

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Donna Marie Gonzalez	:	
	:	
v.	:	C-2015-2510245
	:	
PECO Energy Company and	:	
IDT Energy, Inc.	:	

**INITIAL DECISION**

Before  
Steven K. Haas  
Administrative Law Judge

This initial decision dismisses a formal complaint filed by a customer against her electric distribution company and her electricity generation supplier due to the Complainant’s failure to prove, by a preponderance of the evidence, that the Respondents violated any applicable statutes, regulations or Commission orders.

**HISTORY OF THE PROCEEDING**

On October 26, 2015, Donna Marie Gonzalez (Ms. Gonzalez or Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission in which she identified IDT Energy, Inc. (IDT) as the Respondent. The complaint was served on both IDT and PECO Energy Company (PECO), however, since PECO was mentioned by the Complainant at several places within the complaint form.

At paragraph 4 of the complaint, the Complainant checked the box that states, “[t]he utility is threatening to shut off my service or has already shut off my service.” Ms. Gonzalez wrote the word “PECO” to the left of this sentence on the complaint form.

Ms. Gonzalez also checked the box for “other.” She described in this section of the complaint that she was charged by IDT in excess of the amount she was led to believe she would be charged. She stated that IDT lied to her by telling her that her bill would only go up a little bit. She alleged that she was billed \$1,900.00 over an approximately six week period of time by IDT. She also stated in this section that PECO sent her bill to the IC System collection agency. She stated that “it’s not right that these companies can do this to people.”

On November 9, 2015, counsel to IDT, Michael Gruin, filed a Certificate of Satisfaction, indicating that IDT had satisfied the complaint as against IDT.

On November 10, 2015, PECO filed an answer and a preliminary objection to the complaint. In its answer, PECO admitted that the Complainant enrolled with IDT as her electricity generation supplier (EGS) on January 21, 2014, and subsequently dropped IDT as her supplier effective March 20, 2014. PECO argued that it is not the proper party to the complaint, since the complaint involves a dispute about the rates charged by IDT.

In its preliminary objection, PECO argued that the complaint is legally insufficient as against itself, since it involves allegations of excessive rates being charged by IDT. PECO argued that the Complainant has not alleged a violation of any order, law or tariff provision by PECO. PECO requested that the Commission sustain its preliminary objection and dismiss the complaint. Ms. Gonzalez did not file an answer to PECO’s preliminary objection.

By order dated January 8, 2016, I denied PECO’s preliminary objections. I noted that the Complainant raised allegations about PECO threatening to shut off her electric service and referring her outstanding debt to an outside collection agency. I concluded that, in accepting as true the averments asserted by the Complainant in her complaint, as well as all reasonable inferences deducible therefrom, as I must do in ruling on preliminary objections, she is entitled to a hearing on those issues.

By Telephonic Hearing Notice dated April 1, 2016, the Commission scheduled an initial telephonic hearing for Thursday, May 5, 2016. I was assigned to preside over the hearing.

By electronic mail dated April 29, 2016, I was informed by counsel to IDT that he had been contacted by the Complainant to inform him that she was not satisfied with the resolution of the complaint against IDT and wanted to proceed to a hearing. IDT's counsel informed me that IDT was prepared to participate in the hearing. Accordingly, both IDT and PECO participated in the telephonic hearing as Respondents in this proceeding.

Ms. Gonzalez appeared at the hearing and represented herself. IDT was represented by Michael A. Gruin, Esquire. IDT presented the testimony of Megan Bell, who sponsored four exhibits, all of which were admitted into the record. PECO was represented by Shawane L. Lee, Esquire. PECO presented the testimony of Renee Tarpley, who sponsored five exhibits, all of which were admitted into the record.

The record in this proceeding was closed on May 30, 2016, upon my receipt of the hearing transcript, and consists of a 77 page transcript, five PECO exhibits, labelled PECO Ex. 1, PECO Ex. 2, PECO Ex. 3, PECO Ex. 5 and PECO Ex. 6, and four IDT exhibits.<sup>1</sup>

#### FINDINGS OF FACT

1. The Complainant in this proceeding is Donna Marie Gonzalez.
2. The Respondents in this proceeding are PECO Energy Company, a Pennsylvania jurisdictional electric distribution company, and IDT Energy, Inc., an electric generation supplier (EGS).
3. Ms. Gonzalez currently resides at 3363 Morrell Avenue, Philadelphia, PA 19114. (Tr. 7).
4. The address that is the subject of the dispute in this proceeding, where the charges in question were incurred, is 27 Schuylkill Avenue, Norristown, PA 19403. (Tr. 7).

