

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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|---------------------|---|----------------|
| LaCretia Fluellen | : | |
| | : | |
| v. | : | F-2020-3021486 |
| | : | |
| PECO Energy Company | : | |

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision denies LaCretia Fluellen’s formal Complaint against PECO Energy Company upon finding that Ms. Fluellen failed to carry her burden of proof.

HISTORY OF THE PROCEEDING

On July 8, 2020, LaCretia Fluellen (Ms. Fluellen or Complainant) filed a formal Complaint (Complaint) against PECO Energy Company (PECO, Respondent, or the Company) alleging that: 1) the utility is threatening to shut off her service; 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) PECO enrolled her with an electric generation supplier without her consent. As relief, Ms. Fluellen requests that the Commission order a review of her outstanding balance and order PECO to provide an explanation of all the various charges and payments listed on her account. She also requests the removal of all unauthorized payment agreements from her account history with PECO as well as a letter confirming receipt of Ms. Fluellen’s informal complaint and offer of settlement.

This formal Complaint is a timely appeal to a decision issued by the Commission's Bureau of Consumer Services (BCS) at BCS Case No. 003718499.

On September 14, 2020, PECO filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated November 9, 2020, notified the parties that an initial telephone call-in hearing was scheduled for January 5, 2021, at 10:00 a.m.

Due to a conflict in scheduling, the January 5, 2021 hearing was rescheduled for Thursday, January 7, 2021, at 10:00 a.m. A Hearing Cancellation/Reschedule Notice dated December 2, 2020, notified the parties of the new date and time of the hearing.

A Prehearing Order was issued on December 16, 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. Ms. Fluellen appeared *pro se* and testified on behalf of the Complaint. The Complainant sponsored 23 exhibits which were admitted into the record. Khadijah Scott, Esq., represented the Respondent, and presented the testimony of Renee Tarpley – who is a senior regulatory assessor with PECO in charge of reviewing and investigating formal complaints filed with the Commission, and Kelli Jefferson – who is a PECO analyst in charge of preparing written reports for BCS on behalf of the Respondent. The Respondent sponsored eight (8) exhibits, all of which were admitted into the record in this matter.

The record in this matter closed on February 6, 2021, 30 days from the date of evidentiary hearing.

FINDINGS OF FACT

1. The Complainant is LaCretia Fluellen, who owns and resides in a home at 6855 Ogontz Avenue, Philadelphia, PA 19138 (Service Address). Tr. 56.
2. The Respondent is PECO Energy Company.
3. The Service Address is a detached family home with four bedrooms.
Tr. 38, 52.
4. The Service Address consists of two floors and a basement. Tr. 38, 52.
5. Prior to Ms. Fluellen's purchase of the Service Address, the building was separated into three apartment units. Tr. 53-54.
6. The Complainant moved into the Service Address in May of 2017. Tr. 55.
7. From September 2017 until March 2019, Ms. Fluellen's budget billing amount ranged between \$79.00 and \$147.00 per month. Tr. 9-10, PECO Exhibit 1.
8. During the winter of 2018-2019, Ms. Fluellen had a broken thermostat at the Service Address. Tr. 56.
9. During the winter of 2018 -2019, Ms. Fluellen used five electric space heaters to heat the Service Address. Tr. 38.
10. During the winter of 2018-2019, Ms. Fluellen's household consisted of three individuals. Tr. 52-53.
11. On April 8, 2019, Ms. Fluellen's budget bill amount increased from \$147.00 per month to \$502.00 per month. Tr. 9-10, PECO Exhibit 1.

12. On July 18, 2019, Ms. Fluellen filed an informal complaint against PECO with the Bureau of Consumer Services at BCS Case No. 003718499 concerning her increased budget billing amount. Tr. 13, PECO Exhibit 8.

13. On July 25, 2019, Ms. Fluellen contacted PECO to request that her account be removed from budget billing. Tr. 11, PECO Exhibit 8.

14. On July 25, 2019, a PECO representative advised Ms. Fluellen that the deferred budget balance of \$1,096.81 would be added into the account balance. Tr. 93, PECO Exhibit 7.

