

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Latisha Parks	:	
	:	
v.	:	C-2017-2617931
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Angela T. Jones
Administrative Law Judge

INTRODUCTION

This decision finds that the Complainant failed to sustain her burden of proof regarding her claims of incorrectly billed charges and improper treatment of her discounted rate for service at her multiple service addresses. Therefore, this decision dismisses the Complaint.

HISTORY OF THE PROCEEDING

On July 26, 2017, Latisha Parks (Complainant) filed a Complaint with the Pennsylvania Public Utility Commission (PUC or Commission) against PECO Energy Company (PECO or Respondent or Company). The Complainant indicated there are incorrect charges on her bill.

The Complainant further alleged that she was paying through budget billing and was removed from budget billing without notice from the Respondent. The Complainant alleged that the removal from budget billing caused her outstanding balance. The Complainant asserted that the relevant events occurred from October 29, 2014 through June 26, 2015.

The Complaint was served electronically (eService) by the Commission's Secretary on August 7, 2017, per the audit history of the docket. The eService is pursuant to the Waiver of Section 702 program, under which the Respondent waives the service requirements in 66 Pa.C.S. § 702.

Counsel for the Respondent, Shawane L. Lee, Esquire, filed an Answer on August 25, 2017. The Answer denied the allegations of the Complaint and averred that the Company did not overcharge the Complainant as her bills were correct as rendered.

The Respondent further averred that the Complainant enrolled in the Company's customer assistance program (CAP) on April 29, 2014. On May 16, 2014, the Complainant enrolled in the Company's budget billing. The Complainant remained enrolled in budget billing until she discontinued service at 5123 Webster Street, Philadelphia, Pennsylvania (service address W) on March 30, 2015. On April 1, 2015, the Complainant had an unpaid balance at service address W of \$438.04. The unpaid balance was transferred to the Complainant's account associated with 1101 Yeadon Avenue, Yeadon, Pennsylvania (service address Y).

On March 23, 2015, the Complainant contacted the Company and requested that her CAP discount rate be transferred to service address Y. The Company did not transfer the CAP discount rate to service address Y because the Complainant had the rate applied at service address W.

The Complainant filed an informal complaint with the Commission's Bureau of Consumer Services (BCS) at Case No. 003326569 complaining that she was on CAP and moved from service address W to service address Y and never disconnected service. The Complainant stated that she has two residences and wanted to choose under which service address she would be billed at the CAP discount rate. The Respondent referenced the BCS decision at Case No. 003326569 dated July 27, 2015, which dismissed the informal complaint finding that the Complainant contacted the Company and requested service to be disconnected at service address Y, whereupon a final bill was prepared and provided to the Complainant.

The Respondent averred that the Complainant has an outstanding balance in the amount of \$3,048.33 and a portion of the balance is comprised of CAP arrears.

The Respondent requested that the Commission dismiss the Complaint.

By Hearing Notice dated August 31, 2017, the matter was scheduled for an initial hearing on Thursday, November 2, 2017, at 10:00 a.m. The matter was assigned to the undersigned Administrative Law Judge (ALJ), Angela T. Jones.

By Prehearing Order dated August 31, 2017, the undersigned provided, among other things, the procedural rules for this proceeding.

The initial hearing convened as scheduled on November 2, 2017. Latisha Parks was present and represented herself. Counsel for the Respondent, Attorney Lee, was present and was accompanied by one witness, Renee Tarpley.

Ms. Parks testified and did not sponsor any exhibits.

The Respondent's witness sponsored the following seven exhibits:

- (1) PECO Exhibit 1 – account statement for service address W;
- (2) PECO Exhibit 2 – account statement for service address Y;
- (3) PECO Exhibit 3 – history of Complainant's CAP enrollment;
- (4) PECO Exhibit 4 – history of Complainant's contacts with PECO;
- (5) PECO Exhibit 5 – PECO requirements for CAP rate;
- (6) PECO Exhibit 6 – BCS Case No. 003326569 case report; and
- (7) PECO Exhibit 7 – BCS Case No. 003326569 BCS Decision.

