

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Linda Meade	:	
	:	
v.	:	C-2020-3015372
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision denies Linda Meade’s formal Complaint against PECO Energy Company upon finding that Ms. Meade failed to carry her burden of proving that she is having a reliability, safety, or quality problem with her utility service; that there is a foreign load on her service line; or that her bills from PECO are abnormally high. Ms. Meade also failed to carry her burden of proving that she is eligible for a second Commission-issued payment arrangement.

HISTORY OF THE PROCEEDING

On January 6, 2020, Linda Meade (Ms. Meade or Complainant) filed a formal Complaint (Complaint) against PECO Energy Company (PECO, Respondent, or the Company) alleging that: 1) she is unable to pay her electricity bills to PECO; 2) there are incorrect charges on her bills from PECO; 3) she is having a reliability, safety, or quality problem with her utility service; and 4) she suspects that her electricity bill is impacted by foreign load on her service

line. As relief, Ms. Meade requests that the Commission order PECO to investigate and resolve the foreign wiring issue with her service line and establish a payment arrangement on her behalf.

On January 27, 2020, PECO filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated January 31, 2020, notified the parties that an initial in-person hearing was scheduled for Thursday, March 12, 2020, at 10:00 a.m.

A Prehearing Order was issued on March 4, 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.

On March 6, 2020, counsel for PECO filed a Motion for Continuance of the scheduled hearing because the Respondent was unable to conduct a field visit prior to the hearing. Specifically, PECO averred that Ms. Meade was unable to take time off from work before March 12, 2020, to provide PECO access to her property to investigate her allegations of overcharging and potential foreign wiring. The Motion indicated that Ms. Meade was informed of the request for a continuance and had consented to it.

By Order dated March 9, 2020, PECO's request for a continuance of the scheduled hearing was granted for good cause shown.

By Hearing Cancellation/Reschedule Notice dated March 9, 2020, the initial hearing was rescheduled for Thursday, May 12, 2020, at 10:00 a.m.

By Initial Type Change/Rescheduled Hearing Notice dated May 13, 2020, the initial hearing in this matter was changed from an in-person to a call-in telephonic hearing to take place on Tuesday, July 21, 2020, at 10:00 a.m.

A second Prehearing Order was issued on June 25, 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.

On July 8, 2020, counsel for PECO filed a second Motion for Continuance of the scheduled hearing because the Respondent was unable to conduct an in-person field visit at the Complainant's residence, due to COVID-19 restrictions. In its Motion, PECO requested a 60-day continuance of the scheduled hearing and indicated that Ms. Meade was informed of the request for a continuance and did not object to it.

By Order dated July 13, 2020, PECO's request for a 60-day continuance of the scheduled hearing was granted for good cause shown.

By Hearing Cancellation/Reschedule Notice dated July 13, 2020, the initial hearing was rescheduled for Tuesday, October 6, 2020, at 10:00 a.m.

A third Prehearing Order was issued on September 8, 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 October 6, 2020. Ms. Meade appeared *pro se* and testified on behalf of the Complainant. Khadijah Scott, Esq., represented the Respondent, and presented the testimony of Thomas Lerro – who is a senior field foreman for PECO; and Michael Begley – who is a senior regulatory assessor with PECO in charge of reviewing and investigating formal complaints filed with the Commission. The Respondent sponsored eight exhibits, all of which were admitted into the record in this matter.

During the hearing, Ms. Meade disputed the number of payments made towards her account with PECO as reflected in PECO Exhibit 1. I allowed Ms. Meade to submit documents reflecting payments as a late-filed exhibit by November 6, 2020.

By e-mail dated November 10, 2020, Ms. Meade submitted several documents which will be collectively marked as late-filed Complainant Exhibit 1. In her November 10, 2020 e-mail, Ms. Meade indicated that she needed additional time to sort through her documents.

By e-mail dated November 12, 2020, I granted Ms. Meade's request for additional time. Ms. Meade was given until December 15, 2020, to submit additional late-filed exhibits. On the same date, I sent a copy of Ms. Meade's communication and late-filed Complainant Exhibit 1 to counsel for PECO.

PECO did not object to the admission of late-filed Complainant Exhibit 1 into the record. This exhibit is admitted into the record in the Ordering Paragraphs below.

Ms. Meade did not submit additional late-filed exhibits. The record in this matter closed on December 15, 2020, once Ms. Meade's deadline for submitting additional late-filed exhibits expired.

FINDINGS OF FACT

1. The Complainant is Linda Meade, who owns and resides at 2557 North 29th Street, Philadelphia, PA 19132 (Service Address). Tr. 56.
2. The Respondent is PECO Energy Company.
3. The Service Address is a three-bedroom row house built in the mid 1930's. Tr. 54-55.
4. Ms. Meade established electric service with PECO for the Service Address on April 19, 2007. Tr. 94-95.
5. The Service Address receives electricity through underground cables. Tr. 63, PECO Exhibit 8.

