

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jerry Reed	:	
	:	
v.	:	C-2017-2616261
	:	
West Penn Power Company	:	

**INITIAL DECISION**

Before  
David A. Salapa  
Administrative Law Judge

**INTRODUCTION**

A customer filed a complaint against his electric utility alleging that there were incorrect charges on his bills and requesting a payment arrangement. This decision denies the customer’s complaint because the customer is capable of using the amounts of electricity shown on his bill and the meter is accurately recording the amounts of electricity the customer used. This decision also denies the request for a payment arrangement because the customer had a previous payment arrangement which he failed to keep and because he failed to demonstrate that he is entitled to another payment arrangement or extension of the previous payment arrangement.

**HISTORY OF THE PROCEEDING**

On July 17, 2017, Jerry Reed (Complainant) filed a complaint with the Pennsylvania Public Utility Commission (Commission) against West Penn Power Company (Respondent). The complaint alleges that there are incorrect charges on the Complainant’s electric bills. The complaint asserts that the Complainant is being overcharged based on his actual usage.

The complaint also requests a payment arrangement, contending that the payment arrangement he has is unaffordable. The complaint requests that the Commission order the Respondent to remove the incorrect charges from the Complainant's bill and order a payment arrangement that the Complainant can afford.

The Respondent filed an answer on August 14, 2017. The answer admits that the Respondent provides electric service to the Complainant at the address shown on the complaint. The answer denies that the Respondent is overcharging the Complainant. The answer denies that the Complainant is entitled to a payment arrangement because he has defaulted on prior payment arrangements. The answer requests that the Commission deny or dismiss the complaint or alternatively, refer the matter to the Office of Administrative Law Judge's (OALJ's) Mediation Unit.

By hearing notice dated October 3, 2017, the Commission scheduled a telephonic hearing for this matter on November 28, 2017 at 10:00 a.m. and assigned the case to me. I issued a prehearing order dated October 10, 2017, addressing, inter alia, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

I conducted a telephonic hearing on November 28, 2017. The Complainant appeared pro se and presented testimony in support of his complaint. John L. Munsch, Esquire represented the Respondent, which presented one witness who sponsored six exhibits that I admitted into the record.

The initial hearing resulted in a transcript of 51 pages. The record closed on December 20, 2017, the date the transcript was filed with the Secretary's Bureau. For the reasons set forth below, I will deny the complaint.

#### FINDINGS OF FACT

1. The Complainant in this case is Jerry Reed. N.T. 6.

2. The Respondent in this case is West Penn Power Company. N.T. 7.
3. The Complainant resides at 400 Moween Road, Saltsburg. N.T. 6.
4. The Complainant has resided at 400 Moween Road for approximately 20 years. N.T. 7.
5. The residence at 400 Moween is a house that the Complainant owns. N.T. 7.
6. The Complainant resides at 400 Moween Road with his wife and two children, ages 16 and 21. N.T. 8.
7. His older child is a full-time student at Indiana University of Pennsylvania. N.T. 12.
8. The house at 400 Moween Road is approximately 1,800 square feet in size and has a kitchen, living room, dining room, three bedrooms, and a bathroom. N.T. 9.
9. The residence has a stove, microwave, computer, refrigerator, two televisions and hot water heater. N.T. 9-10.
10. The house is heated with propane. N.T. 10.
11. The house has no air conditioning. N.T. 10.
12. The Complainant established service at 400 Moween Road on March 9, 1998. N.T. 19.
13. The Respondent established a new account for 400 Moween Road on March 14, 2014, when the Complainant filed for bankruptcy protection. N.T. 19.

14. At the time the Complainant filed for bankruptcy protection, the Respondent segregated \$3,978.46 in pre-petition arrearages in the Complainant's account and opened a new account for post-petition arrearages. N.T. 22-23.

15. When the bankruptcy petition was dismissed on December 10, 2014, the Respondent transferred the \$3,978.46 pre-petition arrearage into the new account. N.T. 23.

