

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

B&Z Holdings, LLC	:	
	:	
v.	:	F-2020-3019239
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision denies the formal Complaint of B&Z Holdings, LLC filed through one of its members, Nelli Belder,¹ against PECO Energy Company at Docket No. F-2020-3019239 upon finding that the Complainant failed to carry the burden of proof.

HISTORY OF THE PROCEEDING

On February 28, 2020, Nelli Belder filed a formal Complaint (Complaint) on behalf of B&Z Holdings, LLC (Complainant) against PECO Energy Company (PECO, Respondent, or the Company). The Complaint alleges that the Respondent improperly held the Complainant responsible for a tenant's outstanding balance after concluding that foreign load existed at the property. The Complainant disputes PECO's finding of foreign load at the service address and avers that the Respondent failed to notify the Complainant timely of its findings. As

¹ The caption has been corrected to reflect that B&Z Holdings, LLC is the Complainant, as Nelli Belder was incorrectly identified in the caption in previous filings as the Complainant.

relief, the Complainant requests that the Commission direct PECO to remove the tenant's balance from its account.

This formal Complaint is a timely appeal of an informal complaint filed by the Complainant with the Bureau of Consumer Services (BCS) at BCS Case No. 3700383.

On April 2, 2020, PECO filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated May 15, 2020, notified the parties that an initial call-in telephonic hearing was scheduled for Friday, June 26, 2020, at 10:00 a.m.

A Prehearing Order was issued on May 26, 2020, reminding the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

The hearing convened as scheduled on June 26, 2020. Dimitri Smirnov, Esq., represented the Complainant and presented the testimony of Michael Belder, who is one of the principal owners of B&Z Holdings, LLC. The Complainant did not sponsor any exhibits. Khadijah Scott, Esq., represented the Respondent, and presented the testimony of Mary McQuilkin, who is a high bill field investigator with PECO; and Renee Tarpley, who is a senior regulatory assessor at PECO. The Respondent sponsored five exhibits, all of which were admitted into the record.

The record in this matter closed upon receipt of the hearing transcript on July 26, 2020.

FINDINGS OF FACT

1. The Complainant is B&Z Holdings, LLC, whose business address is 528 Street Road, Southampton, PA 18966. Tr. 11-12, 20.

2. The Respondent is PECO Energy Company.
3. Nelli Belder and Michael Belder are the principal members of B&Z Holdings, LLC. Tr. 12.
4. B&Z Holdings, LLC owns the property at 1615 N. Allison Street, Philadelphia, PA 19131 (Service Address). Tr. 11-12.
5. The Service Address is a duplex with a tenant on the first floor and a tenant on the second floor. Tr. 17-18.
6. The first-floor tenant has sole control and possession of the basement at the Service Address. Tr. 18.
7. The Service Address has electric residential heating service. Tr. 112.
8. On May 9, 2018, Henry Caraway, the first-floor tenant at the Service Address, contacted PECO to report a high bill dispute as well as his suspicion that his PECO bills were impacted by foreign wiring. Tr. 40, 159, 168-69, PECO Exhibit 3.
9. On May 17, 2018, PECO field technician, Steve Murray visited the Service Address and found that a light fixture in the common hallway, as well as a light fixture on the porch, were connected to the first-floor tenant's meter. Tr. 41-42, 62, 64, PECO Exhibit 3.
10. Mr. Murray orally informed Mr. Caraway of the existence of the foreign load on his meter as well as of the existence of two strips of electric baseboard heat that were in the basement of the property that the tenant did not know were on at the time. Tr. 90, 160-61, PECO Exhibit 3.

11. When foreign wiring is detected, PECO's legal team searches the public records for the mailing address of the landlord/owner of the service address. Tr. 113.

12. PECO's legal team used public records to identify 1051 County Line Road Unit, Huntingdon Valley, PA 19006 as the mailing address for B&Z Holdings LLC. Tr. 114, PECO Exhibit 3.

13. On May 18, 2018, PECO issued a letter to Mr. Caraway explaining its finding of the foreign load on his meter and that the electric service would be transferred into the name of landlord until the wiring was properly corrected. PECO Exhibit 3.

14. Mr. Caraway did not pursue the high billing issue further. Tr. 174.

15. On May 18, 2018, PECO issued a letter to B&Z Holdings, LLC, detailing its finding of a foreign load on the meter serving the first floor unit of the Service Address and that the electric service would be transferred into the name of landlord until the wiring was properly corrected. PECO Exhibit 3.