6. All the appliances at the Service Address are electric. Tr. 20.
7. Ms. Meade had a gas house heater until around 2013 or 2014. Tr. 46-49.
8. Since 2013-2014, Ms. Meade relies on electric and kerosene space heaters to heat the Service Address. Tr. 46-49.
9. The next-door property at 2555 North 29th Street was Ms. Meade's family's residence for many years. Tr. 43.
10. Ms. Meade resided at the 2555 North 29th Street address until she was 19 years old. Tr. 43.
11. Ms. Meade's mother resided at 2555 North 29th Street until around 2013 when new residents moved into the 2555 North 29th Street address. Tr. 15, 43.
12. On May 6, 2013, Ms. Meade filed an informal complaint with the Commission Bureau of Consumer Services (BCS) at BCS Case No. 003093626, claiming that for approximately eight months, she had been experiencing power outages and her bills were extremely high. Tr. 38, 100, PECO Exhibit 4.
13. At BCS Case No. 003093626, Ms. Meade averred that she noticed that since her neighbors moved in approximately a year ago, her bills and service have been outrageous. Tr. 100-101, PECO Exhibit 4.
14. In response to Ms. Meade's filing of the informal complaint at BCS Case No. 003093626, PECO conducted a high bill field investigation at the Service Address. Tr. 105, PECO Exhibit 7.

15. During the high bill field investigation, the meter number was verified, and an additional meter reading was obtained, which verified the accuracy of the billed meter readings. Tr. 105, PECO Exhibit 7.

16. During the high bill field investigation, the appliance load was dropped, and an idle disc was secured, which verified that no evidence of foreign wiring, grounds, shorts, or dissipation existed at the time of the investigation. Tr. 105, PECO Exhibit 7.

17. During the high bill field investigation, a passing load test was completed which verified meter accuracy. Tr. 105, PECO Exhibit 7.

18. During the high bill field investigation, an appliance analysis was completed which justified the usage billed. Tr. 105, PECO Exhibit 7.

19. Following the high bill field investigation, PECO found Ms. Meade's bills to be correct as rendered. Tr. 105, PECO Exhibit 7.

20. On August 7, 2013, BCS dismissed the BCS Case No. 003093626, noting that the customer claimed that, for the past couple of months, her service had functioned properly at her home. Tr. 101, PECO Exhibit 4.

21. On March 5, 2014, a partial outage was reported at the Service Address. Tr. 66-67, PECO Exhibit 7.

22. The Company found an underground fault on the line serving the Service Address. Tr. 66-67, PECO Exhibit 7.

23. On March 14, 2014, the underground fault was corrected, all underground taps were replaced, and the load was restored. Tr. 78, PECO Exhibit 7.

24. The underground fault had no impact on Ms. Meade's bill. Tr. 67, PECO Exhibit 7.

25. On August 15, 2014, Complainant filed an informal complaint at BCS Case No. 003275541 alleging that in May of 2014, PECO dug up the street and found that there was faulty wiring, and that half of her service was going to another residence. Tr. 101-102, PECO Exhibit 4.

26. In her informal complaint at BCS Case No. 003275541, Complainant stated that she never received any documents from PECO detailing their findings and wanted PECO to own up to their mistakes and adjust her bills. Tr. 101-102, PECO Exhibit 4.

27. In response to Ms. Meade's informal complaint at BCS Case No. 003275541, on September 11, 2014, PECO tested the meter serving the serving the Service Address and found it to be accurate. Tr. 64-65; PECO Exhibits 6 and 7.

28. On March 6, 2015, BCS issued a written decision at BCS Case No. 003275541, summarizing the events of March 5, 2014, the results of the September 11, 2014 meter test, and dismissing Ms. Meade's claims as unfounded and finding that her electricity bills were correct as rendered. PECO Exhibits 4 and 7.

29. After 2015, Ms. Meade filed two informal complaints with BCS (BCS Case No. 003463908 filed August 1, 2016, and BCS Case No. 003738940 filed on October 4, 2019) on issues unrelated to quality or reliability of service. PECO Exhibit 4.

30. On March 10, 2016, Ms. Meade's outstanding balance with PECO in the amount of \$24,006.48 was discharged in a Chapter 7 bankruptcy filing, Case No. 16-12309. Tr. 92, PECO Exhibit 1.

31. On July 18, 2018, Ms. Meade contacted PECO reporting that a Comcast technician was doing work at her house and told her that the next-door neighbor at 2555 North 29th Street was wired into her property. Tr. 60-61; PECO Exhibit 8.

32. On July 18, 2018, Ms. Meade requested a visit and investigation by PECO on a possible meter mix-up or foreign load problem. Tr. 60-61; PECO Exhibit 8.

