

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Keisha R. Sheffield

v.

PECO Energy Company

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F-2021-3027880

**INITIAL DECISION**

Before  
Marta Guhl  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the formal Complaint of an electric utility customer because she failed to sustain her burden of proving that PECO Energy Company violated the Public Utility Code or any Commission orders and regulations. Specifically, the customer failed to prove that there were incorrect charges on her bills.

**ISTORY OF THE PROCEEDING**

On June 25, 2021, Keisha Sheffield (Complainant or Ms. Sheffield) filed a formal Complaint (Complaint) against PECO Energy Company (PECO or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant alleged that there were incorrect charges on her bills.

On September 1, 2021<sup>1</sup>, Respondent filed an Answer denying the material allegation of the Complaint.

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<sup>1</sup> The Formal Complaint was served by the Secretary's Bureau on the Respondent on August 13, 2021.

On September 9, 2021, an Initial Call-In Telephonic Hearing Notice was issued which indicated an initial hearing was scheduled in the matter for October 26, 2021 at 10:00 a.m., and assigned the matter to me. I issued a Prehearing Order on September 17, 2021.

The initial hearing in this matter was held as scheduled on October 26, 2021. The Complainant appeared *pro se* and testified on her own behalf. Respondent appeared and was represented by Khadijah Scott, Esq., who presented the testimony of Michael Begley, a Regulatory Assessor, and Thomas Lerro, a Senior High Bill Foreman. Respondent offered seven exhibits of which PECO Exhibit Nos. 1, 2, 3, 5, 6, and 7 were entered into the record at the time of the hearing. PECO was to submit a Late Filed Exhibit No. 4 by the close of business on October 26, 2021 and the Complainant had until November 5, 2021 to submit any written objections to the Late Filed Exhibit. The Company did submit the Late Filed Exhibit No. 4 on October 26, 2021 but the Complainant did not submit any written objections to the exhibit. The Late Filed Exhibit No. 4 is entered into the record through this decision.

The record closed on November 23, 2021, when the Secretary's Bureau received the transcript and hearing exhibits.

#### FINDINGS OF FACT

1. The Complainant in this case is Keisha Sheffield who resides at 6775 Musgrave Street, Philadelphia, Pennsylvania 19119 (Service Address). Tr. 7.
2. The Respondent in this proceeding is PECO Energy Company.
3. The Complainant resides at the Service Address alone. Tr. 11.
4. The Service Address has four bedrooms and one-and-a-half bathrooms.  
Tr. 11.

5. On February 22, 2019, a field technician visited the Service Address to conduct a high bill investigation at the request of the Complainant. Tr. 19; PECO Exh. 5.

6. During the February 22, 2019 visit, the load was dropped (all major appliances shut off) and the meter was idled (not registering any/minimal usage). Tr. 21, 22; PECO Exh. 5.

7. During the February 22, 2019 visit, a passing load test was done on the meter with an electric dryer that was listed as 5400 watts. Tr. 21; PECO Exh. 5.

8. The technician took two readings from the meter at different times and these readings gave a usage of 4890 watts out of 5400 watts which is within a tolerance rating. Tr. 21; PECO Exh. 5.

9. There was no foreign load or meter mix up found during the February 22, 2019 investigation. Tr. 21, 22-23; PECO Exh. 5.

10. The technician found two space heaters at the Service Address on the February 22, 2019 visit. Tr. 23; PECO Exh. 5.

11. The technician found that the recorded usage at the Service Address was within the potential usage of the appliances at the property. Tr. 24; PECO Exh. 5.

12. On January 9, 2020, a technician visited the Service Address to perform a follow up high bill investigation. Tr. 25; PECO Late Filed Exh. 4.

13. During the January 9, 2020 visit, the technician found that the Complainant had converted the Service Address to an electric heat pump for heating. PECO Late Filed Exh. 4.

14. The Complainant has electric residential heating service at the Service Address. Tr. 40; PECO Exh. 1.

15. The Complainant had residential electric service but was changed to electric residential heating service in January 2020 when the field visit confirmed that the Complainant used an electric heating system. Tr. 40.

16. PECO provided the Complainant with a courtesy adjustment to her bill of \$138.72, following the change in her electric service. Tr. 41; PECO Exh. 1.