16. PECO's May 18, 2018 letter to B&Z Holdings, LLC was mailed to 1051 County Line Road Unit, Huntingdon Valley, PA, 19006. Tr. 35. PECO Exhibit 3.

17. The May 18, 2018 letter to B&Z Holdings, LLC included the following instructions for the landlord: "[T]he service can only go back into your tenants name if you have your electrician correct the wiring for each apartment. If you have completed the repairs, or have questions regarding this matter, please telephone 844-542-6164." PECO Exhibit 3, Tr. 176-77, 185.

18. On May 21, 2018, PECO transferred Mr. Caraway's outstanding balance of \$1,319.64 to an account created for B&Z Holdings, LLC. Tr. 112-13, PECO Exhibit 1.

19. Due to non-payment of billed charges, a security deposit of \$280.00 was assessed against the Complainant in September 2018 and billed to the Complainant in three installments of \$140.00, \$70.00 and \$70.00. Tr. 119, 243.

20. There were no payments made to B&Z Holdings, LLC's account with PECO from May 21, 2018, to August 21, 2019. PECO Exhibit 1.

21. On or before April 2019, PECO began collection proceedings against the Complainant. Tr. 237, 240-43.

22. As part of its collection activities, PECO mailed certified termination notices to the Service Address and to the 1051 County Line Road Unit address the Respondent had for the Complainant. Tr. 240-43.

23. In April of 2019, Nelli Belder contacted PECO regarding the termination notices and provided the Respondent with a current mailing address for the Complainant: P.O. Box 506, Southampton, PA 18966. Tr. 192, 237-39, 240.

24. During the April 2019 communication with PECO, Nelli Belder was informed orally that once the foreign wiring was corrected the tenant could apply to PECO to obtain service in their name. Tr. 192.

25. Beginning in May of 2019, PECO changed the billing address for the Complainant to P.O. Box 506, Southampton, PA 18966. Tr. 239, PECO Exhibit 2.

26. In May or June of 2019, Complainant had an electrician visit the Service Address regarding the foreign wiring. Tr. 35-36.

27. On December 20, 2019, Nelli Belder contacted PECO to inform the Respondent that the foreign wiring issue at the Service Address was corrected. Tr. 121, 143, 178.

28. On January 6, 2020, a PECO high bill field investigator, Mary McQuilkin, visited the Service Address to conduct a high bill field follow-up investigation. Tr. 38, 63-64, PECO Exhibit 4.

29. During her January 6, 2020 visit at the Service Address, Ms. McQuilkin confirmed that no foreign load existed on the first-floor meter. Tr. 72-73, PECO Exhibit 4.

30. Ms. McQuilkin reported back to her office the results of her January 6, 2020 field visit to the Service Address. Tr. 94, 96.

31. The results of Ms. McQuilkin's January 6, 2020 visit were reported in writing to B&Z Holdings, LLC, instructing the Complainant that its tenant could apply to place electric service in his or her name. Tr. 94, 96, 146-47.

32. On May 9, 2019, Nelli Belder filed an informal complaint with BCS at BCS Case No. 3700383. PECO Exhibit 5.

33. On January 14, 2020, BCS issued a decision dismissing the informal complaint at BCS Case No. 3700383 and informing the Complainant that "the tenant may apply for service in their name." Tr. 192, 194-95, PECO Exhibit 5.

34. PECO has not received an application for service following the discovery of foreign wiring on the first-floor meter of the Service Address. Tr. 180.

35. If a new tenant does not apply for service in their name, the landlord's account will continue to be billed unless the landlord requests that the service to the service address be disconnected. Tr. 146.

36. The Complainant did not contact PECO to request that the service be disconnected or be placed back in the original tenant's name after the foreign wiring repairs were confirmed by PECO. Tr. 146-47.

37. B&Z Holdings, LLC has been the customer of record for the Service Address from May 21, 2018, to the date of the hearing. Tr. 168.

38. In 2019, there were four payments made in the Complainant's account for the first-floor unit of the Service Address. Tr. 114-15, 119, PECO Exhibit 2.

39. There were no payments made in the Complainant's account for the first-floor unit of the Service Address in 2018 or 2020. Tr. 115, 119, PECO Exhibit 2.

