

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

ELAINE MICKMAN : DOCKET NO. C-2022-3036040  
*Complainant* :  
V :  
PECO ENERGY COMPANY :  
*Respondent* :

**COMPLAINANT’S AMENDED ANSWER REFUTING PRELIMINARY OBJECTIONS**

Preliminary Objections are meritless and must be denied based on lack of grounds per **52 Pa. Code § 5.101. (2) (4)**. Respondent’s misrepresentation of facts and misinterpreted law contradicts the facts and law. The intention of 52 Pa. Chap. 58 is to assist financially qualifying, indigent, and fixed-low income residents in need of energy-saving repair services including necessary Incidental Repairs **52 Pa. § 58.12** which is within the scope of LIURP’s Program. “To the Contrary”, Respondent’s Preliminary Objections pleading is scandalous and impertinent per **§ 5.101. (2)** and legally insufficient per **§ 5.101.(4)** when Respondent’s conduct is nonfeasance with a pernicious effect to Complainant and the public’s interest.

1.-3. Admitted.

4. Denied that Complainant’s basement has sewage or that she requested for sewage remediation to be classified as an Incidental Repair. Neither Black Horse Plumbing or LIURP’s Technician told Complainant there was basement sewage. More so, LIURP’s Technician never showed Complainant any sewage pictures on his IPAD during the June 13, 2022 Audit.

5. Respondent misrepresents facts to confuse and deter focus off the genuine issue of fact.

6. The Formal Complaint is legally sufficient per facts and 52 Pa. Chapter 58.

(2)

7. Complainant has standing and relief and/or recovery is warranted.

8. Relief and recovery is possible under the law.

9. There is recovery under the law.

10. Complainant's averments are true.

11. Inferences are warranted.

12. A hearing is necessary since disputable issues before the PUC impact the public's interest

13. Contrary to Respondent, there is a disputed question of fact in which the Respondent altered the original finding of the Audit conducted June 13, 2022 at which time the LIURP Technician did not report sewage in Complainant's basement, nor did the LIURP Technician's IPAD pictures identify any sewage at the June 13, 2022 Audit. Strict proof is demanded.

14. Denied. To the Contrary, there is a genuine issue of fact which precludes case dismissal.

**I. COMPLAINANT'S LEGAL SUFFICIENCY- LIURP Program not followed as required.**

1. Admitted.

2. Denied that LIURP is following its intended 2016-2018 USECP. Under the 2016-2018 USECP, PECO's LIURP programs' annual budget was \$5.6 million for electric programs and \$2.25 million for gas programs (totaling \$7.85 million). The Company has separate LIURP annual budgets for health as safety programs (\$1.5 million) and a \$.5 million de facto heating pilot. PECO suspended all in-home weatherization program services between March 23, 2020 and October 5, 2020 due to the Covid pandemic when Complainant needed LIURP repairs.

(3)

Because PECO was unable to implement LIURP programming due to the pandemic, PECO did not spend approximately \$3.7 million of funds allocated to LIURP in 2020 (excluding health and safety funds, which are separately administered). A Petition was filed proposing amendment to the 2016-2018 USECP requesting the PUC approve reallocating the \$3.7 million of LIURP funds as an emergency grant program via MEAF to various counties including Delaware, Montgomery, Bucks, Chester, and Philadelphia. While the other counties offer other emergency repair services to the indigent, Montgomery County does not offer any other programs for emergency or health hazard Incidental home repairs for the indigent and fixed-low income individuals or households, thereby denying Complainant any meaningful relief as a Montgomery County resident. All of the emergency or hazardous Incidental home repair programs offered in surrounding counties which benefited from the reallocated \$3.7 million of unspent LIURP funds denied Complainant any emergency or hazardous Incidental home repair assistance as a Montgomery County resident.

Respondent alleges they are relying on 2016-2018 USECP which provides LIURP funds for Incidental Repairs necessary to complete energy-saving repairs, yet millions of dollars of LIURP funds were reallocated in 2020 which denied Complainant LIURP assistance in 2020 in addition to LIURP failing to complete a 2017 repair for which a work-slip was submitted as well as LIURP withheld services in 2021 which caused deterioration of Complainant's basement necessitating additional Incidental Repairs to complete the energy-saving repair services.

3. & 4. Admitted.

5. Complainant without knowledge of standard Audit procedures, but Complainant denies being informed by the Technician of any hazards other than mold for which the Technician offered mold treatment by LIURP. The LIURP Technician David Jones specifically told Complainant that the leaking pipe was an incidental repair which LIURP would repair prior to the other energy-saving repairs. Pursuant **52 Pa. § 58.12. Incidental repairs:**

(4)

*“Expenditures on program measures may include incidental repairs to the dwelling necessary to permit proper installation of the program measures or repairs to existing weatherization measures which are needed to make those measures operate effectively.”*

Further, the Hot Water Heaters which LIURP neglected and failed to replace in April 2017 after the Technician submitted a work-slip, deteriorated and contributed to leaked water.

