

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Alice Anderson	:	
	:	
v.	:	F-2020-3021522
	:	
PECO Energy Company	:	

**INITIAL DECISION**

Before  
Kailey B. Maguire  
Special Agent

**INTRODUCTION**

This decision denies the complaint of an electric service customer because the customer has failed to establish by a preponderance of the evidence that she is eligible for a Commission-issued payment arrangement because the entirety of the customer’s arrearages accrued while the customer was enrolled in the utility’s Customer Assistance Program (CAP).

**HISTORY OF THE PROCEEDING**

On August 20, 2020, Alice Anderson (Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO or Respondent) in which she averred the utility is threatening to shut off her service or had already shut off her service and requested a Commission-issued payment arrangement. Further, Complainant alleged PECO set up payment arrangements without notifying her and she is unable to pay the amount requested by PECO. The complaint is a timely appeal of a decision issued by the Commission’s Bureau of Consumer Services (BCS) dated July 1, 2020 at BCS No. 3757683, dismissing Ms. Anderson’s informal complaint.

On September 10, 2020, PECO filed an answer in which it admitted, *inter alia*, that it provides service at 410 Penn Road, Norristown, PA (service address), and denied all other material allegations in the complaint. PECO concluded its answer by requesting dismissal of the complaint.

On September 15, 2020, the Commission issued a hearing notice to the parties, establishing an initial telephonic hearing for November 4, 2020, at 10:00 a.m. and assigning the undersigned as Presiding Officer.<sup>1</sup> On October 26, 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 November 4, 2020, at 10:00 a.m. Ms. Anderson appeared *pro se*, testified on her own behalf, and offered 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 four (4) exhibits, which were admitted into the record:

PECO Exhibit 1 - Detailed Statement of Account  
PECO Exhibit 2 - Payment Arrangement History  
PECO Exhibit 3 - Customer Assistance Program History  
PECO Exhibit 5 - BCS Decision No. 3757683

The record closed on December 7, 2020, upon receipt of the 55-page telephonic hearing transcript.

For the reasons discussed below, the complaint will be denied.

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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 Alice Anderson, who resides at 410 Penn Road, Norristown, PA (service address).
2. The Respondent is PECO Energy Company, a jurisdictional public utility, which provides electrical residential service to Complainant at the service address. N.T. 19.
3. Complainant initially enrolled in PECO's Customer Assistance Program (CAP) on July 16, 2012, at her prior address, 345 Jefferson Street, Norristown, PA. N.T. 13, 23, 45.
4. On October 17, 2016, the CAP was restructured and changed to CAP Fixed Credit Option Program, and all active CAP customers at that time were transferred to the new program. N.T. 23, 24, 37; PECO Exhibit 3.
5. Under the new CAP the Complainant's past due balance of \$6,387.61 was set aside. N.T. 23, 24, 38; PECO Exhibit 3.
6. Pursuant to the program's criteria, Complainant was placed on a payment arrangement for one-third of her balance due per month, the remaining balance is to be forgiven at two-third increments if her monthly bill is paid on time. N.T. 23, 24.
7. On December 20, 2016, Complainant's CAP Fixed Credit Option status was transferred to the service address. PECO Exhibit 3.
8. As of October 26, 2020, Complainant's CAP Fixed Credit Option balance was \$1,718.74. N.T. 20.
9. Complainant is still actively enrolled in the CAP Fixed Credit Option. N.T. 7, 13, 26; PECO Exhibit 3.

10. As of the date of the November 4, 2020 hearing Ms. Anderson's outstanding account balance was \$4,175.21. N.T. 19, 35.

11. Complainant's account balance consists solely of CAP arrears. N.T. 13.

### DISCUSSION

The Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of a rule or order. As the proponent of the requested relief, Complainant has the burden of proof in this matter pursuant to 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 Tel. Co. of Pa.*, 72 Pa. PUC 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa. PUC 300 (1976). 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 & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

In the instant matter, Complainant requests a Commission-issued payment arrangement. The Responsible Utility Customer Protection Act, 66 Pa.C.S. § 1401 *et seq.* (Chapter 14), applies to complaints alleging inability to pay and requesting a Commission-issued payment arrangement. Chapter 14 provides strict guidelines that the Commission must follow in handling customer complaints. Section 1405(a) of the Public Utility Code reads as follows:

§ 1405. Payment arrangements

(a) GENERAL RULE.-- The commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers. The commission is authorized to establish payment arrangements between a public utility, customers and applicants within the limits established by this chapter.

66 Pa.C.S. § 1405(a).

Section 1405(c) of the Public Utility Code prohibits the Commission from establishing a payment arrangement on any outstanding CAP arrears. 66 Pa.C.S. § 1405(c). The Complainant's entire current outstanding balance of \$4,175.21 is comprised of CAP arrears. N.T. 19, 35. As such, the Commission cannot grant the Complainant a payment arrangement on her outstanding balance.

Based on the foregoing, Ms. Anderson has not satisfied her burden of proving that she is eligible for a Commission-issued payment arrangement, as her entire outstanding account balance is comprised of CAP arrears.

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 and a customer. 66 Pa.C.S. § 1405(a).

4. Section 1405(c) of the Public Utility Code prohibits the Commission from establishing a payment arrangement on any outstanding Customer Assistance Program arrears. 66 Pa.C.S. § 1405(c).

5. Complainant has failed to carry her burden of proving that she is eligible for a Commission-issued payment arrangement.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal Complaint of Alice Anderson against PECO Energy Company at Docket No. F-2020-3021522 is denied.
2. That the docket at Docket No. F-2020-3021522 be marked closed.

Date: March 4, 2021

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