16. The Complainant's account balance at the time of the hearing was \$7,283.56. N.T. 22, Ex. 1.

17. On July 18, 2016, the Complainant made a payment of \$596.34. N.T. 24, Ex. 1.

18. On October 9, 2017, the Complainant made a payment of \$113.30. N.T. 24, Ex. 1.

19. On November 7, 2017, the Complainant made a payment of \$167.47. N.T. 24, Ex. 1.

20. On August 21, 2016, the Complainant made a payment of \$223.00. N.T. 24, Ex. 1.

21. The August 21, 2016 payment was returned for insufficient funds on August 25, 2016. N.T. 24, Ex. 1.

22. The Respondent sent a ten-day termination notice to the Complainant on October 25, 2017. N.T. 25.

23. The Complainant made a payment for current usage and at the time of the hearing was not in threat of termination. N.T. 25.

24. The Respondent provided the Complainant with three payment arrangements. N.T. 27-28, Ex. 2.
25. The Complainant defaulted on each of these payment arrangements. N.T. 27-28, Ex. 2.
26. The Complainant was previously enrolled in the Respondent's customer assistance programs (CAPs) during the period from July 2014 through June 7, 2016. N.T. 28-29, Ex. 2.
27. The Complainant was removed from the CAP for failure to recertify his household income. N.T. 30.
28. The Complainant's current CAP balance is zero. N.T. 31.
29. The Complainant currently does not qualify for admission into the CAP because his household income exceeds the maximum amount necessary to qualify for the CAP. N.T. 30.
30. The Complainant also received a Commission-ordered payment arrangement from the Commission's Bureau of Consumer Services (BCS). N.T. 33, Ex. 3.
31. The Complainant filed an informal complaint with BCS on April 14, 2017 at BCS No. 3514319. N.T. 33, Ex. 3.
32. BCS ordered the Complainant to pay \$383.00 per month, consisting of a regular budget amount of \$205.00 per month for current usage plus \$178.00 per month on arrearages, beginning in June 2017. N.T. 33, Ex. 3.
33. BCS closed the case at BCS No. 3514319 on May 17, 2017. N.T. 33, Ex. 3.

34. The Complainant's usage has been consistent. N.T. 35, Ex. 4.
35. The Complainant's usage is higher in the winter than in the summer. N.T. 35, Ex. 4.
36. The Complainant's usage has increased slightly in 2017. N.T. 35-36, Ex. 4.
37. The Respondent removed the Complainant's electric meter in August 2017. N.T. 37, Ex. 5.
38. After the Respondent removed the meter, it tested the meter on August 14, 2017. N.T. 37, Ex. 5.
39. The meter tested at a weighted average of 99.87%. N.T. 38, Ex. 5.
40. The Respondent installed a new meter at the Complainant's residence when it removed the existing meter. N.T. 38.
41. Prior to installing the new meter, the Respondent tested the meter. N.T. 38-39, Ex. 6.
42. The meter tested at a weighted average of 100.03%. N.T. 39, Ex. 5.
43. The Complainant is unemployed and earns no income and receives no benefits of any kind. N.T. 12.
44. The Complainant's wife works as an LPN and earns \$37,500.00 per year or \$3,125.00 per month. N.T. 12.
45. The Complainant's two children, ages 16 and 21 reside with the Complainant and his wife. N.T. 8.

46. The 21-year-old is a full-time student and does not work. N.T. 12.

47. The Complainant's household income has remained relatively stable during the last three years. N.T. 14.

48. At the time of the BCS decision dated May 17, 2017 at Case No. 3514319 the Complainant's household income was approximately \$3,400.00 per month. Ex. 3.

49. The Complainant's household income since the BCS decision dated BCS decision dated May 17, 2017 at Case No. 3514319 has suffered a decrease. N.T. 12, Ex. 3.

50. The decrease in the Complainant's household income is not a ten per cent decrease ( $\$3,400.00 \times 10\% = \$340.00$ ) ( $\$3,400.00 - \$340.00 = \$3,060.00$ ). N.T. 12, Ex. 3.

51. The Complainant's household had not suffered a catastrophic illness, damage to or loss of the residence or an increase in the number of dependents. N.T. 14-15.