33. On July 20, 2018, a PECO technician, Eric Riley, visited the Service Address on a foreign wiring or possible theft of service order. Tr. 79, PECO Exhibit 8.

34. Mr. Riley verified that Ms. Meade was being billed on the right meter. Tr. 62-63, PECO Exhibit 8.

35. At the Service Address, Mr. Riley performed an appliance analysis whereby he determined that all of Ms. Meade's appliances were electrical. Tr. 62, PECO Exhibit 8.

36. Mr. Riley idled the meter by turning off all electrical appliances at the property to make sure that there was no additional foreign wiring at the property. Tr. 62-63, PECO Exhibit 8.

37. Foreign load is extremely rare when neighbors do not share any common spaces. Tr. 84-85.

38. During the July 20, 2018 visit, Mr. Riley reported hearing water running behind the wall in the first-floor bathroom. Tr. 63, PECO Exhibit 8.

39. Mr. Riley explained to Ms. Meade that if the water that was running was hot, it could impact her electricity bill. Tr. 63, PECO Exhibit 8.

40. Mr. Riley advised Ms. Meade to contact a plumber to check the source of the running water. Tr. 63, PECO Exhibit 8.

41. After the 2016 bankruptcy discharge, Ms. Meade continued to make few and incomplete payments towards her account with PECO. Tr. 91-92, PECO Exhibit 1.

42. Ms. Meade made only two payments in 2018, five payments in 2019, and only two payments in 2020. Tr. 91-92, PECO Exhibit 1.

43. Ms. Meade's electricity usage is seasonal, increasing in the colder months and decreasing in the warmer months. PECO Exhibit 1.

44. Ms. Meade's electricity usage in the colder months of 2016 is comparable with her usage in the colder months of the following years. PECO Exhibit 1.

45. Ms. Meade's electricity usage in the warmer months of 2016 is comparable with her usage in the warmer months of the following years. PECO Exhibit 1.

46. On October 17, 2019, BCS issued a payment arrangement on behalf of Ms. Meade at BCS Case No. 003738940.

47. BCS determined that Ms. Meade was a Level 1 income customer with a reported gross income of \$2,812.00 per month for a household of one. PECO Exhibits 3 and 4.

48. Ms. Meade receives \$1,620.00 per month in Social Security benefits. Tr. 117-18.

49. Ms. Meade receives \$300.00 per week from her part-time employment. Tr. 117-18.

50. Ms. Meade is the sole resident at the Service Address. Tr. 16, 119.

51. Ms. Meade is currently enrolled in PECO's Customer Assistance Program (CAP). PECO Exhibit 2.

52. As of the day of the hearing, Ms. Meade's outstanding balance with PECO was \$14,529.47. Tr. 91, PECO Exhibit 1.

53. Of Ms. Meade's outstanding balance of \$14,529.47, \$3,619.22 consist of CAP arrears.

54. Between March 2016 and October 2020, Ms. Meade received three Company-issued payment arrangements, and three medical certificates. Tr. 124-26, PECO Exhibit 3.

DISCUSSION

Legal standard

In her formal Complaint against PECO, Ms. Meade alleged that: 1) she is unable to pay her electricity bills to PECO; 2) there are incorrect charges on her bills from PECO; 3) she is having a reliability, safety, or quality problem with her utility service; and 4) she suspects that her electricity bill is impacted by foreign load on her service line. As relief, Ms. Meade requests that the Commission order PECO to investigate and resolve the foreign wiring issue with her service line and establish a payment arrangement on her behalf.

As the proponent of a rule or order, Ms. Meade 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, she 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.Cmwlth. 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 & W. R.R. 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 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).

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).

In *Waldron v. Phila. Elec. Co.*, (*Waldron*), 54 Pa. PUC 98 (1980), the Commission adopted the Michigan Public Service Commission's (PSC's) policy announced in *Hallifax v. O & A Electric Co-Op*, Case No. U-5825 (May 1979), which stated that, while the accuracy of the meter is an important factor in resolving billing disputes, it is not the sole criterion. The Michigan PSC stated that it will also consider the following factors: the billing history of the complainant; any change in the number of occupants residing at the household; the potential for energy utilization; and any other relevant facts or circumstances that are brought to light during the complaint proceeding. *Waldron* at 100.

While a comparison of the disputed monthly bill to the Complainant's billing history and the consistency of her usage pattern are important criteria to consider, they alone do

not resolve the issue of the Complainant's disputed high bill. *Waldron* does not limit the establishment of a prima facie case to the above two elements alone. Rather, the Commission may consider the billing history of the account, any change in usage patterns (such as a change in the number of occupants residing in the household or potential energy utilization), and any other relevant facts or circumstances that come to light during the proceeding. See *Bennett v. Peoples Nat. Gas Co.*, Docket No. C-2009-2122979 (Order entered October 13, 2010); *Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Order entered November 15, 2011).

