

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Katrina Church	:	
	:	
v.	:	C-2019-3011506
	:	
PECO Energy Company	:	

**INITIAL DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the formal Complaint of Katrina Church against PECO Energy Company because she failed to sustain her burden of proof that she is eligible for a payment arrangement to pay off her outstanding balance.

**HISTORY OF THE PROCEEDING**

On July 9, 2019, Katrina Church (Complainant or Ms. Church) filed a formal Complaint (Complaint) against PECO Energy Company (PECO or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant requests a payment arrangement in order to pay off her outstanding balance.

On July 18, 2019, PECO filed an Answer to the Complaint. In its Answer, PECO admitted the Complainant established service at 59 Border Rock Road, Levittown, PA 19057 (Service Address). PECO alleged the Complainant initially enrolled in PECO's Customer Assistance Program (CAP) on May 1, 2003 and transitioned to the CAP-Fixed Credit Option on October 17, 2016. PECO further alleged the Complainant remains enrolled in the CAP with an

outstanding balance of \$5,510.96, which is comprised entirely of CAP arrears. Pursuant to 66 Pa.C.S. § 1405(c), PECO asserted that the Complainant was not entitled to a Commission payment arrangement and requested the Complaint be dismissed.

By Hearing Notice dated July 18, 2019, an Initial In-Person Hearing was scheduled for August 20, 2019, and the matter was assigned to me.

A Prehearing Order was issued on July 19, 2019, advising the parties of the date and time of the scheduled hearing and informing them of the procedures applicable to this proceeding.

The hearing convened as scheduled on August 20, 2019. The Complainant appeared *pro se* and testified on her own behalf. The Complainant offered no exhibits.

The Respondent appeared and was represented by Shawane Lee, Esquire, who presented the testimony of Michael Begley, a Regulatory Assessor at PECO. During the hearing, the Respondent offered the following six exhibits, all of which were entered into the record:

- PECO 1: Statement of Account (3 pages)
- PECO 2: CAP History (2 pages)
- PECO 3: Payment Agreement History (1 page)
- PECO 4: Collection History (3 pages)
- PECO 5: BCS Informal Complaint (#003697106) (2 pages)
- PECO 6: BCS Decision Report (#003697106) (2 pages)

The record closed on September 10, 2019, upon my receipt of the transcript.

#### FINDINGS OF FACT

1. The Complainant is Katrina Church.
2. The Respondent is PECO Energy Company.

3. The Complainant resides at 59 Border Rock Road, Levittown, PA 19057 (Service Address). Tr. 5.
4. On May 1, 2003, the Complainant enrolled in PECO's CAP at her former address. Tr. 13, PECO 2.
5. On October 17, 2016, the Complainant was transitioned to PECO's CAP-Fixed Credit Option. Tr. 13.
6. The Complainant initiated service at the Service Address on September 28, 2017. Tr. 8, 11.
7. On November 1, 2017, the Complainant's CAP status transferred to her current account at the Service Address. Tr. 13; PECO 2.
8. Currently, the Complainant is actively enrolled in PECO's CAP-Fixed Credit Option. Tr. 13.
9. The Complainant's total account balance is \$5,699.43, which includes \$1,061.24 that remains isolated or unbilled. Tr. 12; PECO 1.
10. As of the date of the hearing, the Complainant's past-due balance was \$4,439.42. Tr. 18.
11. The Complainant's entire outstanding balance is comprised of CAP arrears. Tr. 12.

### DISCUSSION

As the party seeking affirmative relief from the Commission, the Complainant bears the burden of proving that she is entitled to the requested relief. 66 Pa.C.S. § 332(a). This must be shown by a preponderance of the evidence, that is, by presenting evidence more

convincing, by even the smallest amount, than that presented by the other party. *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); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 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*, 413 A.2d 1037 (Pa. 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 Responsible Utility Customer Protection Act, 66 Pa.C.S. § 1401 *et seq.*, applies to complaints alleging inability to pay and requesting a Commission-issued payment arrangement. This law provides strict guidelines that the Commission must follow when determining whether a payment arrangement can be issued. Specifically, Section 1405(c) provides:

(c) Customer assistance programs. – Customer assistance program rates shall be timely paid and shall not be the subject of payment arrangements negotiated or approved by the commission.

66 Pa.C.S. § 1405(c).

In this case, the Complainant seeks a payment arrangement for her outstanding balance. As of the date of the hearing, the Complainant's past-due balance was \$4,439.42 and comprised entirely of CAP arrears. Pursuant to Section 1405(c), the Commission is prohibited from setting a payment arrangement on these CAP arrears. Accordingly, the Complaint must be dismissed.

#### 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 burden of proof in this proceeding is on the Complainant. 66 Pa.C.S. § 332(a).

3. 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.

4. The Commission is prohibited from establishing a payment arrangement on any outstanding Customer Assistance Program arrears. 66 Pa.C.S. § 1405(c).

5. The Complainant failed to sustain her burden of demonstrating that she is eligible for a Commission-issued payment arrangement. 66 Pa.C.S. § 332(a).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Katrina Church against PECO Energy Company at Docket No. C-2019-3011506 is dismissed; and
2. That Docket No. C-2019-3011506 be marked closed.

Date: November 8, 2019

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/s/  
F. Joseph Brady  
Administrative Law Judge