made payments towards her account, she did not offer any specific testimony to demonstrate that PECO's decision to terminate was improper. Although the complainant questioned the size of her outstanding balance, there is nothing in the record to demonstrate that she disputed her outstanding balance prior to filing her formal Complaint on September 12, 2011. Therefore, PECO was permitted to terminate service due to nonpayment of

² This amount represents payments made to PECO up through February 17, 2012.

an undisputed delinquent account. Moreover, the record demonstrates that PECO followed the notice requirements prior to terminating the complainant's electric service. Consequently, the complainant failed to meet her burden on this issue.

The complainant indicated that she would like a payment agreement to help her pay off her balance. As noted previously, the complainant's current outstanding unpaid balance is \$26,845.27.

A "payment agreement is defined at 66 Pa.C.S.A. § 1403 as "[a]n agreement whereby a customer who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments." Regarding the length of payment agreements, 66 Pa.C.S.A. § 1405(b) reads in pertinent part:

(b) LENGTH OF PAYMENT AGREEMENTS-- The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment agreement that is investigated by the commission and is entered into by a public utility and a customer shall not extend beyond:

(1) Five years for customers with a gross monthly household income level not exceeding 150% of the Federal poverty level.

(2) Two years for customers with a gross monthly household income level exceeding 150% and not more than 250% of the Federal poverty level.

(3) One year for customers with a gross monthly household income level exceeding 250% of the Federal poverty level and not more than 300% of the Federal poverty level.

(4) Six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level.

The complainant indicated that she is a Psychologist, but that she only works on an as-needed basis. She testified that she does not have a set income, and that her income varies from week to week. To demonstrate her income, the complainant provided copies of her two W-2 forms for the year 2011. The complainant's gross income from employment with "Interface Psych Associates Inc." for the year 2011 was \$27,646.00, and her gross income from employment with "Elders Counseling Group Inc." for the year 2011 was \$6,612.00. The complainant's total gross income for the year 2011 totaled \$34,258.00 ($\$27,646.00 + \$6,612.00 = \$34,258.00$). The complainant lives alone and has no other sources of income.

The 2012 Federal Poverty Level guidelines provide that a household consisting of one person earning \$34,258.00 places the complainant over 300% of the Federal Poverty level. Pursuant to 66 Pa.C.S.A. § 1405(b)(4), the complainant is entitled to a six month payment agreement. Therefore, in addition to her regular monthly bills, the complainant must pay one-sixth (1/6) of the arrearage owed on her account per month for six months to settle her outstanding debt.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding.
2. Pursuant to 66 Pa. C.S.A. § 332(a), the burden of proof in this proceeding is upon the complainant.
3. Complainant failed to demonstrate that the respondent charged her incorrectly for electric service.
4. Complainant failed to demonstrate that she meets the eligibility requirements to participate in PECO's Customer Assistance Program.

5. A public utility may notify a customer and terminate service provided to a customer after notice as provided for nonpayment of an undisputed delinquent account. 66 Pa.C.S.A. § 1406(a).

6. Prior to terminating service, a public utility shall provide written notice of the termination to the customer at least ten days prior to the date of the proposed termination, and that termination notice shall remain effective for 60 days. The public utility shall attempt to contact the customer or occupant either in person or by telephone to provide notice of the proposed termination at least 3 days prior to the scheduled termination. After complying with a 3-day notice requirement, the utility shall attempt to make personal contact with the customer at the time the service is terminated. Termination of service shall not be delayed for failure to make personal contact. 66 Pa.C.S.A. § 1406(b)(1)(i);(ii);(iv).

7. A ratepayer shall retain a duty to equitably arrange to make payment on all bills whenever service is restored or termination postponed pursuant to a medical certification. 52 Pa. Code §§ 56.114 and 56.116.

8. In instances where a customer has not met the obligation in § 56.116 to equitably make payments on all bills, the number of renewals for the customer's household is limited to two 30-day certifications filed for the same set of arrearages. 52 Pa.Code § 56.114(2).

9. The complainant is entitled to a Commission-issued payment agreement.

10. The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment agreement that is investigated by the commission and is entered into by a public utility and a customer shall not extend beyond . . . six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level. 66 Pa.C.S.A. § 1405(b)(4).

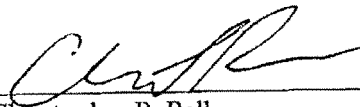
ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Dolores Sarno against PECO Energy Company at Docket No. C-2011-2263549 is denied in part and sustained in part;
2. That complainant shall pay respondent her regular monthly bills as they come due, plus one-sixth (1/6) of the arrearage owed on this account, on the date due for the payment of each monthly bill, effective with the first monthly bill received after entry of the Commission's Final Order in this case and continuing thereafter on the due date for the payment of each regular monthly bill, until the arrearage on this account has been paid in full; and
3. That if complainant fails to adhere to the terms of this Order, respondent is hereby authorized to terminate complainant's service pursuant to the provisions of the Public Utility Code, 66 Pa.C.S.A. §§ 101 *et seq.*, and the Commission's regulations, 52 Pa.Code §§ 1.1 *et seq.*
4. That the record in this case be marked closed.

Date: June 22, 2012



Christopher P. Pell
Administrative Law Judge

EXHIBIT “4”

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Dolores Sarno

v.

PECO Energy Company

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:
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C-2011-2263549

FINAL ORDER

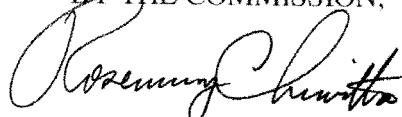
In accordance with the provisions of Section 332(h) of the Public Utility Code, 66 Pa. C.S. §332(h), the decision of Administrative Law Judge Christopher P. Pell dated June 22, 2012, has become final without further Commission action;

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Dolores Sarno against PECO Energy Company at Docket No. C-2011-2263549 is denied in part and sustained in part;
2. That complainant shall pay respondent her regular monthly bills as they come due, plus one-sixth (1/6) of the arrearage owed on this account, on the date due for the payment of each monthly bill, effective with the first monthly bill received after entry of the Commission's Final Order in this case and continuing thereafter on the due date for the payment of each regular monthly bill, until the arrearage on this account has been paid in full; and
3. That if complainant fails to adhere to the terms of this Order, respondent is hereby authorized to terminate complainant's service pursuant to the provisions of the Public Utility Code, 66 Pa.C.S.A. §§ 101 *et seq.*, and the Commission's regulations, 52 Pa.Code §§ 1.1 *et seq.*
4. That the record in this case be marked closed.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ENTERED: August 16, 2012