17. On February 22, 2021, PECO sent a technician to the Service Address for another high bill investigation. Tr. 27; PECO Exh. 3.

18. On the February 22, 2021 visit, the technician again performed a passing load test and idled the meter and found no issues. Tr. 27-28; PECO Exh. 3.

19. On April 27, 2021, two additional meter tests were performed at the Service Address. Tr. 29; PECO Exh. 2.

20. On April 27, 2021, the meter was 99.9% accurate on a full load and 100.3% on a light load. Tr. 29; PECO Exh. 2.

21. The second meter test on April 27, 2021 showed the meter was 99.89% accurate on a full load and 100.4% accurate on a light load. Tr. 29; PECO Exh. 2.

22. The meter tested within Commission guidelines.<sup>2</sup>

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<sup>2</sup> No watt-hour meter which has an error in registration of more than 2.0% at light load or heavy load may be placed in service or allowed to remain in service without adjustment. If, upon installation, periodic or other tests, a watt-hour meter is found to exceed these limits, it shall be adjusted or removed from service. 52 Pa.Code § 57.20.

23. The technician also performed a cost estimate of potential usage at the property, a passing load test, verified the readings and that there was no foreign wiring or meter mix up. Tr. 30-31; PECO Exh. 2.

24. Meter issues do not correct themselves. Tr. 31.

25. The usage at the Service Address was in line with winter heating either with a heating system or space heaters. Tr. 30-31.

### 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 a rule or order, complainant has the burden of proof in this matter pursuant to 66 Pa.C.S. § 332(a).

To establish a sufficient case and satisfy the burden of proof, complainant must show that the respondent public utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990), *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, (Pa. Cmwlth. 1990), *alloc. den.*, 602 A.2d 863 (Pa. 1992). That is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704. 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. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Commonwealth, Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

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, the Complainant has not satisfied his burden of proof. The Complainant would 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*, 461 A.2d 1234 (Pa. 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).

#### High Bill Dispute

The Complainant contends that her bills are out of line for the amount of electricity she is using. Specifically, the Complainant contends that she noticed a change in her bills in the winter of 2019 and that there was no electric heating system at the Service Address until March 2020.

The burden of proof for “high bill” complaints has been explained in *Waldron v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980), and its progeny. In *Waldron*, the Commission adopted the Michigan Public Service Commission’s (PSC’s) policy announced in *Hallifax v. O & A Elec. 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 Commission 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*, 54 Pa.P.U.C. at 100.

The Commission explained the burden of proof set forth in *Waldron* as follows:

[T]he *Waldron* Rule allows a complainant to establish a *prima facie* case in a “high bill” complaint by showing that the disputed bill is abnormally high when compared to prior usage patterns and his or her pattern of usage has not changed *or by providing other relevant evidence showing that the disputed bill is unreasonably high*. In evaluating a “high bill” complaint, the Commission may consider such evidence as “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*.”

*Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197, at 5 (Opinion and Order entered November 15, 2011).

The Complainant resides at the Service Address alone. Tr. 11. The Service Address has four bedrooms and one-and-a-half bathrooms. Tr. 11. The Complainant alleged that there was no heating in the Service Address until the electric heating system was installed in March 2020 and that she was not living at the property.

PECO put forth testimony rebutting the Complainant’s allegations. Specifically, on February 22, 2019, a field technician visited the Service Address to conduct a high bill investigation. Tr. 19; PECO Exh. 5. The load was dropped (all major appliances shut off) and the meter was idled (not registering any/minimal usage). Tr. 21, 22; PECO Exh. 5. A passing load test was done on the meter with an electric dryer that was listed as 5400 watts. Tr. 21; PECO Exh. 5. The technician took two readings from the meter at different times and these readings gave a usage of 4890 watts out of 5400 watts which is within a tolerance rating. Tr. 21; PECO Exh. 5. There was no foreign load or meter mix up. Tr. 21, 22-23; PECO Exh. 5. The technician found two space heaters at the Service Address on the February 22, 2019 visit. Tr. 23; PECO Exh. 5. The technician found that the billed usage at the Service Address was within the potential usage of the appliances at the property. Tr. 24; PECO Exh. 5.

