

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kathryn Connor	:	
	:	
v.	:	F-2020-3019155
	:	
PECO Energy Company	:	

**INITIAL DECISION**

Before  
Kailey B. Maguire  
Special Agent

**INTRODUCTION**

This decision denies the complaint in which the Complainant seeks a payment arrangement to pay a final utility bill. The Complainant is not eligible for a Commission-issued payment arrangement because she is neither a customer nor an applicant of the utility company.

**HISTORY OF THE PROCEEDING**

On February 27, 2020, Kathryn Connor (Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO or Respondent) in which she requested a payment arrangement on her final account balance.

The complaint is a timely appeal from a decision of the Commission's Bureau of Consumer Services (BCS) at BCS Case No. 3686321, dated January 10, 2020, in which the BCS dismissed the informal complaint.

On March 26, 2020, PECO filed an answer and new matter. In its answer, PECO admitted, *inter alia*, that it provided service at 710 E 24th St., APT A, Chester, PA (service address) from October 2008 through March 2019. PECO denied all other material allegations in the complaint and requested dismissal of the complaint.

In its new matter, PECO averred it issued Complainant a final bill and her services were disconnected on March 4, 2019; therefore, Complainant is no longer a customer and is not entitled to a payment agreement pursuant to 66 Pa.C.S. § 1405(a). Complainant did not file a response to Respondent's new matter.

On May 15, 2020, the Commission issued a hearing notice to the parties, establishing an initial telephonic hearing for June 15, 2020, at 10:00 a.m., and assigning the undersigned as presiding officer.<sup>1</sup> On May 28, 2020, a prehearing order was issued reminding the parties of the date and time of the hearing and addressing, *inter alia*, the procedures applicable to the hearing.

The hearing convened as scheduled on June 15, 2020, at 10:00 a.m. Ms. Connor appeared *pro se*, testified on her own behalf and sponsored no exhibits for the record. Khadijah Scott, Esquire, appeared on behalf of PECO and presented the testimony of one witness, Renee Tarpley, a Senior Regulatory Assessor for PECO. Ms. Tarpley sponsored the following two (2) exhibits, which were admitted into the record:

PECO Exhibit 1 - Statement of Account  
PECO Exhibit 3 - BCS Decision No. 3702950

The record closed on June 23, 2020, upon receipt of the 33-page hearing transcript. For the reasons discussed below, the complaint will be denied and dismissed.

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<sup>1</sup> 52 Pa. Code § 56.174 provides for review by a special agent of any case in which the issue is solely the ability to pay.

FINDINGS OF FACT

1. The Complainant is Kathryn Connor.
2. The Respondent is PECO Energy Company, a jurisdictional public utility, which provided electric service to Complainant at the service address.
3. The service address is 710 E 24th St., APT A, Chester, Pennsylvania (service address). N.T. 7, 11.
4. Complainant moved out of the service address on January 6, 2019. N.T. 8, 11.
5. Complainant contacted Respondent on January 7, 2019, to have her service disconnected on January 11, 2019. N.T. 8, 17.
6. On January 11, 2019, Complainant contacted Respondent requesting the disconnection be held for a later date. N.T. 8, 17.
7. On March 4, 2019, Complainant contacted Respondent again to request disconnection of service at the service address. N.T. 11, 18.
8. Respondent terminated service at the service address on March 5, 2019. N.T. 18.
9. On March 7, 2019, Respondent issued Complainant her final bill in the amount of \$1,354.95. N.T. 18.
10. Complainant is no longer a customer of PECO Energy Company. N.T. 12, 23.

11. Complainant has not applied for service from PECO since the March 5, 2019 termination.

12. On April 1, 2019, Complainant filed an informal complaint with the BCS at BCS Case No. 3682321, disputing the disconnection date of her service and the corresponding charges on her account. N.T. 19, PECO Exhibit 3.

13. As a gesture of good-will Respondent waived the charges on Complainant's account attributed after January 22, 2019. NT. 21.

14. By decision dated January 10, 2020, at BCS Case No. 3682321, the BCS dismissed Complainant's informal complaint. PECO Exhibit 3.

15. Complainant's final account balance is \$1,066.55. PECO Exhibit 1.

### DISCUSSION

The proponent of any request for relief from the Commission 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, a complainant, as the proponent of the request for relief, must show the named utility 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). For a complainant to prevail, the offense alleged 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. This must be shown by a preponderance of the evidence, that is, by presenting evidence more convincing, by even the smallest amount, than presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

Additionally, the Commission's decision must be supported by substantial evidence in the record. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or

a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

As a timely appeal from the decision at BCS Case No. 3682321, this is a *de novo* review of the BCS determination. 52 Pa. Code § 56.403(a). The term “*de novo*” simply means anew thereby requiring that the party with the burden of proof develop a record that contains substantial evidence that supports the desired outcome. *Stammel v. P.G. Energy*, Docket No. C-20027994 (Opinion and Order entered May 21, 2003).

Ms. Connor requests a Commission-issued payment arrangement on her final account balance of \$1,066.55. Therefore, as the proponent of the request for relief, Ms. Connor bears the burden to prove that she is eligible a Commission-issued payment arrangement.

The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1419 (Act), applies to complainants alleging inability to pay and requesting a Commission-issued payment arrangement. 66 Pa.C.S. § 1405(a). Under the Act the Commission may establish a payment arrangement between a public utility, applicants and customers only within the limits established by 66 Pa.C.S. § 1405.

Thus, to be eligible for a payment arrangement, the Complainant must be an “applicant” or a “customer” as defined by 66 Pa.C.S. § 1403. If the Complainant is not an “applicant” or a “customer”, the Commission is not authorized to establish a payment arrangement between the Complainant and the public utility. The statute at 66 Pa.C.S. § 1403 defines “applicant” and “customer” as follows:

**“Applicant.”** A natural person not currently receiving service who applies for residential service provided by a public utility 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 does not include 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.

**“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.

66 Pa.C.S. § 1403.

In this case, the Complainant is no longer a customer since her residential service account has been closed and a final bill has been issued. The Complainant is not an applicant since Complainant has not applied for service from PECO since the termination of her service on March 5, 2019. Therefore, Complainant is not eligible for a payment arrangement under the Act. 66 Pa.C.S. § 1403.

Consequently, Ms. Connor is not eligible for a Commission-issued payment arrangement as she is not an applicant or a customer of PECO as defined by 66 Pa.C.S. § 1403. Therefore, the Commission does not have the authority to issue Complainant a payment arrangement and the complaint must be dismissed.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 701.
2. As the proponent of the request for relief, Complainant bears the burden of proof by a preponderance of the evidence standard. 66 Pa.C.S. § 332(a); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).
3. The Commission is authorized to establish a payment arrangement between a public utility, applicants and customers. 66 Pa.C.S. § 1405(a).

4. An “applicant” is defined as: A natural person not currently receiving service who applies for residential service provided by a public utility 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 does not include 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. 66 Pa. C.S. § 1403.

5. A “customer” is defined 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 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. 66 Pa.C.S. § 1403.

6. Complainant is not an applicant or a customer of PECO Energy Company. 66 Pa.C.S. § 1403.

7. Complainant has failed to satisfy her burden of proving that she is eligible for a Commission-issued payment arrangement. 66 Pa.C.S. § 1405(a).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal Complaint of Kathryn Connor against PECO Energy Company at Docket No. F-2020-3019155 is denied and dismissed.

2. That the Secretary's Bureau mark Docket No. F-2020-3019155 closed.

Date: September 29, 2020

\_\_\_\_\_/s/  
Kailey B. Maguire  
Special Agent