### DISCUSSION

The Complainant in this proceeding has the burden of proof to show that the Respondent is responsible or accountable for the problem described in the complaint. Patterson v. Bell Telephone Co. of Pa., 72 Pa. PUC 196 (1990); Feinstein v. Philadelphia Suburban Water Co., 50 Pa. PUC 300 (1976). The Complainant must establish his case by a preponderance of the evidence. Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n, 578 A.2d 600 (Pa.Cmwlth. 1990), alloc. den., 602 A.2d 863 (Pa. 1992). To meet his burden of proof, the Complainant must present evidence more convincing, by even the smallest amount, than that presented by the Respondent. Se-Ling Hosiery v. Margulies, 70 A.2d 854 (Pa. 1950). Here the Complainant alleges that the Respondent overbilled him and requests a payment arrangement.

Since the Complainant's complaint alleges overbilling, the Complainant's burden of proof is governed by Waldron v. Philadelphia Electric Co., 54 Pa. PUC 98 (1980) (Waldron). In Waldron, the Commission concluded that a complainant may establish a prima facie

overbilling case by showing that: (1) the number of occupants of the household has not changed; (2) the potential for energy utilization is low; and (3) the prior billing history shows no previous abnormalities. If the Complainant has submitted such evidence, the burden of going forward with the evidence shifts to the Respondent.

If the Respondent fails to rebut the Complainant's evidence, then the Complainant would prevail. If the Respondent places evidence into the record to rebut the Complainant's prima facie case, the burden of going forward with the evidence shifts back to the Complainant. To satisfy the burden of proof, the Complainant must rebut the Respondent's evidence by a preponderance of the evidence.

Although the burden of going forward with the evidence may shift from one party to another during a proceeding, the "burden of proof" never shifts. It always remains on the Complainant. Replogle v. Pennsylvania Electric Co., 54 Pa. PUC 528 (1980).

The Commonwealth Court broadened the Commission's ruling in Waldron in Milkie v. Pa. Pub. Util. Comm'n, 768 A.2d 1217 (Pa.Cmwlt. 2001) (Milkie). The Commonwealth Court held that the Commission's requirement that a complainant must establish certain specific elements to make out a prima facie case was too restrictive. The Commonwealth Court ruled that even where the utility has presented evidence that it has tested the customer's meter and found it to be accurate, the customer may prove his or her case by circumstantial evidence that the metered usage exceeded actual usage.

Subsequent to the Milkie decision, the Commission has determined that in an overbilling case, it may consider the billing history of the account, any change in usage pattern or any other relevant facts or circumstances that come to light during the proceeding. Bennett v. Peoples Natural Gas Co., Docket No. C-2009-2122979 (Opinion and Order entered October 13, 2010); Thomas v. PECO Energy Co., Docket No. C-2010-2187197 (Opinion and Order entered November 15, 2011).

As noted above, the burden of proof always remains with the Complainant and if the Respondent presents evidence that is co-equal or greater in weight than the Complainant's,

the Complainant will not have met his burden of proof. The Commonwealth Court in Milkie emphasized that the mere proof by the utility that its measuring devices are accurate is no longer the sole determinant of whether there is a basis to a complaint of overbilling, citing Burleson v. Pa. Pub. Util. Comm'n, 461 A.2d 1234 (Pa. 1983).

In this case, the Complainant's complaint alleges that the Respondent overbilled him. I will provide some background information taken from the evidence presented at the hearing before addressing the Complainant's contentions and the merits of the case.

The Complainant's complaint concerns his residence at 400 Moween Road, Saltsburg. N.T. 6. The Complainant testified that he has resided at this address for approximately 20 years. N.T. 7. The residence is a house that the Complainant owns. N.T. 7.

The Complainant resides at 400 Moween Road with his wife and two children, ages 16 and 21. N.T. 8. His older child is a full-time student at Indiana University of Pennsylvania. N.T. 12.