All seven PECO exhibits were admitted into the record over the Complainant's objection to PECO Exhibit 4.

The entire transcript was received on December 14, 2017, and consisted of 94 pages of transcribed testimony. The record closed on December 14, 2017, when the transcript was received.

By Order dated February 26, 2018, the undersigned recognized that PECO Exhibit 5 referred to PECO's program requirements for CAP from 2016-2018. The relevant period for the program requirements for CAP at issue in this dispute is from October 2014 through June 2015. Pursuant to 52 Pa.Code § 5.571(d)(1)¹ and by the February 26, 2018 Order the undersigned reopened the record and directed the Respondent to submit for admission the CAP requirements for the relevant period. The February 26, 2018 Order allowed the Complainant to examine and object to the submission that the Respondent tendered by a certain date.

In compliance with the February 26, 2018 Order, the undersigned received from PECO on March 5, 2018, a revised PECO Exhibit 5 which referred to the CAP requirements from 2013 through 2015. The Complainant did not object to the revised PECO Exhibit 5.

By Order dated March 28, 2018, revised PECO Exhibit 5 was admitted into the record and the record was closed.

This matter is now ripe for decision.

FINDINGS OF FACT

1. The Complainant is Latisha Parks, who currently resides at service address W. Tr. 5.
2. The Respondent is PECO Energy Company.
3. The Complainant has a household size of three, herself and her two minor children. Tr. 22.
4. The Complainant's monthly income is \$1,600. Tr. 25.

¹ 52 Pa.Code § 5.571(d)(1) states, "The presiding officer may reopen the record if the presiding officer has not issued a decision or has not certified the record to the Commission."

5. Ms. Renee Tarpley is employed by the Respondent as a senior regulatory assessor responsible for reviewing informal and formal complaints filed by customers with the Commission and appears as a witness in proceedings before the Commission. Tr. 50.

6. Ms. Tarpley reviewed the instant Complaint. Tr. 50.

Service at the Webster Street Service Address (service address W)

7. The Complainant initiated electric service at service address W on August 9, 2013. Tr. 34, 52.

8. The Complainant has oil heat at service address W. Tr. 23, 26.

9. The Complainant has the following electric appliances at service address W:

- a. Stove;
- b. Refrigerator;
- c. Water heater;
- d. Washer; and
- e. Dryer

Tr. 26-27.

10. The Complainant was enrolled in the Respondent's CAP program, which gave the Complainant a discounted electric rate based on her income, at service address W on April 29, 2014. Tr. 53, PECO Exhibit 3.

11. The CAP program provided a discounted rate to the Complainant for up to the first 650 kWh of electric service. Tr. 54.

12. As part of the Complainant's CAP program rate at service address W it was mandatory for the customer to be on the budget billing plan. Tr. 53.

13. The budget billing for the Complainant's service account at service address W started on May 16, 2014. Tr. 54, PECO Exhibit 1.

14. When the Complainant began paying budget bills at service address W, the bills were in the range of \$21.00 - \$28.00 per month. Tr. 58.

15. The Complainant left service address W in October 2014, because an oil spill occurred there. Tr. 9, 23-24, 36, PECO Exhibit 1.

16. Service address W was vacant from November 3, 2014 to March 30, 2015. Tr. 28. PECO Exhibit 4.

17. Complainant's service account at service address W was discontinued on March 30, 2015, with a final balance of \$438.94. Tr. 11, PECO Exhibits 1, 4.

Service at the Yeadon Avenue Service Address (service address Y)

18. The Complainant rented service address Y beginning November 3, 2014 and left on June 8, 2015. Tr. 6, 9-10, 73.

19. The Complainant had electric heat at service address Y. Tr. 8.

20. The only gas appliances at service address Y are the stove and the water heater; all other appliances are electric. Tr. 8, 63, PECO Exhibit 2.

21. The Complainant requested service at service address Y on October 29, 2014 and her electric service was connected on October 29, 2014. Tr. 37, PECO Exhibit 2.