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<sup>1</sup> An exhibit that had been pre-marked prior to the hearing as PECO Ex. 4 was not entered into the record in this proceeding.

5. Renee Tarpley, a Sr. Regulatory Assessor with PECO, testified on behalf of PECO. (Tr. 31).

6. PECO Ex. 1 is an account activity statement showing billing and payment information on Ms. Gonzalez's account at the Schuylkill Avenue address from November of 2013 through October of 2015. (Tr. 32; PECO Ex. 1).

7. PECO Ex. 2 is an electricity supplier enrollment history for Ms. Gonzalez. (Tr. 35; PECO Ex. 2).

8. PECO Ex. 3 is a collection activity history for Ms. Gonzalez's service at the Schuylkill Avenue address. (Tr. 36; PECO Ex. 3).

9. PECO Ex. 5 is an informal complaint filed by Ms. Gonzalez against PECO at BCS Case No. 003231163. (Tr. 36; PECO Ex. 5).

10. PECO Ex. 6 is the BCS' decision on Ms. Gonzalez's informal complaint. (Tr. 37; PECO Ex. 6).

11. Megan Bell, a Compliance Manager with IDT, testified on behalf of IDT. (Tr. 43).

12. IDT Ex. 1 is a billing history report for Ms. Gonzalez's account for the time period from January 21, 2014, through March 20, 2014, the time period during which she was enrolled with IDT and the disputed charges were incurred. (Tr. 58-59; IDT Ex. 1).

13. IDT Ex. 2 is an electronic mail notification to Ms. Gonzalez informing her that IDT had received and was processing her enrollment information. (Tr. 52; IDT Ex. 2).

14. IDT Ex. 3 is a copy of a standard welcome letter sent to newly enrolled Pennsylvania IDT customers during the time Ms. Gonzalez was enrolled with IDT. (Tr. 54-57; IDT Ex. 3).

15. IDT Ex. 4 is a copy of IDT's standard variable price disclosure statement letter sent to newly enrolled Pennsylvania IDT customers during the time Ms. Gonzalez was enrolled with IDT. (Tr. 54-57; IDT Ex. 4).

16. PECO was Ms. Gonzalez's electric distribution company during the time period at issue in this proceeding. (PECO Ex. 1).

17. Ms. Gonzalez was enrolled with IDT as her EGS from January 21, 2014 through March 20, 2014. (Tr. 11-13, 35; PECO Ex. 2).

18. Ms. Gonzalez was enrolled with IDT through the company's website. (Tr. 44-46, 50-52; IDT Ex. 2).

19. On her February 19, 2014 PECO bill, the IDT electricity charge was \$1,195.22. (Tr. 8, 33; PECO Ex. 1).

20. On her March 24, 2014 PECO bill, the IDT electricity charge was \$492.60. (Tr. 9, 33; PECO Ex. 1).

21. Ms. Gonzalez cancelled her enrollment with IDT as her EGS after receiving her February 19, 2014 bill from PECO. (Tr. 11).

22. While enrolled with IDT as her EGS from January 21, 2014 to March 20, 2014, Ms. Gonzalez was on a variable rate plan. (Tr. 57-58; IDT Ex. 4; PECO Ex. 6).

23. The retail rates that IDT charges its customers for electricity are largely dependent on IDT's costs in acquiring the electricity on the wholesale market. (Tr. 62).

24. In early 2014, there were dramatic and unprecedented increases in wholesale electricity prices due to the polar vortex. (Tr. 44, 62).

25. The spike in wholesale prices caused a drastic increase in the retail price of electricity charged to many Pennsylvania customers. (Tr. 44, 62).

26. Ms. Gonzalez was enrolled with IDT at the same time the higher than normal energy prices were occurring. (Tr. 45).

27. The rates charged to Ms. Gonzalez by IDT during the time she was enrolled with the company were much higher than normal. (Tr. 45).