The house at 400 Moween Road is approximately 1,800 square feet in size and has a kitchen, living room, dining room, three bedrooms, and a bathroom. N.T. 9. The residence has a stove, microwave, computer, refrigerator, two televisions and hot water heater. N.T. 9-10. The house is heated with propane. N.T. 10. The house has no air conditioning. N.T. 10.

The Complainant testified that his electric bills are too high. N.T. 7. According to the Complainant, his bills are higher than the bills of his neighbors. N.T. 7.

The Complainant testified that he contacted the Respondent approximately a year or two ago to complain about his high bills. N.T. 10. After receiving this contact, the Respondent replaced the Complainant's electric meter in May or June 2017. N.T. 11. Since the Respondent installed the new meter, the Complainant testified that his bills have been lower. N.T. 7.

In response to the Complainant's evidence concerning overbilling, the Respondent presented the testimony of Tammy J. Taylor, a senior customer service compliance specialist. N.T. 16-17. Ms. Taylor's testimony corroborated some of the Complainant's testimony. The Respondent's records indicated dates of events that differed from the time frames recalled by the Complainant. Where the evidence differs as to when certain events occurred, I will give more weight to the Respondent's records since the Complainant could only testify to approximately when certain events occurred.

Ms. Taylor reviewed the account statement for the Complainant's account for the period from November 4, 2015 through November 11, 2017. N.T. 19, Ex. 1. The Respondent's records indicate that the Complainant established service at 400 Moween Road on March 9, 1998. N.T. 19. The Respondent's records indicate that the Respondent established a new account for 400 Moween Road on March 14, 2014, when the Complainant filed for bankruptcy protection. N.T. 19.

Ms. Taylor explained that at the time the Complainant filed for bankruptcy protection, the Respondent segregated \$3,978.46 in pre-petition arrearages in the Complainant's account and opened a new account for post-petition arrearages. N.T. 22-23. When the Complainant's bankruptcy petition was dismissed on December 10, 2014, the Respondent transferred the \$3,978.46 pre-petition arrearage into the new account. N.T. 23. The Complainant's account balance at the time of the hearing was \$7,283.56. N.T. 22, Ex. 1.

Ms. Taylor stated that during the period covered by the account statement, the Complainant made three payments. N.T. 24, Ex. 1. On July 18, 2016, the Complainant made a payment of \$596.34. N.T. 24, Ex. 1. On October 9, 2017, the Complainant made a payment of \$113.30. N.T. 24, Ex. 1. On November 7, 2017, the Complainant made a payment of \$167.47. N.T. 24, Ex. 1.

In addition, on August 21, 2016, the Complainant made a payment of \$223.00. N.T. 24, Ex. 1. This payment was returned for insufficient funds on August 25, 2016. N.T. 24, Ex. 1.

Ms. Taylor indicated that the Respondent sent a ten-day termination notice to the Complainant on October 25, 2017. N.T. 25. However, the Complainant made a payment for current usage and at the time of the hearing was not in threat of termination. N.T. 25.

Ms. Taylor reviewed the Complainant's payment arrangement history. N.T. 26, Ex. 2. The Respondent has provided the Complainant with three payment arrangements. N.T. 27-28, Ex. 2. The Complainant defaulted on each of these payment arrangements. N.T. 27-28, Ex. 2.

The Complainant was previously enrolled in the Respondent's customer assistance programs (CAPs) during the period from July 2014 through June 7, 2016. N.T. 28-29, Ex. 2. The Complainant was removed from the CAP for failure to recertify his household income. N.T. 30. The Complainant's current CAP balance is zero. N.T. 31. The Complainant currently does not qualify for admission into the CAP because his household income exceeds the maximum amount necessary to qualify for the CAP. N.T. 30.

The Complainant also received a Commission-ordered payment arrangement from the Commission's Bureau of Consumer Services (BCS). N.T. 33, Ex. 3. The Complainant filed an informal complaint with BCS on April 14, 2017 at BCS No. 3514319. N.T. 33, Ex. 3. BCS ordered the Complainant to pay \$383.00 per month, consisting of a regular budget amount of \$205.00 per month for current usage plus \$178.00 per month on arrearages, beginning in June 2017. N.T. 33, Ex. 3. BCS closed the case at BCS No. 3514319 on May 17, 2017. N.T. 33, Ex. 3.