22. The Complainant's gas service was connected on November 3, 2014, which was her move-in date for service address Y. Tr. 37, 58, 63-64.

23. On October 29, 2014, when the Respondent questioned the Complainant about CAP eligibility at service address Y, the Complainant stated that she was already enrolled in CAP at service address W. Tr. 59.

24. The Complainant did not receive a CAP discounted service rate at service address Y and did not request a CAP discounted service rate when she applied for service at service address Y. Tr. 18, 38.

25. The Respondent provided the Complainant with electric and gas services for the duration of the Complainant's lease at service address Y. Tr. 7, 58.

26. The Complainant received a bill from the Respondent in the amount of \$486.15 for service address Y on December 10, 2014 and called the Respondent to question the amount billed. Tr. 18.

27. After receiving the bill on December 10, 2014, for service address Y, the Complainant informed the Respondent that she had an oil spill at service address W that caused her to move to service address Y in early November 2014. Tr. 21-22, 39, 45-46, PECO Exhibit 2.

28. The Complainant did not think she would be at service address Y for more than two months because it was to be an interim or temporary residence while the oil spill at service address W was remedied. Tr. 19.

29. The Complainant chose not to discontinue service at service address W based on her assumption that she was to be at service address Y for no longer than two months. Tr. 19-20.

30. The Complainant does not dispute that she has an outstanding balance for the usage of gas and electric service at service address Y. Tr. 27, 29.

31. On January 12, 2015, the Complainant called the Company to question the amount she was billed for usage and requested to be placed on CAP for service address Y. Tr. 41, 66-67, PECO Exhibit 4.

32. The Complainant received a CAP discounted service rate at service address W before she requested service at service address Y. Tr. 17, 37-38.

33. On March 4, 2015, the Complainant sent her CAP application to PECO by facsimile. Tr. 42, PECO Exhibit 4.

34. The Respondent received the CAP application from the Complainant and on March 12, 2015, determined the Complainant was not eligible for CAP at service address Y because she had active CAP status at service address W. Tr. 67, PECO Exhibit 4.

35. The Complainant desired to have the CAP discounted rate apply to service address Y. Tr. 43.

36. On March 23, 2015, the Complainant inquired about the CAP rate, but the Respondent explained that a customer can only have the CAP rate for one account. Tr. 69, PECO Exhibit 4.

37. The Complainant asked why she could not pick the account to be billed at the CAP discounted rate, and that she preferred the CAP rate for Yeadon service address where she lives. Tr. 69, PECO Exhibit 4.

38. By another phone call on March 23, 2015, the Complainant contacted the Respondent and requested discontinuance of service at Yeadon service address. Tr. 68, PECO Exhibit 4.

39. The Complainant requested to speak with a supervisor and asked whether the Respondent can make an adjustment to the rate at Yeadon service address to the CAP rate. Tr. 69, PECO Exhibit 4.

40. The Respondent stated that no adjustment can be made because there is an overlap of service at service address W with service address Y and the Complainant cannot have multiple accounts with the CAP rate at the same time. Tr. 69, PECO Exhibit 4.

41. The Complainant filed an informal complaint with the BCS at Case No. 003326569 on March 23, 2015. Tr. 69, PECO Exhibits 4, 6.

42. The BCS informal complaint was that the customer had a CAP program rate at one residence and moved to another residence but did not disconnect service from the former residence. Tr. 70, PECO Exhibit 6.

43. On March 30, 2015, the service at service address W was disconnected. PECO Exhibits 1, 4.

44. The BCS informal complaint also stated that the customer wanted to choose which house she received service from the Respondent at the CAP rate. Tr. 70, PECO Exhibit 6.

45. On March 31, 2015, the CAP discount rate was placed on the service account of the Complainant for service address Y and the account was enrolled in budget billing. Tr. 32, 44-45, 71, 74, PECO Exhibits 3, 4.