28. After cancelling her enrollment with IDT, Ms. Gonzalez reenrolled with PECO as her electricity supplier. (Tr. 11, 35; PECO Ex. 2).

29. Prior to enrolling with IDT as her EGS, she was on a payment arrangement with PECO for the payment of outstanding charges on her account. (Tr. 23, 34; PECO Ex. 1).

30. Ms. Gonzalez defaulted on this payment arrangement with PECO in March of 2014. (Tr. 23, 26, 34).

31. When Ms. Gonzalez defaulted on her payment arrangement with PECO, \$245.62 OF PECO charges that were the subject of the payment arrangement were put back on her account as owing. (Tr. 25, 34; PECO Ex. 1).

32. Ms. Gonzalez terminated her PECO account on September 1, 2015. (Tr. 14, 27-28, 32).

33. After terminating her account with PECO, the company issued a final bill to her, dated September 2, 2015, in the amount of \$2,204.48. (Tr. 27).

34. Ms. Gonzalez's final bill from PECO was never paid. (Tr. 28, 32).

35. The PECO final bill includes the IDT electric charges that accrued on the account from January 21, 2014 through March 20, 2014. (Tr. 32, 34).

36. PECO referred Ms. Gonzalez's final bill to an outside collection agency. (Tr. 33).

37. After the Complainant canceled her service with IDT, IDT mailed a refund check to Ms. Gonzalez on May 7, 2014, in the amount of \$997.00. (Tr. 20, 60).

38. IDT issued the refund check to Ms. Gonzalez as a goodwill accommodation to her to assist with the high energy rates. (Tr. 60).

39. Ms. Gonzalez cashed the IDT refund check on May 16, 2014. (Tr. 20, 60).

40. The IDT refund check was calculated to equal the difference between IDT's charges to Ms. Gonzalez for electricity and the amount she would have been billed by PECO if she had been a PECO default service customer from January 21, 2014 through March 20, 2014. (Tr. 60).

41. The net effect of the refund was that Ms. Gonzalez was ultimately only charged by IDT the same amount as she would have been charged if she had been with PECO for default service during the period she was enrolled with IDT. (Tr. 61).

42. Ms. Gonzalez did not pay the IDT refund amount toward her final PECO bill, which included the IDT charges, nor did she forward the refund check to PECO to apply it toward the outstanding IDT charges. (Tr. 21-22).

43. Ms. Gonzalez spoke with a PECO representative near the time she canceled her service with IDT to inquire what she owed PECO and was told the outstanding PECO charge on her account was approximately \$180.00. (Tr. 10, 13).

44. Subsequent to this conversation, the \$245.62 amount that was the subject of Ms. Gonzalez's payment arrangement with PECO was put back on her account after she defaulted on the arrangement. (Tr. 34).

### DISCUSSION

The Complainant claims that the actual charges billed to her by IDT during the time she was enrolled with the company as her EGS were significantly higher than she was led to believe at the time she enrolled in January of 2014. She believes she was misled by IDT about its rates. In addition, she claims she was told by PECO at the time she canceled her service with IDT in February of 2014 that she owed PECO only approximately \$180.00, but that she now has a final bill from PECO in the amount of \$2,204.48. She wants IDT to pay PECO what is owed and for the debt to be removed from her credit report.

The party seeking affirmative relief from the Commission bears the burden of proof. 66 Pa.C.S. § 332(a). As a matter of law, a Complainant must show that the named utility is responsible or accountable for the problem described in the Complaint in order to prevail. *Patterson v. Bell Tel. Co. of PA*, 72 Pa. PUC 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa. PUC 300 (1976). This must be shown by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (1990), *alloc, denied*, 602 A.2d 863 (1992). A preponderance of evidence is that which is 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 Pa. LEXIS 316 (1950).

Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa.Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. 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. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. Of Review*, 166 A.2d 96 (Pa.Super. 1960); *Murphy v. Dep't. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa.Cmwlth. 1984).

The offense must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701.

As the Complainant in this proceeding, Ms. Gonzalez bears the burden of proof and must prove her case by a preponderance of the evidence.