Thus, a complainant in a high bill case has the opportunity to present any other relevant evidence which, if sufficient to establish a prima facie case, can be used to sustain the burden of proof. There is no specific requirement as to what particular facts the complainant must offer. This will likely vary from case to case. In *Waldron*, for example, the complainant did not provide a comparison of prior billing but asserted that the apartment was uninhabited during the billing period in question and that the only operating appliances were a clock and a refrigerator; that two air conditioners were disconnected; and that, even if the latter had been connected, the complainant could not possibly have used the energy reflected in the billing. The Commission remanded the complaint in *Waldron* reasoning that, had the record been properly developed, those facts may have established a prima facie high bill case, and then the Company would have had to introduce evidence to overcome the prima facie case. *Waldron* at 101. Therefore, to establish a prima facie case under *Waldron*, a complainant must show the disputed bill was abnormally high when compared to prior usage patterns and that his or her pattern of usage has not changed or must provide other relevant evidence showing that the disputed bill is unreasonably high.

As set forth in *Waldron*, evidence proffered by a utility relating to the accuracy of a meter test alone, in response to a high bill complaint, is not conclusive evidence and would not, by itself, require a finding against a complainant and in favor of a company. *Id.* In other words, evidence of a meter test showing that the meter worked within the acceptable degree of accuracy can be overcome with circumstantial evidence that otherwise indicates that a bill was too high.

Foreign wiring, reliability of service and high billing disputes

At the hearing, Ms. Meade testified that she owns and resides at the property at 2557 North 29th Street, Philadelphia, PA 19132. Tr. 56. She explained that the next-door property at 2555 North 29th Street was her family's residence for many years. She testified that she resided at the 2555 North 29th Street until she was 19 years old, and that her mother continued to reside there until around 2013 when new residents moved into the 2555 N. 29th Street address. Tr. 15. Ms. Meade testified that once her new neighbors moved in next-door, her electricity bills increased. Tr. 35. While her electricity bills were previously around \$125 per month, after her new neighbor moved in, her bills increased to around \$450 per month although there had been no other changes in her household. *Id.*

Ms. Meade suspects that her neighbors have managed to access her service line and that her meter is registering both her usage and theirs. Tr. 16. To support her claim, she testified that she has heard loud noises coming from the neighbors' basement directly behind her electric box, where she knows that the next-door neighbors' electric box is also located. Tr. 15-16, 28. Ms. Meade testified that the neighbors control her electricity with a switch inside their residence, and that on one occasion her electricity went off after she heard her neighbors turn a switch inside their residence. Tr. 14-15. She also stated that on one occasion, at PECO's advice, she turned off her main braker and could hear her neighbor's contractor complain that he could not continue working because there was no power. Tr. 19.

In addition, Ms. Meade testified that her lights flickered or would not turn on, and her stove did not work properly. Tr. 16, 18, 22. She stated that when she moved to the Service Address, she had a certified technician rewire the house and that problems with her electric appliances and lights started when the neighbors moved in next door. Tr. 18.

Ms. Meade described the Service Address as a three-bedroom row house. Tr. 54-55. She explained that the Service Address was built in the mid 1930's, but that, in 2009, she had contractors install new insulation and walls. Tr. 55-56. Ms. Meade added that in the winter

she double insulates her windows with plastic. Tr. 57. She explained that she is the sole resident at the Service Address although, at one point, her mother lived with her. Tr. 16, 119.

Ms. Meade stated that all her appliances are electric. Tr. 20. She had a gas house heater until around 2013 or 2014. Tr. 46-49. Since then, she relies on electric and kerosene space heaters to heat her residence, although she was advised by her doctor that the use of the kerosene heater is not beneficial to her lung condition. Tr. 46-49.

In response to Ms. Meade's testimony, PECO witnesses testified as follows.

Ms. Meade established electric service with PECO for the Service Address on April 19, 2007. Tr. 94-95. The Service Address receives electricity through underground cables. Tr. 63, PECO Exhibit 8. On May 6, 2013, Ms. Meade filed an informal complaint with BCS at BCS Case No. 003093626. Tr. 38, 100, PECO Exhibit 4. In the informal complaint, Ms. Meade claimed that for approximately eight months, she had been experiencing power outages and her bills were extremely high. She averred that since her neighbors moved in approximately a year prior, her bills and service have been outrageous. Ms. Meade also alleged that there was a lot of equipment used next door, which caused interruptions with her service. Tr. 100-101, PECO Exhibit 4.