46. In June 2015, the Complainant moved back to service address W. Tr. 8, 10.

47. Final service was rendered at service address Y on June 8, 2015. Tr. 73, PECO Exhibit 2.

48. The BCS closed the case and found that service at service address Y was disconnected. Tr. 70, PECO Exhibit 7.

49. On September 30, 2015, the Respondent issued a final bill for service rendered to the Complainant in the amount of \$3,048.33 to a mailing address provided by the Complainant at 5337 Osage Avenue, Philadelphia, Pennsylvania. Tr. 74, PECO Exhibit 2.

CAP discount rate versus budget billing

50. The Complainant contacted the Respondent during her temporary residency at service address Y regarding the CAP discount rate; budget billing was not the issue. Tr. 71, PECO Exhibit 4.

51. The Complainant had concurrent accounts, two accounts in her name at two different addresses, from November 2014 through March 2015. Tr. 11-12.

52. Budget billing is not a discount; it averages a customer's usage over 12 months and bills the customer at that average for the next four months, repeating the calculation every four months. Tr. 54-55.

53. Budget billing is a rolling evaluation based on the customer's usage throughout the year, so at the end of the budget billing cycle or 12 months, the customer may receive a credit or must pay the difference between what was billed through budget billing and what was used over the 12 months. Tr. 55.

54. Budget billing is not based on the income of the customer. Tr. 55.

55. The customer contacts the Company and requests to be placed on budget billing unless the customer is participating in a program that makes budget billing mandatory, like the CAP program. Tr. 55-56.

56. As part of the program requirements for CAP, a customer is to identify one premise for the CAP benefit and cannot enroll multiple accounts for the CAP benefit. Tr. 57, revised PECO Exhibit 5.

57. A PECO customer that has two different addresses can have budget billing at each address but cannot have the CAP discount rate at each address. Tr. 56.

58. The CAP program is designed for low income customers for their primary address where the customer resides. Tr. 56.

59. Budget billing was mandatory with the CAP rate that the Complainant received on March 31, 2015. Tr. 74.

60. If a customer wants to switch the service address that receives the CAP discount rates, the customer is removed from the program for the current service address and must re-enroll for the CAP program at the new service address. Tr. 73.

DISCUSSION

I. Applicable Legal Standard

As the proponent of a rule or order or seeking affirmative relief from the Commission, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Public Utility Code (Code), 66 Pa.C.S. § 332(a). To satisfy this burden, the Complainant must demonstrate that the Respondent was responsible for the problems alleged in the Complaint through a violation of the Code or a regulation or order of the Commission. This must be shown by a preponderance of the evidence. *Patterson v. Bell Telephone Company of Pennsylvania*, 72 Pa. PUC 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa. PUC 300 (1976).

A preponderance of the evidence is that which is more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulie*, 70 A.2d 854 (Pa. 1950); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa.Cmwlth. 1990), *alloc. den.*, 602 A.2d 863 (Pa.Cmwlth. 1992).

In addition, the Commission's decision must be supported by "substantial evidence," which consists of evidence that a reasonable mind might accept as adequate to support a conclusion. A mere "trace of evidence or a suspicion of the existence of a fact" is insufficient. *Norfolk and Western Railway Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa.Cmwlth. 1980).

If the Complainant presents evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the Complainant shifts to the Respondent. If the evidence presented by the Respondent is of co-equal weight, the Complainant has not satisfied her burden of proof. The Complainant would be required to provide additional evidence to rebut the evidence of the Respondent. *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa.Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983).

While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa.Cmwlth. 2001).

II. Whether Charges Are Incorrect

The Complainant was the responsible ratepayer for electric service at service address W from August 13, 2013, to March 30, 2015. Tr. 11-12, 16, 31, 34, 40, 52, PECO Exhibits 1, 4. The Complainant had the CAP discounted rate for electric service at service address W from April 29, 2014, until service was discontinued on March 30, 2015. Tr. 53, PECO Exhibits 1, 3, 4. At service address W the Complainant had oil heat not electric heat; therefore, the Complainant did not have experience with the cost of electric heat.