15. It takes up to one billing cycle for an account to be removed from budget billing. PECO Exhibit 7.

16. On August 1, 2019, PECO issued a payment arrangement on Ms. Fluellen's behalf. Tr. 12, PECO Exhibits 1, 4, and 7.

17. The Company-issued payment arrangement required Ms. Fluellen to retire her \$508.79 arrearage in 12 monthly installments of \$42.40 plus the current monthly bill. PECO Exhibit 7.

18. When Ms. Fluellen's new PECO bill was rendered on August 6, 2019, her "budget settled" and the deferred budget balance of \$1,096.81 was added back to her account, in addition to \$132.54 in current charges, for a total of \$1,229.35. Tr. 93, PECO Exhibit 7.

19. On August 6, 2019, PECO issued Ms. Fluellen a bill for \$1,271.75, which consisted of the deferred budget balance of \$1,096.81, plus \$132.54 in current charges, in addition to the \$42.40 monthly installment pursuant to the August 1, 2019 payment arrangement. PECO Exhibit 1.

20. On August 6, 2019, Ms. Fluellen's outstanding balance on her account was \$1,738.14, which represented the current amount due of \$1,271.75, plus the existing payment arrangement balance of \$466.29. PECO Exhibit 7.

21. On August 6, 2019, Ms. Jefferson contacted Ms. Fluellen via e-mail offering to discuss the issues raised in her informal complaint. Tr. 115, PECO Exhibit 7.

22. On August 8, 2019, Ms. Jefferson e-mailed Ms. Fluellen explaining the return of her deferred budget balance back to her account and offered to amend the existing payment arrangement to retire the outstanding balance in 36 months in order to resolve the informal complaint at BCS Case No. 003718499. Tr. 117, PECO Exhibit 7.

23. The amended payment arrangement would require Ms. Fluellen to retire her total outstanding balance of \$1,738.14 in 36 monthly installments of \$48.28 plus the current monthly bill. PECO Exhibit 4.

24. By e-mail dated August 14, 2019, Ms. Fluellen rejected PECO's offer of an amended payment arrangement. PECO Exhibit 7.

25. Ms. Jefferson and Ms. Fluellen communicated via e-mail. Tr. 119.

26. Ms. Jefferson never spoke on the phone or personally with Ms. Fluellen, but they left each other several voice messages. Tr. 119.

27. At least one of the phone calls Ms. Jefferson made to Ms. Fluellen was made after 6:00 p.m. or on a Saturday, but they were all made within PECO's business hours. Tr. 119, see also Tr. 21.

28. On August 15, 2019, two transactions were noted in Ms. Fluellen's Account History with PECO: one credit in the amount of \$3,476.28 described as "Payment

Arrangement (new),” and another credit in the amount of \$1,563.20 described as “Miscellaneous.” PECO Exhibit 1.

29. On or about August 19, 2019, Complainant visited PECO’s offices to complain about Ms. Jefferson calling her after 6:00 p.m. and on a weekend. Tr. 21-22, 28, 90-91.

30. On August 22, 2019, PECO received notification that Complainant was enrolled with Alpha Gas and Electric as her electric generation supplier. Tr. 90.

31. On August 22, 2019, PECO’s system generated a letter requesting Ms. Fluellen’s confirmation of her enrollment with an alternative supplier. Tr. 24-25, 80.

32. Ms. Fluellen contacted PECO in a timely manner to state that she did not wish to enroll with an alternative supplier. Tr. 80-81.

33. Ms. Fluellen was returned to PECO as her default service provider. Tr. 81, Complainant Exhibit 5-A.

34. PECO does not enroll its customers with alternative electricity suppliers. Tr. 80.

35. Enrollment with an alternative electricity supplier must be initiated by the customer. Tr. 80.

36. Beginning with the bill of August 6, 2019, and ending with the bill of October 4, 2019, Ms. Fluellen was billed the monthly payment arrangement installment of \$42.40, plus her current charges. PECO Exhibit 1.

37. On March 13, 2020, BCS dismissed Ms. Fluellen’s informal complaint at BCS Case No. 003718499, finding that the Company had properly billed Ms. Fluellen. Tr. 76, PECO Exhibit 8.