Ms. Taylor reviewed a 24-month usage comparison which compared the Complainant's usage for the period of December 2015 through November 2016 with the current period of December 2016 through November 2017. N.T. 34, Ex. 4. The usage comparison indicates that the Complainant's usage has been consistent from one period to the next. N.T. 35, Ex. 4. The Complainant's usage is higher in the winter than in the summer. N.T. 35, Ex. 4. The Complainant's usage has increased slightly in 2017. N.T. 35-36, Ex. 4.

Ms. Taylor testified that the Respondent removed the Complainant's electric meter in August 2017. N.T. 37, Ex. 5. After the Respondent removed the meter, it tested the meter on August 14, 2017. N.T. 37, Ex. 5. The meter test indicated that the meter tested at a weighted average of 99.87%. N.T. 38, Ex. 5.

The Respondent installed a new meter at the Complainant's residence when it removed the existing meter. N.T. 38. Prior to installing the new meter, the Respondent tested the meter. N.T. 38-39, Ex. 6. The meter test indicated that the new meter tested at a weighted average of 100.03%. N.T. 39, Ex. 5.

Having provided a summary of the testimony of the Complainant and the Respondent, I will now address the Complainant's arguments about the alleged overbilling by the Respondent. During the hearing, the Complainant insisted that his electric bills were too high and that he could not have possibly used the amount of electricity shown on his bills. The Complainant also insisted that the Respondent's meter had malfunctioned and miscalculated his electric usage.

The Complainant did not provide any evidence regarding his electricity usage other than general assertions that his bills were too high. The Complainant's evidence regarding the alleged overbilling consisted mostly of unsupported assertions. These assertions, regardless of how honest or strong, cannot form the basis of a finding in his favor. Assertions, personal opinions or perceptions do not constitute factual evidence. Pennsylvania Bureau of Corrections v. City of Pittsburgh, 532 A.2d 12 (Pa. 1987). Even pro se complainants must provide relevant and necessary information. The Complainant in this case proceeded pro se by choice and bore the risk of doing so. Groch v. Unemployment Comp. Bd. of Review, 472 A.2d 286 (Pa.Cmwlt 1984); Vann v. Unemployment Comp. Bd. of Review, 494 A.2d 1081 (Pa. 1985).

Contrary to the Complainant's assertions, the evidence presented shows that there are enough appliances in the residence using electricity to establish that the Complainant's potential for energy usage was not low.

In addition, the Respondent installed a new meter at 400 Moween Road in August 2017. Prior to installing the new meter, the Respondent tested it. The meter test indicated that the new meter was accurate. The meter's accuracy was within the 2% margin of error allowed by the Commission's regulations. 52 Pa.Code §§ 5.20 and 5.24.

The Respondent removed the existing meter in August 2017 and tested it. The meter test indicated that the meter was accurate. The meter's accuracy was within the 2% margin of error allowed by the Commission's regulations. 52 Pa.Code §§ 5.20 and 5.24. Therefore, the Complainant's meter was accurately recording the amounts of electricity the Complainant was using.

Concerning the Complainant's assertion that his electric bills were higher than his neighbor's, I cannot give this evidence any weight since the Complainant did not produce either his neighbors or their bills to support his assertion.

In addition, there is no evidence that the neighbor's home is the same size as the Complainant's or that the neighbor's home has the same electric appliances. Dissimilarities in the size of the home and number of appliances could lead to a different level of usage.

Given these facts, the Complainant has failed to demonstrate that the Respondent has over billed him. The Complainant's potential for electricity usage was not low. The Complainant's meter accurately recorded his electricity usage. I conclude that the Complainant has failed to establish by a preponderance of the evidence that the Respondent has overbilled him for electric service.