40. As of the day of the hearing, the Complainant's outstanding bill with PECO was \$7,805.34. Tr. 119.

DISCUSSION

In its formal Complaint against PECO, the Complainant alleges that the Respondent improperly held the Complainant responsible for a tenant's outstanding balance after concluding that foreign load existed at the property. The Complainant disputes PECO's finding of foreign load at the service address and avers that the Respondent failed to timely notify the Complainant of its findings. As relief, the Complainant requests that the Commission direct PECO to remove the tenant's balance from its account.

The Complainant, as the proponent of a rule or order, 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, it 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 Tel. Co. of Pa.*, 72 Pa. PUC 196 (1990). Preponderance of the evidence means that the party with the burden of proof has presented evidence that is more convincing than that presented by the other party. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa.Cmwlt. 1990) *alloc. den.*, 529 Pa. 654, 602 A.2d 863 (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 W. Railway Co. v. Pa. Pub. Util. Comm’n*, 489 Pa. 109, 413 A.2d 1037 (1980).

Upon the presentation by the Complainant of 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 to the evidence presented by the Complainant, the Complainant has not satisfied his burden of proof. The Complainant would then be required to provide additional evidence to rebut the evidence presented by the Respondent. *Burleson v. Pa. Pub. Util. Comm’n*, 443 A.2d 1373 (Pa.Cmwlth. 1982), *aff’d*, 501 Pa. 433, 461 A.2d 1234 (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).

At the hearing, Michael Belder testified that he and Nelli Belder are the principal members of B&Z Holdings, LLC. Tr. 12. B&Z Holdings, LLC owns the property at 1615 N. Allison Street, Philadelphia, PA 19131 (Service Address). Tr. 11-12. The Service Address is a duplex with a tenant on the first floor and a tenant on the second floor. Tr. 17-18. Mr. Belder explained that the first-floor tenant has sole control and possession of the basement at the Service Address. Tr. 18. He further testified that PECO had visited the first-floor unit of the Service Address and conducted a foreign wiring investigation. Tr. 14. He stated that the Respondent performed the investigation without any prior notification to the owner of the Service Address, thus, depriving the owner of the opportunity to correctly explain the layout of the property to PECO’s technician. Tr. 14.

In addition, Mr. Belder claimed that PECO failed to inform the Complainant of its findings in a timely manner. According to Mr. Belder, the Complainant was not informed of the existence of the foreign wiring until a year after the discovery. Tr. 14, 25-26. Mr. Belder

testified that had the Complainant been made aware sooner, it would have made the necessary corrections immediately. Instead, the issue persisted for one year after its discovery because PECO's bills and communications for the Complainant were mailed to 1051 County Line Road Unit, Huntington Valley, PA 19006, which was the Complainant's location until 2010. Tr. 14, 20. Mr. Belder insisted that PECO should have used P.O. Box 506, Southampton, PA 18966 as the mailing address for the Complaint. Tr. 15. According to him, the latter address was used by the Complainant to receive bills and government communications for the last 15 or 16 years and was readily available from public records. Tr. 15. Mr. Belder testified that Complainant had an electrician visit the Service Address in May or June of 2019 regarding the foreign wiring. Tr. 35-36.

In response to Mr. Belder's testimony, PECO's witness Renee Tarpley testified that on May 9, 2018, Henry Caraway, the first-floor tenant at the Service Address, contacted PECO to report a high bill dispute as well as his suspicion that his PECO bills were impacted by foreign wiring. Tr. 159, 168-69, PECO Exhibit 3. On May 17, 2018, a PECO field technician, Steve Murray, visited the Service Address and found that a light fixture in the common hallway, as well as a light fixture on the porch, were connected to the first floor tenant's meter. Tr. 41-42, 62, 64, PECO Exhibit 3. Mr. Murray orally informed Mr. Caraway of the existence of the foreign load on his meter as well as of the existence of two strips of electric baseboard heat that were in the basement of the property that the tenant did not know were on at the time. Tr. 160-61, PECO Exhibit 3. On May 18, 2018, PECO issued a letter to Mr. Caraway explaining its finding of the foreign load on his meter and that the electric service would be transferred into the name of landlord until the wiring was properly corrected. Tr. 169-174, PECO Exhibit 3. Mr. Caraway did not pursue the high billing issue further. Tr. 174.