In response to Ms. Meade's filing of the informal complaint at BCS Case No. 003093626, PECO conducted a high bill field investigation at the Service Address. PECO Exhibit 7. The meter number was verified, and an additional meter reading was obtained, which verified the accuracy of the billed meter readings. An appliance analysis was completed which justified the usage billed. The appliance load was dropped, and an idle disc was secured, which verified that no evidence of foreign wiring, grounds, shorts, or dissipation at the time of the investigation. A passing load test was completed which verified meter accuracy. The bills were found to be correct as rendered. PECO Exhibit 7.

On August 7, 2013, BCS dismissed Ms. Meade's informal complaint at BCS Case No. 003093626, noting that the customer claimed that for the past couple months, her service had functioned properly at her home. Tr. 101. PECO Exhibit 4.

On March 5, 2014, a partial outage was reported at the Service Address. The Company found an underground fault on the line serving the Service Address. Tr. 66-67, PECO Exhibit 7. In his testimony, Mr. Lerro explained that "In a ground fault like that, one of the hotwires was broken or interrupted. So, what would happen is the customer was only receiving half the power at the property." Tr. 66-67. Mr. Lerro opined that this may have been the cause of the partial service (flickering lights, appliances that did not turn on) that Ms. Meade reported to PECO and in her prior informal complaint at BCS Case No. 30093626. *Id.* However, the underground fault had no impact on Ms. Meade's bill. Tr. 67, PECO Exhibit 7. On March 14, 2014, the underground fault was corrected, all underground taps were replaced, and the load was restored. Tr. 78, PECO Exhibit 7.

On August 15, 2014, Complainant filed an informal complaint at BCS Case No. 003275541 alleging that, in May of 2014, PECO dug up the street and found that there was faulty wiring, and that half of her service was going to another residence. Complainant stated that she never received any documents from PECO detailing their findings and wants PECO to own up to their mistakes and adjust her bills. PECO Exhibit 4.

In response to Ms. Meade's informal complaint at BCS Case No. 003275541, on September 11, 2014, PECO tested the meter serving the Service Address and found it to be accurate. Tr. 64-65; PECO Exhibits 6 and 7.

On March 6, 2015, BCS issued a written decision at BCS Case No. 003275541, summarizing the events of March 5, 2014, the results of the September 11, 2014 meter test, and dismissing Ms. Meade's claims as unfounded as well as finding that her electricity bills were correct as rendered. PECO Exhibits 4 and 7.

On March 10, 2016, Ms. Meade's outstanding balance with PECO in the amount of \$24,006.48 was discharged in a Chapter 7 bankruptcy filing, Case No. 16-12309. Tr. 92, PECO Exhibit 1.

On July 18, 2018, Ms. Meade contacted PECO reporting that a Comcast technician was doing work at her house and told her that the next-door neighbor at 2555 N. 29th Street was wired into her property. She requested a visit and investigation by PECO on a possible meter mix-up or foreign load problem. Tr. 60-61; PECO Exhibit 8.

On July 20, 2018, a PECO technician, Eric Riley, visited the Service Address on a foreign wiring or possible theft of service order. Tr. 79. While at the Service Address, Mr. Riley performed an appliance analysis whereby he determined that all of Ms. Meade's appliances were electrical. Tr. 62, PECO Exhibit 8. He also checked to see whether the last billing was in line. He checked and dropped the load of the meter. Mr. Riley idled the meter by turning off all electrical appliances at the property to make sure that there was no additional foreign wiring at the property. None was detected at the property. Lastly, Mr. Riley verified that Ms. Meade was being billed on the right meter. Tr. 62. No meter mix-up was found. Tr. 62-63, see also Tr. 85-86.

During the July 20, 2018 visit, Mr. Riley reported hearing water running behind the wall in the first-floor bathroom. Mr. Riley explained to Ms. Meade that if the water that was running was hot, it could impact her electricity bill. He advised Ms. Meade to contact a plumber to check the source of the running water. Tr. 63, PECO Exhibit 8.

PECO witness Mr. Lerro testified that foreign load is extremely rare when neighbors do not share any common spaces. He addressed the two scenarios that Ms. Meade alluded during her testimony. Tr. 84-85. First, he addressed Ms. Meade's claim that her neighbors dug up the PECO's underground cable and tried to tap into it causing the March 2014 underground fault. While allowing for this possibility, Mr. Lerro explained that the tap would have occurred before Ms. Meade's meter and would not have impacted her electricity bill. In this scenario, the neighbors "would be stealing from PECO, not [Ms. Meade]." Tr. 84. The

second scenario described by Ms. Meade was that of the next-door neighbor drilling a hole into the shared basement wall, somehow getting into Ms. Meade's electrical box, and connecting wires to the next-door property. Given that Ms. Meade and her next-door neighbor have separate basements, and that homes built in the 1930s have stone foundations, Mr. Lerro deemed this scenario virtually impossible. He explained that drilling through the shared basement wall would involve more than simply drilling through the back of the wooden mounting board on the wall of the basement. The electrical gray box itself would have a hole drilled through it, and if that were the case, the PECO technicians who inspected the Service Address in 2014 and 2018 would have detected it. “Without access to Ms. Meade's basement and her being able to see it, [foreign load is] actually almost impossible.” Tr. 84-85.