6. ~~It is denied that LIURP referred Complainant to any other assistance programs available in Complainant's County.~~ LIURP's Customer Service employee only referred a private company that charges thousands of dollars to remodel basements which is unaffordable to Complainant. Respondent's conduct is Nonfeasance as they have an obligation to coordinate program services for LIURP Incidental Repair and Energy-saving repair services per **52 Pa. § 58.7. Integration.**

*(a) A covered utility shall coordinate program service with existing resources in the community.*

*(c) Mandatory usage reduction programs shall be designed, whenever possible, to provide program services through independent agencies which have demonstrated experience and effectiveness in the administration and provision of program services. In the absence of qualified independent agencies, a covered utility electing not to provide program services directly shall solicit competitive bids for the provision of services by providers of related services, such as construction, architectural or engineering services.*

7. Admitted that LIURP Audited Complainant's house on June 13, 2022.

8. It is vehemently Denied that Complainant was informed that the basement could not be inspected after what was believed to be standing water identified. The LIURP Technician wrote up work-slips at Complainant's house the day of the Audit to be submitted to begin repair services to complete the inspection.

9. Complainant is without knowledge if an emergency work order was issued.

(5)

10. It is vehemently Denied that Black Horse Plumbing was sent to Complainant's house or contacted Complainant June 14, 2022. Respondent is misrepresenting facts or has mistaken or confused Complainant with a different LIURP client.

After LIURP approved the Incidental Repair work-slip to repair a leaking pipe, Black Horse Plumbing contacted Complainant to schedule a 4 hr. plumbing Incidental Repair appointment for June 27, 2022 at 9:00 am. which they confirmed with Complainant one week in advance and reconfirmed one day in advance. The Black Horse Plumber told Complainant about 10 minutes after arrival on June 27, 2022 that he would return the following week with additional supplies. The Black Horse Plumber never told Complainant that a pipe leaked sewage. LIURP then reneged on their repair services and informed Complainant that she had to "remediate", or remodel her basement prior to any LIURP energy-saving repair services regardless that some of the energy-saving repairs were not located in her basement, ie., broken windows on the 2nd floor, a broken chimney on the roof leaking heat and air conditioning, and LIURP's recommendation for attic insulation. Respondent is clearly demonstrating nonfeasance.

11. It is vehemently Denied that Complainant was informed that LIURP would only return after the issue had been rectified. "To the Contrary", the LIURP Technician David Jones performed a June 13, 2022 Audit and discussed all energy-saving repair services that LIURP could complete. The Technician Mr. Jones showed Complainant pictures of her basement he took on his IPAD which did Not identify sewage and he informed her that he was initially submitting work-slips for Incidental Repairs, under **52 Pa. § 58.12**, necessary to complete prior to the energy-saving repair services. The incidental repairs began with LIURP approval of plumbing services to repair a leaking pipe Incidental Repair in the basement.

12. Admitted that Pursuant to **52 Pa. Code 58.12**: Expenditures on program measures may include incidental repairs to the dwelling necessary to permit proper installation of the program measures or repairs to existing weatherization measures which are needed to make those measures operate effectively.

(6)

13. Denied any sewage was identified in the Complainant's basement. Strict proof demanded.

14. It is Denied that Complainant was informed during the inspection of any hazardous condition, in fact Respondent indicated in # 8 that an inspection was not conducted.

15. Complainant did not request sewage remediation since no sewage existed, rather Complainant seeks the Incidental Repair of the cracked pipe and the other necessary energy-saving repairs including energy-saving repairs not located in the basement.

16. LIURP discriminated against Complainant by denying Incidental Repair and energy saving repairs because of Complainant's financial inability to remodel her basement.

17. It is vehemently Denied that Complainant was informed that LIURP would only return after the issue had been rectified. "To the Contrary", the LIURP Technician David Jones performed a June 13, 2022 Audit and discussed all energy-saving repair services that LIURP could complete.

The Technician Mr. Jones showed Complainant pictures of her basement he took on his IPAD which did Not identify sewage and he informed her that he was initially submitting work-slips for Incidental Repairs, under **52 Pa. § 58.12**, necessary to complete prior to the energy-saving repair services. The incidental repairs began with, but were not limited to, LIURP's approval of Incidental Repair plumbing services to repair a leaking pipe in the basement.

18. Complainant averred that LIURP denied necessary Incidental Repairs and energy-saving services because Complainant is without financial ability to remodel her basement. LIURP, in fact, discriminated against Complainant for her low-income status by her inability to remodel, remediate, and pay for Incidental Repairs to her basement prior to receiving LIURP energy-saving repair services.

