

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Sheila Morgan	:	
	:	
v.	:	F-2019-3013117
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Mark A. Hoyer
Deputy Chief Administrative Law Judge

INTRODUCTION

The Formal Complaint of Sheila Morgan is denied for failure to meet the burden of proving Respondent violated the Public Utility Code, Commission regulations or a Commission Order.

HISTORY OF PROCEEDING

On September 17, 2019, Sheila Morgan (Complainant) filed a Formal Complaint with the Public Utility Commission (Commission) against PECO Energy Company (PECO or Respondent),¹ alleging that she contacted PECO to discontinue electric service at 217 West Fifth Street, Chester, Pennsylvania and turn it on at 1115 Avenue of the States, Chester, Pennsylvania in June 2013 and that PECO failed to discontinue service in her name at the 217 West Fifth Street address. As relief, Complainant requested that the Commission stop PECO from recording this amount with credit bureaus.

¹ The Complaint was a timely appeal of a decision by the Commission's Bureau of Consumer Services (BCS) at BCS Case No. 3673316.

On October 16, 2019, PECO filed an Answer in response to the Complaint denying the material allegations contained in the Complaint. PECO requested that the Complaint be dismissed.

On October 18, 2019, an Initial Call-In Telephone Hearing Notice was issued scheduling an initial telephone hearing for December 6, 2019, at 10:00 a.m. On October 25, 2019, a Prehearing Order was issued advising the Parties of the date and time of the scheduled hearing, and of the applicable procedural rules.

On December 6, 2019, Edward T. Fisher, Esquire, filed a Notice of Appearance on behalf of PECO.

On December 6, 2019, the hearing convened as scheduled and Complainant did not appear. On behalf of PECO, Mr. Fisher made an oral motion to dismiss the Complaint with prejudice for failure to prosecute.

On January 29, 2020, an Interim Order closing the hearing record was issued.

On February 24, 2020, a Second Interim Order Re-Opening the Hearing Record for Further Hearing was issued.² Also on February 24, 2020, a Call-In Telephone Hearing Notice was issued scheduling a hearing for April 7, 2020, at 10:00 a.m.

On March 17, 2020, a Cancellation Notice was issued canceling the further hearing scheduled for April 7, 2020.

On April 23, 2020, Khadijah Scott, Esquire, filed a Notice of Appearance on behalf of PECO.

² The record was reopened because the mailing address for service on Complainant was incorrect and she did not obtain notice of the December 6, 2019 hearing.

On May 11, 2020, a Telephonic Hearing Cancellation/Reschedule Notice was issued scheduling a further telephone hearing for June 18, 2020, at 10:00 a.m. On May 12, 2020, a Prehearing Order for Telephonic Hearing was issued.

On June 18, 2020, a further hearing was held as scheduled. Complainant appeared on her own behalf and testified. PECO was represented by Khadijah Scott, Esquire, at the further hearing. PECO called one witness, Renee Tarpley, and offered PECO Exhibits 1-4 that were admitted into evidence.

On July 7, 2020, an Interim Order Re-Closing the Hearing Record was issued.

On September 23, 2020, a Fourth Interim Order Re-Opening the Hearing Record for Further Hearing was issued for the purpose of obtaining additional evidence to clarify the service that is the subject of the dispute.

On September 29, 2020, a Call-In Telephone Notice was issued scheduling a further telephone hearing for November 3, 2020. The hearing was held as scheduled. Complainant again appeared representing herself and PECO was represented by Khadijah Scott, Esquire. Complainant did not offer further testimony or any exhibits. Renee Tarpley testified on behalf of PECO. The record was closed by Interim Order on December 1, 2020.

FINDINGS OF FACT

1. Complainant, Sheila Morgan, resides at 1830 SW 81st Avenue, Apartment 4109, North Lauderdale, FL 33068 and is no longer an electric or gas customer of PECO (Tr. 13, 64-66).

2. Respondent, PECO, provided service to Complainant at 217 West Fifth Street, Chester, Pennsylvania (the service address) from February 21, 1990 until April 13, 2015 when service was terminated for non-payment (Tr. 59, 64).

3. On April 30, 2013, Complainant contacted PECO to request that service to the service address be discontinued (Tr. 30).

4. On May 2, 2013, Complainant contacted PECO to rescind the discontinuance request for the service address (Tr. 31).

5. On May 9, 2013, Complainant contacted PECO to establish additional service at 1115 Avenue of the States, Apartment 9, Chester, Pennsylvania (Tr. 32).

6. On May 20, 2013, service to the service address was terminated by PECO for non-payment (Tr. 33).

7. Complainant paid \$126.96 to restore service to the service address (Tr. 33).

8. On May 31, 2013, Complainant contacted PECO to request that service remain on at the service address because she needed more time at the property (Tr. 33).

9. Complainant did not contact PECO to discontinue service to the service address after May 2, 2013 when she had called to rescind her discontinuance request (Tr. 32).

10. On May 23, 2014, over a year after Complainant rescinded her request to discontinue service to the service address, she applied for a LIHEAP³ Crisis grant for the service address (Tr. 33-34).

DISCUSSION

As the party seeking affirmative relief from this Commission, Complainant bears the burden of proof. 66 Pa.C.S. § 332(a). Complainant bears the burden of proving by a preponderance of the evidence that Respondent has violated the Public Utility Code or a

³ Low Income Home Energy Assistance Program.

regulation or order of the Commission. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Complainant must show that the utility is responsible or accountable for the problem described in the complaint. *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. PUC 300 (1976).

In addition to determining whether Complainant has satisfied her burden of proof, care must be exercised to ensure that the Commission's decision is supported by substantial evidence. 2 Pa.C.S. § 704. Various Pennsylvania courts have defined the term "substantial evidence" as such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Substantial evidence is more 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*, 489 Pa.109, 413 A. 2d 1037 (1980); *Murphy v. Pa. Dept. of Public Welfare*, 480 A.2d 382 (Pa. Cmwlth. 1984).

In the instant case, Complainant claims that she called to discontinue service provided by PECO to the service address in June 2013 and establish service at 1115 Avenue of the States, Chester, Pennsylvania. She claims that PECO erred and did not discontinue service at the service address as she requested. Complainant's testimony in this regard was not credible.

The evidence provided by PECO proved that, although Complainant did initially request to discontinue service on April 30, 2013, she subsequently called back on May 2, 2013 to rescind the discontinuance request for the service address. Complainant then contacted PECO on May 9, 2013 to establish new service at 1115 Avenue of the States, Apartment 9, Chester, Pennsylvania. Complainant's service to the service address was terminated for non-payment on May 20, 2013. Complainant then paid PECO \$126.96 to reestablish service at the service address. She also called PECO on May 31, 2013 to request that service remain on at the service address because she needed more time there. In addition, the following year, on May 23, 2014, Complainant applied for a LIHEAP Crisis grant for the service address.

Complainant failed to prove that PECO violated the Public Utility Code, Commission regulations or any Commission orders in this proceeding. The evidence established

that Complainant did not request to discontinue service at any time after May 2, 2013 for the service address. Accordingly, the Complaint is denied in the ordering paragraphs to follow.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. § 701.
2. Pursuant to 66 Pa.C.S. § 332(a), the burden of proof in this proceeding is on Complainant.
3. Complainant has not met her burden of proving that she is entitled to relief. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Sheila Morgan against PECO Energy Company at Docket No. F-2019-3013117, is denied.
2. That the record at Docket No. F-2019-3013117 be marked closed.

Date: February 24, 2021

/s/
Mark A. Hoyer
Deputy Chief Administrative Law Judge