38. As of the day of the hearing, Ms. Fluellen’s outstanding balance with PECO was \$3,007.44. Tr. 67, PECO Exhibit 1.

DISCUSSION

In her formal Complaint against PECO, Ms. Fluellen alleged that: 1) the utility is threatening to shut off her service; 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) PECO enrolled her with an electric generation supplier without her consent. As relief, Ms. Fluellen requests that the Commission order a review of her outstanding balance and also order PECO to provide an explanation of all the various charges and payments listed on her account. She also requests the removal of all unauthorized payment agreements from her account history with PECO as well as a letter confirming receipt of Ms. Fluellen’s informal complaint and offer of settlement.

As the proponent of a rule or order, Ms. Fluellen 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. Ry. 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 her 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).

Ms. Fluellen owns the Service Address, in which she has resided since May of 2017. Tr. 55, 56. The Service Address consists of two floors and a basement. Tr. 38, 52. The building was separated into three apartment units prior to Ms. Fluellen's purchase of it. Tr. 53-54. The Service Address is currently a detached family home with four bedrooms. Tr. 38, 52.

In the winter of 2018-2019, Ms. Fluellen had a broken thermostat at the Service Address and used five electric space heaters to heat her residence. Tr. 38, 56. At the time, Ms. Fluellen's household consisted of three individuals. Tr. 52-53.

From September 2017 until March 2019, Ms. Fluellen's budget billing amount ranged between \$79.00 and \$147.00 per month. Tr. 9-10, PECO Exhibit 1. However, on April 8, 2019, her budget bill amount increased to \$502.00 per month. Tr. 9-10, PECO Exhibit 1.

On July 18, 2019, Ms. Fluellen filed an informal complaint against PECO with BCS at BCS Case No. 003718499 concerning her increased budget billing amount. Tr. 13, 76, PECO Exhibit 8.

On July 25, 2019, Ms. Fluellen contacted PECO to request that her account be removed from budget billing. Tr. 11, PECO Exhibit 8. At the time, a PECO representative advised Ms. Fluellen that the deferred budget balance of \$1,096.81 would be added into her current account balance. Tr. 93, PECO Exhibit 7.

On August 1, 2019, PECO issued a payment arrangement which required Ms. Fluellen to retire her \$508.79 arrearage in 12 monthly installments of \$42.40 plus the current monthly bill. Tr. 12, PECO Exhibits 1, 4, and 7.

Ms. Fluellen's budget "settled" on August 6, 2019 and the deferred budget balance of \$1,096.81 was added back to her account. Tr. 104-105, PECO Exhibit 7. On August 6, 2019, PECO issued Ms. Fluellen a bill for \$1,271.75, which consisted of the deferred budget balance of \$1,096.81, plus \$132.54 in current charges, in addition to the \$42.40 monthly installment pursuant to the August 1, 2019 payment arrangement. PECO Exhibit 1. At that time, Ms. Fluellen outstanding balance on her account with PECO was \$1,738.14. This amount represented the current amount due of \$1,271.75, plus the existing payment arrangement balance of \$466.29. PECO Exhibit 7.

On August 6, 2019, Ms. Jefferson contacted Ms. Fluellen via e-mail offering to discuss the issues raised in her informal complaint. Tr. 117, PECO Exhibit 7. On August 8, 2019, Ms. Jefferson e-mailed Ms. Fluellen explaining the return of her deferred budget balance back to her account and offered to amend the existing payment arrangement to retire the outstanding balance in 36 months to resolve the informal complaint at BCS Case No. 003718499. Tr. 117-18, PECO Exhibit 7. The amended payment arrangement would require Ms. Fluellen to retire her total outstanding balance of \$1,738.14 in 36 monthly installments of \$48.28 plus the current monthly bill. PECO Exhibit 4. By e-mail dated August 14, 2019, Ms. Fluellen rejected PECO's offer of an amended payment arrangement. PECO Exhibit 7.

On August 15, 2019, two transactions were noted in Ms. Fluellen's Account History with PECO: one credit in the amount of \$3,476.28 described as "Payment Arrangement

(new),” and another credit in the amount of \$1,563.20 described as “Miscellaneous.” PECO Exhibit 1.

On August 22, 2019, PECO received notification that Complainant was enrolled with Alpha Gas and Electric as her electric generation supplier. Tr. 90, see Complainant Exhibit 5-C. On the same day, PECO’s system generated a letter requesting Ms. Fluellen’s confirmation of her enrollment with an alternative supplier. Tr. 24-25, 80. Ms. Fluellen contacted PECO in a timely manner to state that she did not wish to enroll with an alternative supplier. Tr. 80-81. She was returned promptly to PECO as her default service provider. Tr. 81, Complainant Exhibit 5-A.