Mr. Begley testified with regard to Ms. Meade's account history with PECO. He explained that after the 2016 bankruptcy discharge, Ms. Meade continued to make few and incomplete payments towards her account with PECO. He pointed out that she made only two payments in 2018, five payments in 2019, and only two payments in 2020. Tr. 91-92, PECO Exhibit 1. As of the day of the hearing, Ms. Meade's outstanding balance with PECO was \$14,529.47. Tr. 91, PECO Exhibit 1.

Upon careful review of the record, I find that Ms. Meade has failed to carry her burden of proving by a preponderance of the evidence that she has a reliability of service issue. Her testimony on flickering lights or malfunctioning appliances is devoid of dates, whereas the testimony and records submitted by PECO reveal only one partial outage reported by the Complainant on March 5, 2014. This was the faulty underground cable, which the Company repaired on March 14, 2014, and which Mr. Lerro admitted might have caused her electrical appliances to malfunction at the time. This was also at the heart of Ms. Meade's informal complaint filed on August 15, 2014, with BCS at BCS Case No. 003275541 and dismissed by BCS on March 6, 2015. Although Ms. Meade filed two informal complaints with BCS after 2015 (BCS Case No. 003463908 filed August 1, 2016, and BCS Case No. 003738940 filed on October 4, 2019), she did not allege any quality or reliability of service issues in any of them.

Pursuant to Section 3314 of the Public Utility Code (the Code), 66 Pa.C.S.

§ 3314,

No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part.

(Emphasis added). 66 Pa.C.S. § 3314(a). This provision provides a general limitation period of three years for any action under the Code, except as otherwise provided. See, *Duquesne Light Co. v. Pa. Pub. Util. Comm'n*, 611 A.2d 370 (Pa.Cmwlth. 1992) (*Duquesne*). As Ms. Meade filed the present formal Complaint on January 6, 2020, I find that her claim of unreliable service on the part of PECO is barred by the statute of limitations as it relates to events caused by the faulty underground cable in March of 2014. I also find that Ms. Meade's claims relating to reliability or quality service within the statute of limitations period (January 6, 2017 – January 6, 2020) were vague and unsupported by substantial evidence. As explained *supra*, “substantial evidence” 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 & W. R.R. Co. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980).

Similarly, I find that Ms. Meade has failed to carry her burden of proving by a preponderance of the evidence that foreign load exists on her service line, which has impacted her electricity bills. PECO successfully rebutted her testimony regarding the existence of foreign load by showing that field visits at the Service Address in 2014 and in 2018 did not find any evidence of foreign load. Additionally, Ms. Lerro testified credibly that, since Ms. Meade's service is underground, and she and her next-door neighbor do not share a common basement, “Without access to Ms. Meade's basement and her being able to see it, [foreign load on her service line is] actually almost impossible.” Tr. 84-85. Ms. Meade failed to submit additional evidence to rebut the evidence presented by the Respondent. Mere bald assertion, personal opinions or perceptions do not constitute evidence to bolster a claim. *Pa. Bureau of Corrections v. City of Pittsburgh*, 516 Pa. 75, 532 A.2d 12 (1987). Consequently, the Complainant failed to carry her burden of proof.

Turning now to Ms. Meade's claim of abnormally high bills, she claims that her electricity bills were around \$125 per month before her new neighbors moved in next door. After that, her bills increased to around \$450 per month. Tr. 35. By her own admission, her new neighbors moved in in 2013. Tr. 15. Also, around 2013 Ms. Meade lost her gas service from Philadelphia Gas Works and began using electric space heaters to heat her residence.

Although Ms. Meade's usage history prior to 2013 was not submitted into the record for comparison purposes, Ms. Meade's account history from January 2016 to September 2020, reveals that her electricity usage is seasonal. PECO Exhibit 1. Every year, her electricity usage increases in the colder months and decreases in the warmer months. PECO Exhibit 1. In addition, her usage in the colder months of 2016 is comparable with her usage in the colder months of the following years. The same can be said for her usage in the summer months. *Id.* PECO witnesses testified credibly that foreign load was not detected at the Service Address either in 2014 or 2018, that there was no meter mix-up, and that her meter performed accurately. Ms. Meade testified that all her appliances are electric and that she uses electric space heaters to heat her residence in the colder months. PECO suspects that Ms. Meade's bill is impacted by hot water leaking or running uncontrolled behind Ms. Meade's first-floor bathroom. Importantly, Ms. Meade did not refute this finding, but stated that she turned the hot water valve off in her bathroom after PECO suggested that she hire a plumber to look at the problem. Tr. 129-30.