I will first address the issue of the method by which Ms. Gonzalez enrolled with IDT in January of 2014. There was conflicting testimony presented at the hearing about the method by which Ms. Gonzalez enrolled with IDT in January of 2014. She insisted during the hearing that she was enrolled by a sales agent who came to her house. (Tr. 9-10, 18). She testified that she enrolled in a clean energy plan with IDT, and that the sales agent told her that her bills would only increase a little bit. (Tr. 9-10). She insisted that she did not enroll with IDT directly through its website via the internet. (Tr. 18).

IDT's witness Megan Bell testified that Ms. Gonzalez did enroll with IDT via the company's website. (Tr. 44). She confirmed that Ms. Gonzalez enrolled with IDT for a renewable electricity product. (Tr. 44). Ms. Bell testified that the Complainant was enrolled via the company's website on January 10, 2014, and that service became effective on January 21, 2014. (Tr. 45-46). In support of this position, she testified that it would not make sense for a sales agent to come to a customer's house and sign the customer up via IDT's website, using a computer or laptop, because the agent would not be credited with a commission for an enrollment made in this manner. (Tr. 50). She further testified that, if a door to door sales agent enrolls a customer, the transaction would go through the third party verification (TPV) process. She stated that IDT has no record of the TPV process having occurred for Ms. Gonzalez's enrollment. (Tr. 50-51)

Additionally, Ms. Bell testified that electronic mail confirmations of new customer enrollment are only sent to customers who enroll through the company's website. (Tr. 52). She stated that an electronic confirmation was transmitted to Ms. Gonzalez upon her enrollment with IDT. (Tr. 52). Ms. Bell sponsored IDT Ex. 2, which is a copy of the electronic mail confirmation sent to Ms. Gonzalez on January 10, 2014, confirming her enrollment with IDT. (Tr. 52; IDT Ex. 2).

Later in her testimony, Ms. Gonzalez expressed uncertainty as to how, in fact, she enrolled with IDT. She testified, "[i]t is slightly possible it could have been over the phone. But I am almost positive that it was at my front door that these people came . . . . But I could be wrong, and if anything, it would be over the phone." (Tr. 65). Although she did not suggest that she may have enrolled via IDT's website, her uncertainty, nonetheless, calls into question the reliability of her insistence of having been enrolled by a door to door sales agent.

Next, Ms. Gonzalez alleges that she was misinformed by IDT that her rate would only go up a little bit when, in actuality, her rate increased dramatically during the time she was enrolled with the company. (Tr. 10).

Ms. Gonzalez testified that her first PECO bill after beginning service with IDT included IDT electric charges totaling \$1,195.22. (Tr. 8). She testified that the second PECO bill received after enrolling with IDT included IDT electric charges totaling \$492.60. (Tr. 8). Ms. Gonzalez stated that these IDT charges were much higher than she was led to believe they would be when she enrolled. (Tr. 9-10).

IDT's witness Bell testified that Ms. Gonzalez enrolled in a variable rate plan, and that IDT did not offer any other type of plan at the time Ms. Gonzalez enrolled. (Tr. 58). Ms. Bell testified that a welcome letter and a disclosure statement were sent to Ms. Gonzalez after her enrollment. (Tr. 55-56; IDT Exhibits 3, 4). She explained that the disclosure statement stated that the rate product to which Ms. Gonzales enrolled was a variable rate plan. (Tr. 57-58; IDT Ex. 4).

Based upon the record evidence in this proceeding, I am unable to conclude that either IDT or PECO engaged in any deceptive or misleading actions in connection with the Complainant's enrollment with IDT for variable rate service in early 2014. First, there is no evidence in the record that Ms. Gonzalez ever challenged or questioned the fact that she enrolled with IDT for a variable rate plan. At no time did she take the position that she should not have been enrolled in a variable rate plan. She merely argued that the rate she was charged by IDT was higher than she expected. Further, as noted above, the disclosure statement sent to Ms. Gonzalez following her enrollment indicated that the company was offering a variable rate price for all electric generation sold under the agreement. The statement explained in general terms how its prices are determined and stated, "[t]his price may be higher or lower than the EDC's price in any particular month. There is no ceiling price." (IDT Ex. 4).