On March 13, 2020, BCS dismissed Ms. Fluellen’s informal complaint at BCS Case No. 003718499, finding that the Company had properly billed Ms. Fluellen. Tr. 76, PECO Exhibit 8.

At the hearing, Ms. Fluellen testified that on or about July 29, 2019, an individual presenting herself as a PECO attorney contacted her at work. Tr. 13. The PECO attorney informed Ms. Fluellen that she was calling in response to Ms. Fluellen’s informal complaint filed with BCS and essentially offered her the terms of the August 1, 2019 Company-issued payment arrangement. Tr. 13-14. According to Ms. Fluellen, in addition to those terms, the PECO attorney offered her the “settlement amount” of \$7,500. Tr. 14, 46. Ms. Fluellen testified that the attorney asked her for her bank account to deposit the sum of \$7,500. Tr. 19. Ms. Fluellen declined because, at the time, she was experiencing identity theft issues. Tr. 19. The PECO attorney offered to issue a credit in the amount of \$7,500. Tr. 19. She points to the two transactions in her Account History dated August 15, 2019 – one credit in the amount of \$3,476.28 described as “Payment Arrangement (new),” and another credit in the amount of \$1,563.20 described as “Miscellaneous” as signs of PECO’s effort to give her the \$7,500 credit offered by the PECO attorney. Tr. 49, 97.

When asked in cross-examination, as to her understanding of PECO's reason for offering her a \$7,500 credit at a time when her total balance due was \$1,528.59, Ms. Fluellen stated that she did find the offer odd and questioned the attorney about it, but that,

[the attorney's] attitude was that I had been a PECO customer for a long time. I had never had any issues before. PECO works with their customers, da, da, da, da. Listen, I'm not going to -- you know, tell you -- I don't want to. I might add, you know, I was kind of leery about it. But, you know, yeah. I didn't ask for it.

Tr. 48-49.

Ms. Fluellen testified that, following her conversation with the PECO attorney, the Company took steps to retaliate against her for filing the informal complaint with BCS. According to Ms. Fluellen, PECO rescinded on its attorney's offer of credit; a PECO representative, Ms. Jefferson, acted in harassing manner towards her; and the Respondent enrolled her with an alternative generation supplier without her permission. Tr. 34-36.

In response to Ms. Fluellen's testimony, PECO's witness, Renee Tarpley, testified that only the formal complaints are served on PECO's legal department. The informal complaints are not. Tr. 82. Therefore, no PECO attorney would have been involved with Ms. Fluellen's informal complaint on or about July 29, 2019. In addition, she testified that the two August 15, 2019 transactions that appear in Ms. Fluellen's Account History represent "internal cancellation of charges to put the new agreement in effect." Tr. 84. According to Ms. Tarpley, the transactions do not represent payments or credits and do not appear in Ms. Fluellen's bills. Tr. 84, 87-89. Ms. Tarpley further testified that PECO has no business records of any communication between a PECO employee and Ms. Fluellen regarding a \$7,500 credit to her account. Tr. 79.

Next, Ms. Tarpley addressed Ms. Fluellen's claim that PECO enrolled her with Alpha Gas and Electric as her electric generation supplier without her permission. Ms. Tarpley testified that PECO does not enroll its customers with alternative electricity suppliers. Tr. 80. She explained that enrollment with an alternative electricity supplier must be initiated by the

customer. Tr. 80. Ms. Tarpley further testified that on August 22, 2019, PECO received notification that Complainant was enrolled with Alpha Gas and Electric as her electric generation supplier. Tr. 90. On the same day, PECO's system generated notice requesting Ms. Fluellen's confirmation of her enrollment with an alternative supplier. Tr. 24-25, 80. Ms. Fluellen contacted PECO in a timely manner to state that she did not wish to enroll with an alternative supplier. Tr. 80-81. She was returned promptly to PECO as her default service provider. Tr. 81.