Due to an oil spill accident at service address W, the Complainant moved to service address Y on November 3, 2014. Tr. 6, 9-10. At service address Y, the Complainant had both gas and electric service in contrast to having just electric service at service address W. In addition, the Complainant had electric heat at service address Y, she did not have electric heat at service address W. So, the significant differences between the two service addresses are:

Type of service	Service address W	Service address Y
Oil heat	√	
Electric heat		√
Gas		√
Electric	√	√
CAP discounted rate	√(until 3/30/2015)	√(begin 3/31/2015)
Budget Billing	√(until 3/30/2015)	√(begin 3/31/2015)

- (1) Service address W has only oil heat;
- (2) Service address W has no gas usage, just electric usage;
- (3) Complainant received the CAP discount rate for electric at service address W;
- (4) Complainant had budget billing at service address W;
- (5) Service address Y has both gas and electric usage;
- (6) Service address Y has electric heat;
- (7) Complainant did not receive the CAP discount rate for service at service address Y initially; and
- (8) Complainant did not receive budget billing at service address Y initially.

Tr. 8, 23, 26, PECO Exhibits 1-4.

The Complainant's bills at service address W ranged from \$21.00 to \$28.00 per month. Tr. 58. Thus, prior to moving to service address Y, the Complainant had not received a PECO bill of over \$400.00. The Complainant's December 10, 2014 bill at service address Y was in the amount of \$486.15. The Complainant questioned the amount of the bill. Tr. 18, PECO Exhibit 2. This was the first bill the Complainant received at service address Y that reflected the full billing cycle.

It is understandable that the bill at service address Y was significantly more than what the Complainant was accustomed to. While the Complainant lived at service address W, she experienced paying for solely electric service, which did not include service for heat. In contrast, at service address Y, the Complainant paid for both gas and electric service, which includes heat. Furthermore, the Complainant received a CAP discounted rate at service address W, and there was no CAP discounted rate at service address Y. The Complainant had electric heat at service address Y, which is not what she was accustomed to because she had oil heat at service address W. Lastly, the Complainant moved to service address Y during the winter heating season, so her usage of the electric heat was considerable.

The Complainant admitted that she used the electric and gas services at service address Y. Tr. 27-29. The Complainant admitted that she did not discontinue the electric service at service address W until March 30, 2015, because she thought vacating service address W was temporary for no longer than two months. Tr. 19.

The Respondent provided evidence of billing that corresponded to the Complainant's initial request for service at service address Y and discontinuation of service at both service addresses W and Y. The Complainant failed to show that the evidence provided by the Respondent was inaccurate or in error.

I find that the Respondent billed the Complainant accurately for service address W and service address Y for the services the Company rendered to both addresses. There is no record evidence to support the Complainant's allegation that she had incorrect charges for billed service. I find that the Complainant failed to support her burden to prove there were incorrect charges billed for her electric and gas services.

Whether the Complainant's Issue is the CAP Discounted Rate or Budget Billing

The Complainant's Complaint alleged that she was removed from budget billing without notice and that the outstanding balance that accrued at service address Y was a result of the Complainant being removed from budget billing without notice. The record reveals that the Complainant confused the terms "budget billing" with "CAP discount rate."

The testimony and record evidence show that the Complainant desired to choose at which service address her CAP discounted rate would apply through the following events:

- (1) On January 12, 2015, the Complainant contacted Respondent and requested the CAP rate be applied to services at service address Y. Tr. 41, 66-67, PECO Exhibit 4;
- (2) The Respondent sent the Complainant the CAP application. PECO Exhibit 4;
- (3) On March 4, 2015, the Respondent received the CAP application from the Complainant. Tr. 42, PECO Exhibit 4;
- (4) On March 4, 2015, the Respondent determined the Complainant can only have one account with the CAP discounted rate and sent a refusal letter to the Complainant denying the request for CAP at service address Y. PECO Exhibit 4;
- (5) On March 12, 2015, the Complainant called the Respondent and was told that the Complainant could not have a CAP discount rate for multiple service addresses. Because the Complainant had the CAP discount rate applied to service address W, the Respondent denied the Complainant's request for the CAP discount rate to be applied to service address Y. Tr. 67, PECO Exhibit 4;
- (6) On March 23, 2015, the Complainant called the Respondent and inquired about making an adjustment to the charges for service address Y by applying the CAP discounted rate and why she could not choose which service address to which the CAP discounted rate would apply, because she preferred service address Y where she currently lived. Tr. 69, PECO Exhibit 4;
- (7) In response to the Complainant's inquiry on March 23, 2015, regarding an adjustment to the charges for service address Y with the CAP discounted rate, the Respondent stated that the adjustment cannot be made because a customer can only have the CAP discounted rate on one account. Tr. 69, PECO Exhibit 4;
- (8) During the same call to the Respondent on March 23, 2015, the Complainant requested to speak with a supervisor. PECO Exhibit 4;
- (9) On March 23, 2015, the supervisor employed by the Respondent told the Complainant the adjustment to service address Y cannot be made, but the Complainant could contact the Commission. PECO Exhibit 4;
- (10) On March 23, 2015, the Complainant requested the service at service address W to be discontinued. Tr. 68, PECO Exhibit 4; and
- (11) On March 23, 2015, the Complainant filed with BCS an informal complaint at Case No. 003326569 which stated, "customer had ...two residences. Customer wanted to choose which house to have CAP." PECO Exhibit 6.

Through these series of events, it is apparent that “budget billing” is not the issue. The issue is the application of the CAP discounted rate.

In further support of the conclusion that the application of the CAP discounted rate is disputed, the Complainant testified,

Q. Didn't the customer assistance person you spoke to tell you can only have the CAP for one account? They didn't say budget billing, the said CAP?

A. Yes.

Q. Okay. And did you have a dispute with that?

A. Yes, I did. That's the original dispute I had with them when I first called before January explaining – just letting them know – **I might have been saying budget billing, but the whole time it's CAP.**

Q. Right. So it's not budget billing?

A. It's CAP.

Q. It's CAP?

A. Correct.

Q. So we're clear for the record.

A. Yes, its CAP.

Q. So you wanted to be enrolled in CAP at Yeadon Avenue?

A. Yes.

Q. While you still had your service at Webster?

A. Yes.

Tr. 42-43 (emphasis added).

It is clear that the Complainant's issue is regarding the application of the CAP discounted rate and not budget billing. Consequently, the Complaint will be reviewed regarding the application of the CAP discounted rate rather than budget billing.

The Complainant has failed to show that the CAP discounted rate was discontinued without notice to her. Rather, the record evidence shows that the Complainant's CAP rate was applied to service address W until service was discontinued on March 30, 2015, with a balance of \$438.94. PECO Exhibits 1, 4. The CAP discounted rate was then transferred to service address Y in response to the request of the Complainant.

The Complainant has failed to show that the removal of the CAP discounted rate resulted in accrual of her outstanding balance. Rather, the record evidence shows that the CAP discounted rate was not removed but remained applied to service address W until March 30, 2015. Exhibits 1, 4.

The record evidence shows that the Complainant requested that the CAP rate be applied to service address Y as early as January 12, 2015. Tr. 41, 66-67, PECO Exhibit 4. The record evidence shows that the Respondent refused to apply the CAP rate to service address Y as requested from January 12, 2015, through March 30, 2015. PECO Exhibits 1, 3, 4. However, as discussed below, it is reasonable to investigate whether the Respondent's refusal to apply the CAP discounted rate when the Complainant requested it complied with Commission rules, regulations, orders and statutes.

Whether Treatment of the CAP Discounted Rate Violated Commission Regulations or Statutes

On October 29, 2014, the Complainant contacted the Respondent about initiating service at service address Y. The Complainant was asked about whether she wanted to see if she was eligible for the CAP discount rate at service address Y. The Complainant responded, "I'm already on the CAP program." Tr. 62. The Complainant admitted at the initiation of service at service address Y, she thought her residency at service address Y would be temporary—no longer than two months. Tr. 19.