Ms. Tarpley explained that, when foreign wiring is detected, PECO's legal team searches the public records for the mailing address of the owner of the service address. Tr. 113. She testified that PECO's legal team used Philadelphia public records to identify 1051 County Line Road Unit, Huntington Valley, PA 19006 as the mailing address for B&Z Holdings, LLC. Tr. 114, PECO Exhibit 3. On May 18, 2018, PECO issued a letter to B&Z Holdings, LLC finding of a foreign load on the meter serving the first floor unit of the Service Address and that

the electric service would be transferred into the name of the landlord until the wiring was properly corrected. Tr. 122, PECO Exhibit 3. PECO's May 18, 2018 letter to B&Z Holdings, LLC was mailed to 1051 County Line Road Unit, Huntingdon Valley, PA, 19006. *Id.* The May 18, 2018, letter to B&Z Holdings, LLC included the following instructions for the landlord: "[T]he service can only go back into your tenants name if you have your electrician correct the wiring for each apartment. If you have completed the repairs, or have questions regarding this matter, please telephone 844-542-6164." PECO Exhibit 3, Tr. 176-77, 185.

Ms. Tarpley further explained that on May 21, 2018, PECO transferred Mr. Caraway's outstanding balance of \$1,319.64 to an account created for B&Z Holdings, LLC. Tr. 112-13, PECO Exhibit 1. There were no payments made in the Complainant's account in 2018, and only four payment were made in 2019. Tr. 114-15, 119, PECO Exhibit 2. Due to non-payment of billed charges, a security deposit of \$280.00 was assessed against the Complainant in September 2018 and billed to the Complainant in three installments of \$140.00, \$70.00 and \$70.00 each. Tr. 119, 243. On or before April 2019, PECO began collection proceedings against the Complainant. Tr. 237, 240-43. As part of its collection activities, PECO mailed certified termination notices to the Service Address and to the 1051 County Line Road Unit address the Respondent had for the Complainant. Tr. 240-43.

Ms. Tarpley testified that in April of 2019, Nelli Belder contacted PECO regarding the termination notices and provided the Respondent with the P.O. Box 506, Southampton, PA 18966 mailing address for the Complainant. Tr. 192, 237-39, 240. During the April 2019 communication with PECO, Nelli Belder was informed orally that once the foreign wiring was corrected the tenant could apply to PECO to obtain service in his or her name. Tr. 192. Beginning in May of 2019, PECO changed the billing address for the Complainant to P.O. Box 506, Southampton, PA 18966. Tr. 239, PECO Exhibit 2. On December 20, 2019, Nelli Belder contacted PECO to inform the Respondent that the foreign wiring issue at the Service Address was corrected. Tr. 121, 143, 178.

Next, Mary McQuilkin testified as the PECO high bill filed investigator, who visited the Service Address to conduct a high bill field follow-up investigation on January 6,

2020. Tr. 38, 63-64, PECO Exhibit 4. She explained that her work order was to visit the Service Address and confirm that the foreign wiring issue was corrected. Tr. 64, 75-76, 102-103.

During her January 6, 2020, visit at the Service Address, Ms. McQuilkin confirmed that no foreign load existed on the first-floor meter. Tr. 72-73, PECO Exhibit 4. She reported the results of her January 6, 2020 field visit back to her office, and in turn, those results were reported in writing to B&Z Holdings, LLC, along with instructions that the Complainant could have its new tenant apply to place electric service in his or her name. Tr. 94, 96, 146-47.

Ms. Tarpley explained that if a new tenant applies for service at the service address, the landlord's account would be closed, but the balance would remain with the landlord. Tr. 121. If a new tenant does not apply for service in their name, the landlord's account will continue to be billed, unless the landlord requests that the service to the service address be disconnected. Tr. 146. The Complainant did not contact PECO to request that the service be disconnected or be placed back in the original tenant's name after the foreign wiring repairs were confirmed by PECO. Tr. 146-47. In addition, PECO has received no application for service following the discovery of foreign wiring on the first-floor meter of the Service Address. Tr. 180. B&Z Holdings, LLC has been the customer of record for the Service Address from May 21, 2018 to the date of the hearing. Tr. 168.