Having addressed the Complainant's claim of overbilling, I will now address the Complainant's request for a payment arrangement. However he manages his household budget, the Complainant will have to pay the Respondent for the service he consumes. By law, a public utility is entitled to receive payment for the service it provides. Scaccia v. West Penn Power Co., 55 Pa. PUC 637 (1982). Kea v. Peoples Natural Gas Co., 60 Pa. PUC 215 (1985); Mill v. Pa. Pub. Util. Comm'n, 447 A.2d 1100 (Pa.Cmwlth. 1982). The Respondent has the right to bill and receive payment for the utility service actually supplied. 66 Pa.C.S. § 1303, Neal v. Philadelphia

Gas Works, Docket No. Z-00971874, (Final Order entered January 4, 2002); Angie's Bar v. Duquesne Light Co., 72 Pa. PUC 213 (1990).

All customers are obligated to pay for utility service. Otherwise, unpaid bills are included in the utility's uncollectible expenses, which all its remaining customers must pay. Bolt v. Duquesne Light Co., Docket No. Z-8721758 (Opinion and Order entered April 8, 1988). A payment arrangement, which prevents service termination as long as the Complainant complies with it, is a privilege, not a right. Mandell v. Duquesne Light Co., Docket No. C-20030234, (Opinion and Order entered March 17, 2004).

The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1418 applies to this proceeding. The Commission has the authority to establish a payment arrangement, pursuant to 66 Pa.C.S. § 1405(a). The statute at 66 Pa.C.S. § 1405(a) states:

(a) General Rule.-The commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers. The commission is authorized to establish payment arrangements between a public utility, customers and applicants within the limits established by this chapter.

The Commission may establish a payment arrangement between a public utility and a customer only within the limits established by 66 Pa.C.S. §§ 1401-1418. To be eligible for a payment arrangement, the Complainant must be a "customer" or "applicant" as defined by 66 Pa.C.S. § 1403. If the Complainant is not a "customer" or "applicant", the Commission is not authorized to establish a payment arrangement between her and the Respondent. The statute at 66 Pa.C.S. § 1403 defines a customer as follows:

"Customer." A natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested. The term includes a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility.

In this case, the Complainant is a customer since he is a natural person in whose name a residential service account is listed. The Complainant testified that he resides at 400 Moween Road and that the service account for that address is in his name. The Complainant stated that he has lived at the address for approximately twenty years.

The Respondent provided information concerning the Complainant's account. The Complainant established a residential service account at 400 Moween Road on March 9, 1998. The Respondent produced evidence indicating that the Complainant has failed to pay for his service in full by the due date stated on his bills. The Complainant's account is therefore delinquent as defined by 52 Pa.Code § 56.2. As a result of the Complainant's failure to make regular payments on his account, the outstanding balance on his account as of the date of the hearing was \$7,283.56.

While the Complainant is a customer, pursuant to 66 Pa.C.S. § 1403, he is not entitled to a new payment arrangement because he failed to comply with the terms of the BCS decision dated May 17, 2017 at Case No. 3514319, which ordered a payment arrangement for the Complainant on his account with the Respondent. The Complainant did not timely appeal the BCS decision. The statute at 66 Pa.C.S. § 1405(d) of the Public Utility Code states:

(d) Number of Payment Agreements. – Absent a change in income, the Commission shall not establish or order a public utility to establish a second or subsequent payment arrangement if a customer has defaulted on a previous payment arrangement established by a commission order or decision. A public utility may, at its discretion, enter into a second or subsequent payment arrangement with a customer.

Since the Complainant did not timely appeal the BCS decision and failed to make the payments ordered by the BCS decision dated May 17, 2017 at Case No. 3514319, he has defaulted on the payment arrangement. According to 66 Pa.C.S. § 1405(d), the Complainant would be entitled to another payment arrangement only if she had suffered a change in income. The statute at 66 Pa.C.S. § 1403 defines a "Change in Income" as follows:

A decrease in household income of 20% or more if the customer's household income level exceeds 200% of the federal poverty level

or a decrease in household income of 10% or more if the customer's household income level is 200% or less of the federal poverty level.