The Commission's Order in *PECO Energy Company's Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa.Code §§ 54.74 and 62.4*, Docket No. M-2012-2290911 (Order entered April 4, 2013) at 47 (PECO CAP Order), approved eligibility criteria and program requirements for the Respondent's CAP discounted rate. One of the program eligibility requirements that was approved was, "customers with multiple accounts qualify for the CAP [r]ate only at one premise."² Revised PECO Exhibit 5, page 13 of 44.

² A premise is defined as an estate, including land and buildings thereon. Black's Law Dictionary 615 (Abridged 5th ed. 1983).

Section 703(e) of the Code states, in relevant part, “[A Commission approved] order shall take effect and become operative as designated therein and shall continue in force either for a period which may be designated therein, or until changed or revoked by the Commission.” 66 Pa.C.S. § 703(e). The PECO CAP Order is effective for the Respondent’s universal service plan for the three years from 2013-2015. The relevant time period in this dispute for the CAP requirements is October 2014 (when the Complainant initiated service at service address Y) through June 2015 (when the final bill was issued at service address Y). The PECO CAP Order was in effect over the relevant time period of this dispute; therefore, the CAP requirement that a customer can have the CAP rate at just one service address applies.

By approved Commission Order, the Respondent is correct that a Complainant cannot have the CAP discount rate apply to the two service accounts in this case because each service account corresponds to a different service address or premise. To provide the Complainant the CAP discount rate at service address Y simultaneously when the CAP discount rate is applied to service address W would violate the Commission’s Order. If the CAP rate is to apply to service address Y, then it must cease to apply to service address W. Ultimately, that is precisely what occurred. When service was discontinued on March 30, 2015, to service address W, the CAP rate was applied to service address Y on March 31, 2015. Tr. 71, 74, PECO Exhibits 1, 3, 4.

Pursuant to Section 701(a) of the Code, the burden is on the Complainant to set “forth any act or thing done or omitted to be done by any public utility in violation or claimed violation of any law which the commission has jurisdiction to administer, or of any regulation or **order** of the commission.” 66 Pa.C.S. § 701(a)(emphasis added).

The Complainant has not shown that the Respondent violated any law, regulation or order of the Commission. I conclude that the Respondent did not violate any law, regulation or order of the Commission regarding its refusal to apply the CAP discounted rate to service address Y from January 12, 2015 through March 30, 2015.

The Complainant has failed to support her burden of proof. The Complaint will be dismissed by the ordering paragraphs below.

CONCLUSIONS OF LAW

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

2. “Burden of proof” means a duty to establish one’s case by a preponderance of the evidence, which requires that the evidence be more convincing by even the smallest degree, than the evidence presented by the other side. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

3. As the party seeking affirmative relief from the Commission, the Complainant bears the burden of proof. 66 Pa.C.S. § 332(a).

4. An approved Commission order shall take effect and become operative as designated therein and shall continue in force either for a period which may be designated therein, or until changed or revoked by the Commission. 66 Pa.C.S. § 703(e).

5. Customers with multiple accounts qualify for the CAP rate only at one premise. *PECO Energy Company’s Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa.Code §§ 54.74 and 62.4*, Docket No. M-2012-2290911 (Order entered April 4, 2013).

6. The Complainant failed to sustain her burden to prove incorrect charges on her bills at her service addresses.

7. The Complainant failed to sustain her burden to prove that she did not receive notice from the Respondent that application of the CAP discount rate to her service account was discontinued.

8. The Complainant failed to sustain her burden to prove that the removal of the CAP discounted rate to her service account resulted in her outstanding balance.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal Complaint filed by Latisha Parks against PECO Energy Company at Docket No. C-2017-2617931 is dismissed.
2. That the Secretary's Bureau mark this docket closed.

Date: April 4, 2018

/s/

Angela T. Jones
Administrative Law Judge