With respect to IDT's charges, Ms. Bell explained that the retail price for electric generation sold is established on an approximately monthly basis and is based, in large part, on electric generation wholesale market pricing. (Tr. 44, 58). She testified that there were dramatic spikes in wholesale electricity prices in 2014 that resulted in much higher than normal retail prices. (Tr. 44, 62). Ms. Bell stated that IDT did not anticipate these dramatic increases at the time Ms. Gonzalez enrolled and that many other suppliers were similarly affected. (Tr. 62-63, 72). Ms. Bell testified, "[u]nfortunately, Ms. Gonzalez enrolled with IDT Energy just as these higher than normal electricity prices were occurring. And as a result, her IDT Energy charges during the two months she was enrolled with IDT Energy were definitely higher than normal." (Tr. 45). Ms. Bell further stated:

During this period, commonly referred to as the polar vortex, IDT Energy's wholesale cost of acquiring electricity escalated dramatically which resulted in increases to IDT Energy's variable retail prices for several months in early 2014. These wholesale price spikes affected many suppliers and Pennsylvania customers of many different suppliers saw their prices for electricity increase drastically in 2014.

(Tr. 62).

Again, based upon the record evidence, I am unable to conclude that either IDT or PECO engaged in any improper or illegal actions relative to the charges billed to Ms. Gonzalez

by IDT during her enrollment with IDT from January 21, 2014 through March 20, 2014. As explained by IDT witness Megan Bell, the price spikes that resulted in the high electricity charges from IDT in early 2014 were caused by abnormal and unanticipated increases in wholesale electricity prices due to the polar vortex. (Tr. 62). When asked if IDT was able to foresee or anticipate the coming price spikes, Ms. Bell testified, “[n]o. Absolutely not. No one in the industry could foresee those price spikes that occurred in 2014. The price spikes that took place were really unprecedented and the PUC has acknowledged this through orders repeatedly.” (Tr. 63).

The record in this proceeding contains no evidence that contradicts or refutes the explanation offered by IDT’s witness about either the severity or unexpected nature of the price spikes that occurred when Ms. Gonzalez was enrolled with the company. For example, there is no evidence as to when the price spikes first occurred. If, for instance, prices had risen dramatically several months prior to the time Ms. Gonzalez enrolled with IDT, the company would not have been able to argue that the increases occurred around the time she enrolled and were unanticipated at that time. The record evidence, however, simply does not support such a challenge to IDT’s position.

Finally, as indicated above, in response to contacts from Ms. Gonzalez after cancelling her service with IDT, the company issued a refund check to her on May 7, 2014, in the amount of \$997.00. (Tr. 60). As explained by IDT witness Bell, the refund was provided as a goodwill gesture in an effort to assist Ms. Gonzalez with the high rates charged. (Tr. 60).

In explaining how the refund amount was calculated, Ms. Bell stated that the \$997.00 figure represented:

. . . the difference between IDT’s charges for electricity supply and what Ms. Gonzalez’s charges would have been at a rate of .09 and a half per kilowatt hour, which was approximately PECO’s default service rate at that time. The refund given to Ms. Gonzalez had the effect of reducing the rate that she paid during those two months in question, down to the appropriate rate that would have been paid, if she had been with PECO for default supply service.

(Tr.61).

Ms. Gonzalez cashed the IDT refund check on May 16, 2014. (Tr. 19, 60). Ms. Gonzalez acknowledged that she did not use the refund money to pay the disputed IDT charges on her PECO bill, nor did she forward the check to PECO to be applied to her balance. (Tr. 22). To the contrary, Ms. Gonzalez used the refund money for other purposes. (Tr. 21). Based upon this evidence, I do not find that IDT acted unreasonably in addressing Ms. Gonzalez's complaints about her IDT charges. Aside from the issues of the method by which she was enrolled and the high rates billed to her under the variable rate plan, discussed above, IDT refunded the entire excess amount billed to her above what she would have been billed if she had remained with PECO. Accordingly, even though she has not proven that she was entitled to a refund from IDT, she has been made entirely whole by the company anyway.

Lastly, I will address Ms. Gonzalez's complaint that, despite being told by a PECO representative when she cancelled her IDT service that she only owed PECO approximately \$180.00, she received a final bill from PECO in the amount of \$2,204.48. Ms. Gonzalez testified that, when she left IDT she contacted PECO to find out how much she owed toward PECO's charges. She testified she was informed that the total amount she owed to PECO was \$179.88. (Tr. 10). She does not believe she owes the final bill amount to PECO.