Ms. Jefferson testified in defense to Ms. Fluellen's claim of harassing behavior on her part. She explained that she had e-mailed Ms. Fluellen on several occasions in August of 2019, first seeking to discuss with her the issues raised in her informal complaint with BCS, and then to explain to her the return of the deferred budget billing amount to her account and to offer her an amendment to the August 1, 2019 payment arrangement issued by the Company. Tr. 117-18. Ms. Jefferson further testified that she and Ms. Fluellen had only communicated via e-mail. Tr. 119. Ms. Jefferson never spoke on the phone or personally with Ms. Fluellen, but they left each other several voice messages. Tr. 119. Ms. Jefferson admitted that she had made at least one call to Ms. Fluellen after 6:00 p.m. or on a Saturday, but she explained that all calls were made within PECO's business hours. Tr. 119, see also Tr. 21. Ms. Jefferson also testified that she was the first PECO employee who had initiated contact with Ms. Fluellen after she filed the informal complaint with BCS on July 18, 2019. Tr. 123-24.

Upon careful review of the record, I find that Ms. Fluellen has failed to carry her burden of proving that there are incorrect charges on her bills with PECO. Specifically, she failed to prove by a preponderance of the evidence that PECO offered her a \$7,500 credit, began issuing her part of the credit, only to later rescind the offer. The record is devoid of any evidence of the offer or of a reason for PECO to have made the offer to Ms. Fluellen. Although PECO's witnesses were unable to provide the exact breakdown of the two transactions in her Account Statement dated August 15, 2019 – one credit in the amount of \$3,476.28 described as “Payment Arrangement (new),” and another credit in the amount of \$1,563.20 described as “Miscellaneous” – similar transactions appear in her account history in association with new payment arrangements processed in her account with PECO. See PECO Exhibit 1. On February 26, 2020, a credit in the amount of \$3,576.40 was processed in Ms. Fluellen's Account

Statement described as “Payment Arrangement (new).” PECO Exhibit 1. Also, on May 14, 2020, a credit in the amount of \$3,848.24 appears in Ms. Fluellen’s Account Statement described as “Payment Arrangement (new).” *Id.* The existence of these transactions lends credibility to Ms. Tarpley’s testimony that the sums represent “internal cancellation of charges to put the new agreement in effect” and are neither payments nor credits that appear in the Complainant’s bills. Tr. 84.

Next, I find that Ms. Fluellen has failed to carry her burden of proving that PECO enrolled her with an alternative electric supplier without her consent, in retaliation for filing an informal complaint with the Commission. She failed to present a scintilla of evidence that it was PECO who enrolled her with Alpha Gas and Electric as her electric generation supplier, relying instead on the coincidence of the letter of notification being issued by PECO on August 22, 2019, just a few days after Ms. Fluellen visited PECO’s offices to complain about Ms. Jefferson. See Tr. 21-22, 28, 90-91. However, mere bald assertion, personal opinions or perceptions do not constitute evidence to bolster a claim. *Pa. Bureau of Corr. v. City of Pittsburgh*, 516 Pa. 75, 532 A.2d 12 (1987). On the contrary, PECO produced credible evidence in the form of sworn testimony that it had notified Ms. Fluellen of the change in the electric generation supplier and had promptly returned her back to PECO once she indicated that she had not requested the change. Tr. 24-25, 80-81. These actions comply with Commission’s statutes at 66 Pa.C.S. § 2801 *et seq.* (Electricity Generation Customer Choice and Competition Act), and regulations at 52 Pa.Code §§ 57.172, 57.173, which provide that only a customer (or a person authorized to act on the customer's behalf) can request a change from the current electric generation supplier (EGS) or default service provider to a new selected EGS. In particular, 52 Pa.Code § 57.173 states,

When a customer contacts an EGS to request a change from the current EGS or default service provider to a new selected EGS, the following actions shall be taken by the selected EGS and the customer's EDC:

- (1) The selected EGS shall notify the EDC of the customer's EGS selection at the end of the 3-business day rescission period under § 54.5(d) (relating to disclosure statement for residential and small business customers) or a future date specified by the customer. The selected EGS may notify the EDC by the end of

the next business day following the customer contact upon customer consent.

(2) Upon receipt of this notification, or notification that the customer has authorized a switch to default service, the EDC shall send the customer a confirmation letter noting the proposed change of EGS or change to default service. The notice must include the date service with the new selected EGS or default service provider will begin. The letter shall be mailed by the end of the next business day following the receipt of the notification of the customer's selection of an EGS or default service provider.