(7)

The purpose of § 58.1. "requires covered utilities to establish fair, effective and efficient energy usage reduction programs for their low income customers. The programs are intended to assist low income customers conserve energy and reduce residential energy bills. The reduction in energy bills should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs. The programs are also intended to reduce the residential demand for electricity and gas and the peak demand for electricity so as to reduce costs related to the purchase of fuel or of power and concomitantly reduce demand which could lead to the need to construct new generating capacity. The programs should also result in improved health, safety and comfort levels for program recipients."

"Residential- space heating customer-A residential customer of the covered utility utilizing the electric or gas service provided by the covered utility as the primary heating source for the customer's residence. The term includes customers with gas furnaces that have historically been used for heating but may not currently be operable."

"Residential water heating customer-A residential customer of the covered utility utilizing the electric or gas service provided by the covered utility as the primary water heating source for the customer's residence."

**§ 58.10. Priority of program services.** (a) "receipt of program services shall be determined as:"

(1) Among eligible customers, those with the largest usage and greatest opportunities for bill reductions relative to the cost of providing program services shall receive services first. When prioritizing eligible customers by usage level, several factors shall be considered when feasible. These factors include: the size of the dwelling, the number of occupants and the end uses of the utility service. When prioritizing eligible customers by opportunities for bill reductions, utility rate factors which may tend to limit (for example, declining block rates) or facilitate, for example, time-of-day rates or heating rates, bill reductions somewhat independently of absolute usage levels should be considered.

(3) Among the customers with the same standing with respect to paragraph (2), those with incomes which place them farthest below the maximum eligibility level shall receive services first.

(8)

**§ 58.12. Incidental repairs.** *“Expenditures on program measures may include incidental repairs to the dwelling necessary to permit proper installation of the program measures or repairs to existing weatherization measures which are needed to make those measures operate effectively.”*

**§ 58.14. Program measure installation.** (a) *“Installation. Based on the results of the energy survey conducted under § 58.11 (relating to energy survey), a covered utility shall install or arrange for the installation of the following applicable program measures designed to reduce energy bills, usage or demand for space heating, water heating and baseload end uses”:*

*“(1) For residential space heating customers, applicable program measures may include the installation of insulation, furnace replacement or furnace efficiency modifications, clock thermostats, infiltration measures designed to reduce the flow of air through the building envelope or the repair or replacement of chimneys and service lines.”*

*“(2) For residential water heating customers, program measures may include the installation of control devices on water heaters or other major appliances, rewiring to permit billing on a time of day or other off-peak rate schedule, the installation of water heater and pipe insulation and devices reducing the flow of hot water in showers, faucets or other equipment.”*

*“(3) For residential baseload customers, applicable program measures may include lighting efficiency modifications, refrigeration replacements or efficiency improvements, air conditioner replacements or efficiency improvements and other major appliance replacements, retrofits or efficiency improvements.”*

19. Denied and To the Contrary, Complainant set forth violations of PECO's Utility Code.

*In Sum*, the LIURP Program is weaponized against the very population it is intended to assist by withholding LIURP energy-saving repair services from indigent and fixed-low income individuals without financial ability to make Incidental Repairs which should be applied under 52 Pa. 58.12 and 58.7. The LIURP Program is being mismanaged, misappropriating funds, and discriminating against Complainant for her low-income status and inability to make repairs.

(9)

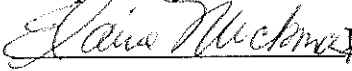
Respondent's Preliminary Objection is impertinent and scandalous by misrepresenting and mischaracterizing facts never proven with evidence, and are legally insufficient because the misrepresented allegation of sewage is unsupported with pictures on the technician's IPAD as sufficient evidence when the LIURP Technician took pictures of Complainant's basement during the June 13 2022 Audit, yet Complainant was denied a copy of the IPAD pictures from the Audit. It is vehemently denied that LIURP referred other programs to Complainant which would perform the incidental repairs without payment from Complainant. In fact, there are no other regularly operating home-repair assistance programs available in Montgomery County. Further noteworthy and egregious is that LIURP services were withheld from Complainant after she was referred by the PUC to apply for energy-saving repairs after she was erroneously denied LIHEAP for the 2021-2022 season by misapplying her autistic son's college financial aid as income.

There are existing disputes of material fact that warrant dismissing the Preliminary Objections which lack meritorious grounds, are legally insufficient lacking supporting evidence, and are impertinent and scandalous to distract and deter focus off the issue. The LIURP program intentions are not being fostered as promised under the law. Complainant preys for relief.

**REQUEST FOR RELIEF**

*WHEREFORE*, all of the facts, reasons and governing law, Preliminary Objections must be **Denied** and Complainant should be **Granted** relief for expedited LIURP Incidental Repairs and Energy-saving repairs.

Respectfully Submitted

 November 12, 2022

Elaine Mickman

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CERTIFICATE OF SERVICE

This verifies Complainant's Answer refuting Preliminary Objections was submitted and served to the following:

Khadijah Scott, Esquire  
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 November 12, 2022

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