PECO Ex. 1 shows that Ms. Gonzalez's PECO account was paid through her January 24, 2014 bill. Her February 19, 2014 bill contained charges totaling \$1,375.21. Of this total, \$1,195.22 were IDT electricity charges. (PECO Ex. 1; Tr. 33). If the IDT electricity charges (\$1,195.22) are subtracted from the bill total, the remaining balance of non-IDT electricity charges is \$179.98, which is the amount Ms. Gonzalez was informed by PECO she owed in PECO charges when she cancelled her service with IDT. (Tr. 11).

PECO witness Renee Tarpley testified that Ms. Gonzalez defaulted on a payment arrangement with PECO around the time she cancelled her IDT service. (Tr. 34). Ms. Tarpley testified that when the default occurred, the amount that remained on the balance that was subject to the payment arrangement was \$245.62. (Tr. 34). Ms. Tarpley testified that this remaining balance of \$245.62 was put back onto Ms. Gonzalez's PECO account following the default. (Tr. 34). This transaction is shown on a March 18, 2014 entry on PECO Ex. 1.

In addition to the \$245.62 amount that was placed back on the PECO account, the final bill total of \$2,204.48 includes the IDT electricity charges from January 21, 2014 through March 20, 2014, totaling \$1,687.82. (Tr. 33). As noted above, IDT issued a refund check to Ms. Gonzalez in the amount of \$997.00. Ms. Gonzalez did not, however, pay this amount to PECO toward the disputed charges. Accordingly, despite having been refunded this amount by IDT, the total amount of IDT electricity charges remains on her PECO final bill and is owed by her.

Further, PECO Ex. 1 shows that Ms. Gonzalez made regular payments toward her PECO bill following her cancellation of IDT service. However, there was at least one month when she does not appear to have made a payment. The charges on her December 14, 2014 bill total \$482.37. The charges on her January 20, 2015 bill total \$483.07. The charges on her February 18, 2015 bill total \$457.93. The charges for these three months total \$1,423.37. During this time period, she made payments of \$475.00, \$100.00 and \$658.00, which payments total \$1,233.00. (PECO Ex. 1). The difference between the charges and payments during this time period is \$190.37. This \$190.37 shortfall in payments is also included in Ms. Gonzalez's final bill total. There are also several late payment fees shown on PECO Ex. 1 that are also included in the final bill total.

The record evidence supports PECO's position that Ms. Gonzalez's final bill total of \$2,204.48 is correct and owed by her. Ms. Gonzalez did not present any evidence to dispute the accuracy of this balance. Accordingly, I find that the final bill balance is correct and that Ms. Gonzalez is responsible for its payment. I likewise find that PECO was justified in referring the final bill debt to an outside collection agency.

For all of the reasons set forth above, I find that the Complainant has failed to prove by a preponderance of the evidence the either IDT or PECO violated any applicable statutes, regulations or Commission orders with respect to her enrollment with IDT, the charges billed to her during her enrollment period, or the calculation and issuance of a final bill to her in the amount of \$2,204.48.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.

2. The party seeking affirmative relief from the Commission bears the burden of proof. 66 Pa.C.S. § 332(a).

3. As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the Complaint in order to prevail. *Patterson v. Bell Tel. Co. of PA*, 72 Pa. PUC 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa. PUC 300 (1976).

4. This must be shown by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (1990), *alloc, denied*, 602 A.2d 863 (1992).

5. A preponderance of evidence is that which is 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 Pa. LEXIS 316 (1950).

6. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa.Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa.Cmwlth. 1993); 2 Pa.C.S. § 704.

7. 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. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. Of Review*, 166 A.2d 96 (Pa.Super. 1960); *Murphy v. Dep't. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa.Cmwlth. 1984).

8. The offense must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701.

9. As the proponent of a Commission order, Complainant has the burden of proof in this case. 66 Pa.C.S.A. § 332(a).

10. The Complainant failed to prove, by a preponderance of the evidence, that either IDT or PECO violated any applicable statutes, regulations or orders over which the Commission has jurisdiction.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal complaint filed by Donna Marie Gonzalez against PECO Energy Company and IDT Energy, Inc. Docket No. C-2015-2510245 is dismissed.

2. That the Secretary mark this docket closed.

Dated: July 28, 2016

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/s/  
Steven K. Haas  
Administrative Law Judge