In view of the above, I find that Ms. Meade has failed to carry her burden of proving by a preponderance of the evidence that her bills from PECO are abnormally high.

Payment arrangement

In her Complaint, Ms. Meade requested a payment arrangement. At the hearing, she testified that she receives \$1,620.00 per month from Social Security and \$300.00 per week from her part-time employment. Tr. 117-18. Ms. Meade testified that she is the sole member of her household. Tr. 119.

Mr. Begley testified that Ms. Meade has a poor payment history, which has resulted in a large outstanding balance with PECO. *See supra*. He testified that Ms. Meade is currently enrolled in PECO's CAP. PECO Exhibit 2. Of her outstanding balance of \$14,529.47, \$3,619.22 consist of CAP arrears. From July 2016 to October 2020, Ms. Meade has received and defaulted on three Company-issued payment arrangements and one issued by the Commission. PECO Exhibit 3.

The Responsible Utility Customer Protection Act, 66 Pa. C.S. § 1401, *et seq.* (the Act or Chapter 14), applies to complaints alleging inability to pay and requests for Commission-issued payment arrangements. This law provides strict guidelines that the Commission must follow in handling customer complaints.

a) Customer Assistance Program Balance

The Commission has no authority to establish a payment arrangement on amounts subject to customer assistance program (CAP) rates. Section 1403 of the Public Utility Code defines a CAP program as follows:

A plan or program sponsored by a public utility for the purpose of providing universal service and energy conservation, as defined by Section 2202 (relating to definitions) or Section 2803 (relating to definitions), in which customers make monthly payments based on household income and household size and under which customers must comply with certain responsibilities and restrictions in order to remain eligible for the program.

66 Pa.C.S. § 1403 (Definition of "Customer assistance program").

The provision at 66 Pa.C.S. § 1405(c) states as follows:

(c) Customer assistance programs. – Customer assistance program rates shall be timely paid and shall not be the subject of payment arrangements negotiated or approved by the commission.

66 Pa.C.S. § 1405(c).

PECO's CAP program meets the requirements of 66 Pa.C.S. § 1403, and therefore, the Commission lacks the authority to establish a payment arrangement on that portion of Ms. Meade's outstanding balance which consists of CAP arrears. The amount of \$3,619.22 must be timely paid, pursuant to 66 Pa.C.S. § 1405(c).

The Complaint is denied as to the Complainant's request for a payment arrangement on the \$3,619.22 portion of her balance that is subject to Customer Assistance Program rates. See *Hewitt v. PECO Energy Co.*, Docket No. F-2011-2273271 (Order entered September 12, 2013).

b) Non-Customer Assistance Program Balance

The issuance of a payment arrangement for the non-CAP portion of the arrearage is a matter within the Commission's discretion. *Hewitt v. PECO Energy Co.*, Docket No. F-2011-2273271 at 11 (Order entered September 12, 2013). It is Commission policy to exercise its discretion when customers have demonstrated some evidence of a good-faith effort in paying utility bills or when customers have experienced a change of circumstances outside of their control. *Crawford v. Nat'l Fuel Gas Distrib. Corp.*, Docket No. C-20066348 at 15-16 (Order entered December 6, 2007). Furthermore, the Commission is permitted to establish only one payment arrangement between a customer and a utility and may issue a second or subsequent payment arrangement only under a specific set of circumstances.

According to 66 Pa.C.S. § 1405(d),

(d) Number of payment arrangements. — Absent a change in income, the commission shall not establish or order a public utility to establish a second or subsequent payment arrangement if a customer has defaulted on a previous payment arrangement established by a commission order or decision. A public utility may, at its discretion, enter into a second or subsequent payment arrangement with a customer.

66 Pa.C.S. § 1405(d).

A “change in income” is defined as, “A decrease in household income of 20% or more if the customer’s household income level exceeds 200% of the Federal poverty level or a decrease in household income of 10% or more if the customer’s household income level is 200% or less of the Federal poverty level.” 66 Pa.C.S. § 1403.

As mentioned above, Ms. Meade has already received and defaulted on one Commission-issued payment arrangement. On October 17, 2019, BCS issued a payment arrangement on behalf of Ms. Meade at BCS Case No. 003738940. BCS determined that Ms. Meade was a Level 1 income customer with a reported gross income of \$2,812.00 per month for a household of one. PECO Exhibits 3 and 4. At the hearing, Ms. Meade reported a gross income of \$2,920.00 per month.¹ Because Ms. Meade has not experienced a decrease in income, but rather has experienced an increase in income, she has not experienced a “change in income” as defined in 66 Pa.C.S. § 1403. Consequently, Ms. Meade is not eligible for a second Commission-issued payment arrangement.