On May 9, 2019, Nelli Belder filed an informal complaint with BCS at BCS Case No. 3700383. PECO Exhibit 5. On January 14, 2020, BCS issued a decision dismissing the informal complaint at BCS Case No. 3700383 and informing the Complainant that "the tenant may apply for service in their name." Tr. 192, 194-95, PECO Exhibit 5.

Section 1529.1(b) of the Public Utility Code, 66 Pa.C.S. § 1529.1(b), provides in pertinent part that, "if the mobile home or residential building contains one or more dwelling units not individually metered, an affected public utility shall forthwith list the account for the premises in question in the name of the owner, and the owner shall thereafter be responsible for the payment for the utility services rendered thereunto." (Emphasis added). *See also, Del Vecchio v. PPL Elec. Utils. Corp.*, Docket No. Z-01464793 (Order entered September 13, 2005).

In *Del Vecchio*, the Commission found the utility violated 66 Pa.C.S. § 1529.1, because it failed to transfer complainant's electric account to the landlord when it found foreign load on complainant's meter.

A plain reading of 66 Pa.C.S. § 1529.1 holds a property owner financially responsible for a tenant's entire account once foreign load is verified on the tenant's utility service. *Santos v. Metropolitan Edison Co.*, Docket No. C-00967757 (Order entered August 7, 1997). Upon finding foreign load, the utility must list the account, including any arrearage, in the name of the landlord. There is no *de minimus* exception; any dispute between the landlord and tenant regarding the financial responsibilities of the parties is a matter to be resolved in the Court of Common Pleas and is outside this Commission's jurisdiction. *Ace Check Cashing Inc. v. Philadelphia Gas Works*, Docket No. C-2008-2056428 (Order entered May 21, 2010) (*Ace Check Cashing*).

The landlord bears the responsibility of paying the utility bills until the foreign load is corrected. Once the foreign load is corrected by the landlord and verified by the utility, the utility can the account back in the name of the tenant. *Ace Check Cashing*. However in the present case, almost 18 months had passed from the date that foreign load was discovered (May 17, 2018) to the date the Respondent was informed that the foreign load was corrected (December 20, 2019) and PECO had no way of knowing who the current tenant was at the first floor unit of the Service Address, or if a tenant was there at all. See, Tr. 188. While the Complainant seems to read the instruction provided in the May 18, 2018 letter to B&Z Holdings, LLC as an automatic reversal of electric service to the tenant's name upon correction of the foreign wiring issue, PECO argued that it was the landlord's duty to follow through with PECO and with the tenant. Tr 185. Ms. Tarpley explained PECO's position as follows:

The landlord would have to let us know because the tenant could have moved. We don't know that. That's the landlord's property. They have to let us know who's in their property, but it still would be up to the tenant and the landlord to contact the company.

Tr. 188. Hence, there were multiple instances where the Complainant was instructed to have its tenant apply for service in his or her name. In particular, PECO provided these instructions to the Complainant in April of 2019 and January of 2020. The same instruction was also provided to the Complainant on January 14, 2020 by the BCS.

Upon careful consideration of the evidence collected in this matter, I find that PECO's actions complied with the provisions of 66 Pa.C.S. § 1529.1, 52 Pa. Code § 56.2 (definitions) and 52 Pa. Code § 56.72 (discontinuance of service). The Complainant failed to carry its burden of proving that the Respondent violated a Commission statute, or order when placing and keeping electric service for the first-floor unit of the Service Address in Complainant's name.

Similarly, I find that the Respondent successfully rebutted the Complainant's evidence concerning the timely notification of the discovery of foreign load at the Service Address. PECO provided credible evidence that it had obtained the 1051 County Line Road Unit, Huntington Valley, PA 19006 through the Philadelphia public records for the B&Z Holdings, LLC, and that it had sent a notification letter one day after the discovery of the foreign load. See Tr. 114, PECO Exhibit 3. The Complainant in turn failed 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*, 501 Pa. 433, 461 A.2d 1234 (1983). Instead, Mr. Belder admitted the 1051 County Line Road Unit address had been the Complainant's address until 2010. Tr. 14, 20. In view of the above, I find that the Complainant failed to carry its burden of proving that PECO had violated a Commission statute, regulation or order in its efforts to provide notification of foreign load to the Complaint.