Here, the Complainant testified that he is unemployed and earns no income and receives no benefits of any kind. N.T. 12. The Complainant testified his wife works as an LPN and earns \$37,500.00 per year or \$3125.00 per month. N.T. 12. The Complainant testified that their two children, ages 16 and 21 reside with the Complainant and his wife. N.T. 8. The 21-year-old is a full-time student and does not work. N.T. 12.

The Complainant testified that the family's income has remained relatively stable during the last three years. N.T. 14. The BCS decision dated BCS decision dated May 17, 2017 at Case No. 3514319 indicates that at that time of that decision the Complainant's household income was approximately \$3,400.00 per month. Ex. 3. While the Complainant has suffered a decrease in his household income since the BCS decision dated BCS decision dated May 17, 2017 at Case No. 3514319, it is not a ten per cent decrease ( $\$3,400.00 \times 10\% = \$340.00$ ) ( $\$3,400.00 - \$340.00 = \$3060.00$ ). Since the Complainant's household has not suffered a 10% decrease in income, as required by 66 Pa.C.S. § 1403 and 66 Pa.C.S. § 1405(d), the Commission cannot order a second payment arrangement, pursuant to 66 Pa.C.S. §1405(d).

While I cannot order a second payment arrangement for the Complainant, the Responsible Utility Customer Protection Act provides that the Commission may reinstate a previously ordered payment arrangement in limited circumstances where the customer has defaulted on that payment arrangement. The statute at 66 Pa.C.S. § 1405(e) states as follows:

(e) Extension of payment arrangements.--If the customer defaults on a payment arrangement established under subsections (a) and (b) as a result of a significant change in circumstance, the commission may reinstate the payment arrangement and extend the remaining term for an initial period of six months. The initial extension period may be extended for an additional six months for good cause shown.

The statute at 66 Pa.C.S. §1403 defines "significant change in circumstance" as follows:

“Significant change in circumstance.” Any of the following criteria when verified by the public utility and experienced by customers with household income less than 300% of the Federal poverty level:

- (1) The onset of a chronic or acute illness resulting in a significant loss in the customer's household income.
- (2) Catastrophic damage to the customer's residence resulting in a significant net cost to the customer's household.
- (3) Loss of the customer's residence.
- (4) Increase in the customer's number of dependents in the household.

The Complainant testified that his household had not suffered a catastrophic illness, damage to or loss of the residence or an increase in the number of dependents. N.T. 14-15. Therefore, the Commission may not reinstate the BCS payment arrangement dated May 17, 2017 at Case No. 3514319.

I conclude that the Complainant has failed to establish by a preponderance of the evidence that he is entitled to a Commission-ordered payment arrangement. Since I have concluded that the Commission lacks the authority to order a payment arrangement in these circumstances, the full balance is due and payable.

For the foregoing reasons, I will deny the complaint and enter the following order.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. § 701.
2. The burden of proof in this proceeding is on the Complainant. 66 Pa.C.S. § 332(a),

3. The Complainant's burden of proof in this proceeding is governed by Waldron v. Philadelphia Electric Co., 54 Pa. PUC 98 (1980).

4. The Complainant failed to establish by a preponderance of the evidence that the Respondent has overbilled him for electric service because his potential for energy usage is not low and because his electric meter is accurately recording the amounts of electricity he is using. Waldron v. Philadelphia Electric Co., 54 Pa. P.U.C. 98 (1980); Milkie v. Pennsylvania Pub. Util. Com., 768 A.2d 1217 (Pa.Cmwlth. 2001).

5. The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1418, applies to this proceeding.

6. The Commission is authorized to establish a payment arrangement between a public utility and a customer. 66 Pa.C.S. § 1405(a).

7. The Complainant has not met his burden of proving that he is entitled to a second payment arrangement. 66 Pa.C.S. § 1405(d).

8. The Complainant has not met his burden of proving that he is entitled to reinstatement of the BCS payment arrangement dated May 17, 2017 at Case No. 3514319. 66 Pa.C.S. § 1405(e).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the complaint of Jerry Reed against West Penn Power Company at Docket No. C-2017-2616261 is denied.