On January 9, 2020, a technician visited the Service Address to perform a follow up high bill investigation. Tr. 25; PECO Late Filed Exh. 4. The technician found that the Complainant had converted the Service Address to an electric heat pump for heating. PECO Late Filed Exh. 4. The technician found that the meter was testing within parameters after performing a passing load test and idling the meter. PECO Late Filed Exh. 4.

On February 22, 2021, PECO sent a technician to the Service Address for another high bill investigation. Tr. 27; PECO Exh. 3. The technician again performed a passing load test and idled the meter and found no issues. Tr. 27-28; PECO Exh. 3.

On April 27, 2021, the meter was tested at the Service Address. Tr. 29; PECO Exh. 2. The meter was 99.9% accurate on a full load and 100.3% on a light load. Tr. 29; PECO Exh. 2. A second meter test on the same date showed the meter was 99.89% accurate on a full load and 100.4% accurate on a light load. Tr. 29; PECO Exh. 2. Based on that information, the meter tested within Commission guidelines. *See* 52 Pa. Code § 57.20 (“No watthour meter which has an error in registration of more than 2.0% at light load or heavy load may be placed in service or allowed to remain in service without adjustment. If, upon installation, periodic or other tests, a watthour meter is found to exceed these limits, it shall be adjusted or removed from service.”). The Complainant did not present any evidence to challenge the test performed on the meter in this matter.

The technician also performed a cost estimate of potential usage at the property, a passing load test, verified the historical meter readings, and confirmed that there was no foreign wiring or meter mix up. Tr. 30-31; PECO Exh. 2.

PECO’s witness, Mr. Lerro, testified that meter issues do not correct themselves. Tr. 31. He also indicated that the usage at the Service Address was in line with winter heating either with a heating system or space heaters. Tr. 30-31.

PECO witness, Mr. Begley, stated that the Complainant has electric residential heating service at the Service Address. Tr. 40; PECO Exh. 1. Mr. Begley confirmed that the

Complainant had residential electric service but was changed to electric residential heating service in January 2020 when a field visit confirmed that the Complainant used an electric heating system. Tr. 40. PECO provided the Complainant with a courtesy adjustment to her bill of \$138.72, following the change in her electric service. Tr. 41; PECO Exh. 1.

The Complainant asserts that the heating system was not hooked up in her property until March 2020. The Complainant did not offer any evidence to support her assertion that the heating system was completed in March 2020. “[M]ere bald assertions ... do not constitute evidence.” *Pa. Bureau of Corrs. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *Mid-Atl. Power Supply Ass’n of Pa. v. Pa. Pub. Util. Comm’n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000); *see also, Steffy’s Pattern Shop v. Frontier Commc’n of Pa., Inc.*, Docket No. R-00994808, (Opinion and Order entered March 3, 2000). Contrary to the Complainant’s assertions, a PECO technician confirmed that there was an electric heat pump at the Service Address on January 9, 2020. Moreover, there were multiple high bill investigations at the Service Address which showed that the Complainant’s usage was in line with her potential usage and related to winter usage. Further, a meter test was performed which showed the meter was operating within Commission parameters. Based on all of the above, the Complainant has failed to meet her burden of proof and as such the Complaint must be dismissed.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.
2. Pursuant to 66 Pa.C.S. § 332(a), the burden of proof in this proceeding is upon the complainant.
3. Any finding of fact necessary to support the Commission’s adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm’n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm’n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704.

4. When considering a high bill complaint, the Commission 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 v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980).

5. “[T]he Commission may consider such evidence as 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.” *Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197, at 5 (Opinion and Order entered November 15, 2011).

6. No wathour meter which has an error in registration of more than 2.0% at light load or heavy load may be placed in service or allowed to remain in service without adjustment. If, upon installation, periodic or other tests, a wathour meter is found to exceed these limits, it shall be adjusted or removed from service. 52 Pa. Code § 57.20(c).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That PECO Energy Company’s Late Filed Exhibit No. 4 is entered into the record.
2. That the Complaint of Keisha R. Sheffield against PECO Energy Company at Docket No. F-2021-3027880 is denied and dismissed.

3. That the record at Docket No. F-2021-3027880 be marked closed.

Date: February 17, 2022

\_\_\_\_\_/s/\_\_\_\_\_  
Marta Guhl  
Administrative Law Judge