Lastly, I turn to the Complainant's argument that the electricity bills for the first-floor unit of the Service Address were abnormally high after the foreign load was detected and even after it was corrected. See Tr. 79-80, 127-29, 141, 208. I note that this claim was first made by the Complainant's attorney at the evidentiary hearing. It was not stated with any degree of specificity in the Complaint, nor was it covered by Mr. Belder's testimony. Ms. Tarpley testified that the issue was never raised by the Complainant's members in their communications

with PECO. According to Ms. Tarpley, no part of the Complainant's communications, from May 18, 2018 to June 26, 2020, was interpreted by PECO as a billing accuracy issue, separate and distinct from the foreign wiring. Tr. 222. To the extent that the Complainant's attorney attempted to connect the Complainant's high bills to PECO's initial investigation of Mr. Caraway's high billing dispute in May of 2018, Ms. Tarpley responded that Mr. Caraway had not been the PECO customer of record for the first floor unit of the Service Address since May 21, 2018 – the Complainant had. Tr. 159-60. She added that it was not PECO's duty to analyze usage patterns if the Respondent had no complaint from the customer of record that a high billing issue persisted or originated after the foreign load was corrected. Tr. 219-20. PECO's position is supported by a long line of case law precedent. In *City of Pittsburgh v. Duquesne Light Co.*, 54 Pa. PUC at 462; *Mauro v. Duquesne Light Co.*, 69 Pa. PUC at 108; *Victory Condominium Assoc. v. PECO Energy Co.*, Docket No. C-2011-2268126 (Order entered September 27, 2012); and *KA at Fairless Hill, LP v. PECO Energy Co.*, Docket No. C-2017-2592335 (Opinion and Order entered December 17, 2018), the Commission rejected the idea that a utility has an obligation to monitor the consumption and usage habits of the ratepayer and to immediately apply the most advantageous rate. Rather, the duty is on the customer to contact the utility and to seek review. *See also, Springfield Twp. v. Pa. Pub. Util. Comm'n*, 676 A.2d 304 (Pa.Cmwlt. 1996). While the present case does not involve the application of the most advantageous rate, the Complainant's argument seeks to impose upon the utility the obligation to monitor the customer's usage habits and investigate on its own the possible causes of any changes in consumption. Tr. 219-20. This argument is rejected for the same reasons stated in the cases listed above. The duty is on the customer to contact the utility and to seek review.

The Complainant failed to show by a preponderance of the evidence that the Respondent violated a Commission statute, regulation or order in its actions toward the Complainant. Consequently, the present Complainant is dismissed in its entirety because the Complainant failed to carry its burden of proof.

CONCLUSIONS OF LAW

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

2. The party filing the Complaint bears the burden of proving by a preponderance of the evidence that she is entitled to relief from the Commission. 66 Pa.C.S. § 332(a).

3. Preponderance of the evidence means that the party with the burden of proof has presented evidence that is more convincing 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.*, 529 Pa. 654, 602 A.2d 863 (1992).

4. 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 W. Railway Co. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980).

5. If the mobile home or residential building contains one or more dwelling units not individually metered, an affected public utility shall forthwith list the account for the premises in question in the name of the owner, and the owner shall thereafter be responsible for the payment for the utility services rendered thereunto. 66 Pa.C.S. § 1529.1(b).

6. Once the foreign load is corrected by the landlord and verified by the utility, the utility must place the account back in the name of the tenant. However, the arrearage, if any, remains with the landlord. *Ace Check Cashing Inc. v. Philadelphia Gas Works*, Docket No. C-2008-2056428 (Order entered May 21, 2010).

7. A utility does not have an obligation to monitor the consumption and usage habits of the ratepayer and to immediately apply the most advantageous rate. Rather, the

duty is on the customer to contact the utility and to seek review. *City of Pittsburgh v. Duquesne Light Co*, 54 Pa. PUC at 462; *Mauro v. Duquesne Light Company*, 69 Pa. PUC at 108; *Victory Condominium Assoc. v. PECO Energy Co.*, Docket No. C-2011-2268126 (Order entered September 27, 2012); *KA at Fairless Hill, LP v. PECO Energy Co.*, Docket No. C-2017-2592335 (Opinion and Order entered December 17, 2018); *Springfield Twp. v. Pa. Pub. Util. Comm'n*, 676

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal Complaint filed by B&Z Holdings, LLC against PECO Energy Company at Docket No. F-2020-3019239 is denied.
2. That the Secretary mark this docket closed.

Date: October 26, 2020

_____/s/
Eranda Vero
Administrative Law Judge