52 Pa.Code § 57.173.

In addition, I find that Ms. Fluellen failed to carry her burden of proving by a preponderance of the evidence that PECO was remiss in its duty to provide Complainant with reasonable, safe, and adequate service as the claim relates to Ms. Fluellen's dealings with Ms. Jefferson. See 66 Pa.C.S. § 1501. The testimony provided by Ms. Fluellen in support of her claim that Ms. Jefferson's communications with her in August of 2019 amounted to harassment, was successfully rebutted by PECO, which put forth evidence showing not only that the communications between Ms. Jefferson and Ms. Fluellen were professional and within the scope of her filing of the informal complaint with BCS, but also that they occurred within PECO's business hours. See Tr. 21, 119, PECO Exhibit 7.

Finally, I will address Ms. Fluellen's request for the removal of all unauthorized payment agreements from her account history with PECO. At the hearing, Ms. Fluellen did not elaborate on the claim at the heart of this requested relief, beyond testifying that she had declined Ms. Jefferson's offer of an amended payment arrangement on August 14, 2019. Ms. Jefferson's testimony confirmed this statement as did PECO Exhibit 7. Tr. 117, PECO Exhibit 7. I note that PECO Exhibit 4 does list a Company-issued payment arrangement dated August 15, 2019, which is described as a renegotiation of the August 1, 2019 payment arrangement to include the deferred budget billing amount. PECO Exhibit 4. This renegotiated payment arrangement requires the Complainant to retire the outstanding balance of \$1,738.14 in monthly installments of \$42.40, and not \$48.24 as offered Ms. Jefferson. See Tr. 118, PECO Exhibits 4 and 7. Ms. Fluellen was billed the monthly payment arrangement installment of \$42.40, plus her current

charges from August 6, 2019 to October 4, 2019 when she defaulted from the payment arrangement. PECO Exhibit 1. Because Ms. Fluellen has failed to show by a preponderance of the evidence that her outstanding balance of \$1,738.14 on August 15, 2019 was incorrect, and because the installment amount of \$42.40 per month remained unchanged, I find that the renegotiated payment arrangement of August 15, 2019 was ultimately beneficial to Ms. Fluellen and should not be removed from her account history with PECO.

In view of the above, I find that Ms. Fluellen has failed to carry her burden of proving any of her claims against PECO. Consequently, Ms. Fluellen'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. Ry. Co. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980).

5. Only a customer or a person authorized to act on the customer's behalf can request a change from the current EGS or default service provider to a new selected EGS. 52 Pa.Code §§ 57.172, 57.173.

6. When a customer contacts an EGS to request a change from the current EGS or default service provider to a new selected EGS, the selected EGS shall notify the EDC of the customer's EGS selection at the end of the 3-business day rescission period or a future date specified by the customer. The selected EGS may notify the EDC by the end of the next business day following the customer contact upon customer consent. 52 Pa.Code § 57.173 (1).

7. Upon receipt of notification by EGS, or notification that the customer has authorized a switch to default service, the EDC shall send the customer a confirmation letter noting the proposed change of EGS or change to default service. The notice must include the date service with the new selected EGS or default service provider will begin. The letter shall be mailed by the end of the next business day following the receipt of the notification of the customer's selection of an EGS or default service provider. 52 Pa.Code § 57.173 (2).

8. It is every public utility's duty to "furnish and maintain adequate, efficient, safe, and reasonable service and facilities," and to "make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. 66 Pa C.S. § 1501.

9. "Mere bald assertions ... do not constitute evidence." *Mid-Atl. Power Supply Ass'n of Pa. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Pa.Cmwlth. 2000) (citing *Pa. Bureau of Corr. v. City of Pittsburgh*, 516 Pa. 75, 532 A.2d 12 (1987); see also, *Steffy's Pattern Shop v. Frontier Commc'ns of Pa., Inc.*, Docket No. R-00994808 (Opinion and Order entered March 3, 2000).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal Complaint filed by LaCretia Fluellen against PECO Energy Company at Docket No. F-2020-3021486 is denied.
2. That the Secretary mark this docket closed.

Date: May 12, 2021

/s/
Eranda Vero
Administrative Law Judge