More importantly, Ms. Meade’s payment history with PECO, as described *supra*, displays a lack of good-faith effort on the part of the Complainant to pay her utility bills. In *Crawford v. National Fuel Gas Distribution Corporation*, Docket Number C-20066348 (Final Order entered December 6, 2007), the Commission vacated a payment arrangement issued to Mr. Crawford by the BCS, in part because the record demonstrated a lack of good faith effort on the part of Mr. Crawford to pay his utility bills. The evidence in the present case more than warrants a similar result. Not only did Ms. Meade have an outstanding balance with PECO of \$24,006.48 discharged in bankruptcy, but due to her poor payment history and extensive use of medical certificates, Company disputes and informal complaints filed with the Commission’s BCS, she has accumulated an additional \$14,529.47 balance with PECO between March 2016 and October 2020. *See* Tr. 124-26, PECO Exhibit 1.

¹ \$1,620.00 per month in Social Security benefits, plus \$1,300.00 per month from part-time employment (\$300.00 per week x 52 weeks per year ÷ 12 months per year = \$1,300.00 per month) equals \$2,920.00 per month.

In view of the above, I find that Ms. Meade has failed to carry her burden of proving any of her claims against PECO or that she is eligible for a Commission-issued payment arrangement. Ms. Meade's Complaint will be dismissed in its entirety with prejudice.

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

5. In order to establish a prima facie case in a high billing dispute, a complainant must show the disputed bill was abnormally high when compared to prior usage patterns and that his or her pattern of usage has not changed or must provide other relevant evidence showing that the disputed bill is unreasonably high. *Waldron v. Phila. Elec. Co.*, 54 Pa. P.U.C. 98 (1980).

6. Evidence proffered by a utility relating to the accuracy of a meter test alone, in response to a high bill complaint, is not conclusive evidence and would not, by itself,

require a finding against a complainant and in favor of a company. See *Bennett v. Peoples Nat. Gas Co.*, Docket No. C-2009-2122979 (Order entered October 13, 2010); *Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Order entered November 15, 2011).

7. No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part. 66 Pa.C.S. § 3314(a).

8. “Mere bald assertions ... do not constitute evidence.” *Mid-Atlantic Power Supply Assoc. of Pa. v. Pa. Pub. Util. Comm’n*, 746 A.2d 1196, 1200 (Pa.Cmwlth. 2000)(citing *Pa. Bureau of Corrections v. City of Pittsburgh*, 516 Pa. 75, 532 A.2d 12 (1987)); see also, *Steffy’s Pattern Shop v. Frontier Communications of Pa., Inc.*, Docket No. R-00994808 (Opinion and Order entered March 3, 2000).

9. The Complainant failed to carry her burden of proving that the Respondent provided her with unreasonable, inadequate, or unsafe service, that there is foreign load on her service line or that her electricity bills are abnormally high.

10. The Responsible Utility Customer Protection Act, 66 Pa.C.S. § 1401, *et seq.*, applies to this proceeding.

11. The Commission has no authority to establish a payment arrangement on amounts subject to customer assistance program rates. 66 Pa.C.S. § 1405(c).

12. A customer assistance program is defined as a plan or program sponsored by a public utility for the purpose of providing universal service and energy conservation in which customers make monthly payments based on household income and household size and under which customers must comply with certain responsibilities and restrictions in order to remain eligible for the program. 66 Pa.C.S. § 1403.

13. The issuance of a payment arrangement for the non-CAP portion of the arrearage is a matter within the Commission's discretion. *Hewitt v. PECO Energy Co.*, Docket No. F-2011-2273271 at 11 (Order entered September 12, 2013).

14. It is Commission policy to exercise its discretion when customers have demonstrated some evidence of a good-faith effort in paying utility bills or when customers have experienced a change of circumstances outside of their control. *Crawford v. Nat'l Fuel Gas Distrib. Corp.*, Docket No. C-20066348 at 15-16 (Order entered December 6, 2007).

15. Absent a change in income, the Commission shall not establish or order a public utility to establish a second or subsequent payment arrangement if a customer has defaulted on a previous payment arrangement established by a commission order or decision. 66 Pa.C.S. § 1405(d).

16. A “change in income” is defined as, “A decrease in household income of 20% or more if the customer’s household income level exceeds 200% of the Federal poverty level or a decrease in household income of 10% or more if the customer’s household income level is 200% or less of the Federal poverty level.” 66 Pa.C.S. § 1403.

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

ORDER

THEREFORE,

IT IS ORDERED:

1. That Complainant late-filed Exhibit 1 is admitted into the record in this matter.

2. That the formal Complaint filed by Linda Meade against PECO Energy Company at Docket No. C-2020-3015372 is denied.

2. That the Secretary mark this docket closed.

Date: April 1, 2021

/s/
Eranda Vero
Administrative Law Judge