

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

KENNETH JAMES ARTHURS,	:	Complaint Docket No. C-2018-3005331
	:	
Complainant	:	BRIEF OF COMPLAINANT
	:	
v.	:	Filed on behalf of:
	:	
PENNSYLVANIA ELECTRIC COMPANY,	:	Complainant KENNETH JAMES
	:	ARTHURS
Respondent	:	
	:	Counsel of Record for this Party:
	:	
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PENNSYLVANIA ELECTRIC COMPANY,	:	
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BRIEF OF COMPLAINANT

Complainant Kenneth James Arthurs (“Arthurs”), by his counsel, David C. Serene, Esquire, files the following Brief in the above-captioned action:

FACTS

Complainant Arthurs leases a building at 560 Philadelphia Street in the Borough of Indiana, Pennsylvania. On the first floor of the building is a restaurant-bar business known as “Wolfendale’s” while on the second floor is an apartment with four bedrooms and the third floor is operated as a hotel with six bedrooms. All of these operations receive electric service through only one meter from Respondent Pennsylvania Electric Company (“Penelec”). The service is billed in the name of “Wolfendales.” Arthurs filed a Formal Complaint with the Pennsylvania Public Utilities Commission (the “Commission”) in this action averring at paragraph 4, Reason for Complaint, as follows:

(a) “The utility is threatening to shut off my service or has already shut off my service. Did NOT provide to tenants a notice. There are 2 floors of bldg where tenants reside.”

(b) “I would like a payment agreement.”

(c) “Incorrect charges are on my bill.” Arthurs then averred that a payment of \$10,000 made on July 24, 2018 and a payment of \$5,132.37 made on August 19, 2018 were not reflected on his billings.

In its Answer and New Matter to the Formal Complaint, Penelec *inter alia* challenged the residential nature of the service. In his Reply to New Matter, Arthurs

admitted only that there is a hotel license for part of the building which is the service location. It is denied that ten rooms are utilized for hotel purposes on the second and third floors. To the contrary, only the third floor is utilized for hotel purposes; the second floor contains one, four-bedroom apartment with four tenants, and is therefore used for residential purposes. The electric service to the second and third floors is on the same meter.

Reply to New Matter at ¶ 11.

At the telephonic hearing on October 15, 2019, Arthurs testified to the above. He also testified that he has had serious heart problems since earlier in the year which were potentially life-threatening and significantly limited his activities. He was also prepared to offer testimony as to anomalies in his billings, in that billing amounts were similar in the summer months when the business on the first floor of the premises was not active and power usage was much lower, to billings for other months when the business was active and had much greater usage of power. An objection by Penelec's counsel to that proposed testimony was sustained on the ground that Arthurs had not alleged an overbilling in his Complaint. Arthurs also testified that notice was not give prior to a recent termination of service.

DISCUSSION

66 Pa.C.S.A. § 1405, Payment arrangements, provides that “[t]he commission is authorized to establish payment arrangements between a public utility, customers and applicants within the limits established by this chapter.” However, 66 Pa.C.S. § 1403, Definitions, defines “customer” as “[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 ...” (emphasis added). Penelec contends that because the usage is commercial in nature, Arthurs is not eligible for a payment plan.

However, Arthurs testified without contradiction at the hearing that the second and third floors of the premises are in fact used for residential purposes, the second for an apartment with four bedrooms and the third for a hotel with six bedrooms, and that all of this usage is on the same meter. Arthurs identified and authenticated residential leases for residents of the premises, which leases were accepted into evidence. It follows that he is eligible for a payment plan.

WHEREFORE, Arthurs prays that the Commission enter an Order (a) directing Penelec to enter into a payment arrangement with him; and (b) granting him such other and further relief as may be just and equitable.

Respectfully submitted,



David C. Serene, Esquire
Counsel for Complainant

Dated: November 26, 2018

