

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Ervant Zeronian	:	
	:	
v.	:	F-2022-3036845
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Charece Z. Collins
Administrative Law Judge

INTRODUCTION

This Decision dismisses the Formal Complaint filed by Ervant Zeronian against PPL Electric Utilities Corporation. Mr. Zeronian failed to satisfy his burden of demonstrating that PPL Electric Utilities Corporation violated the Public Utility Code, a Commission order or regulation or a Commission-approved tariff regarding its decision to deny his request to be re-enrolled in its OnTrack Customer Assistance Program benefits.

HISTORY OF THE PROCEEDING

On November 14, 2022, Mr. Ervant Zeronian (Complainant or Mr. Zeronian) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL). Mr. Zeronian alleged that his household situation changed in July 2022, and he reapplied for PPL’s OnTrack Customer Assistance Program (OnTrack Program or OnTrack). Mr. Zeronian further averred that PPL counted the household unemployment income as his alone and therefore denied his application. Lastly, Mr. Zeronian averred that PPL did not take into consideration a document that he

submitted, indicating that his income ended in March 2021, and he was no longer receiving it. Mr. Zeronian requested to be re-enrolled in PPL's OnTrack Program.

Mr. Zeronian's Complaint was served upon PPL on November 17, 2022. On December 7, 2022, PPL filed a timely answer in response to Mr. Zeronian's complaint. PPL admitted that Mr. Zeronian's application was denied based on the income documentation that he submitted. PPL denied that it violated the Public Utility Code or Commission regulations in denying Mr. Zeronian's OnTrack application. PPL further averred that Complainant has an arrearage balance of \$136.87 and attempted to enroll in its OnTrack Program five times in the year 2022. PPL argued that Complainant does not qualify for its OnTrack Program based on his 2021 tax return. PPL averred that under its Commission-approved Universal Service and Energy Conservation Plan, November 6, 2017 (USECP), customers who are self-employed or own a small business must include a copy of their latest federal income tax return as part of their income documentation. USECP Section 2.2.2. PPL explained that thereafter, the customer's net profit, not gross income, will be used to determine their eligibility for OnTrack. PPL averred that Complainant is self-employed or owns a small business, and he submitted his 2021 federal income tax return, which indicated his reported net income for 2021 was over the eligibility guidelines for enrollment in OnTrack. PPL noted that Complainant can re-apply for OnTrack using his 2022 tax return.

On January 5, 2023, the Commission served an initial telephonic hearing notice setting a formal call-in telephonic hearing for this matter for February 21, 2023 at 10:00 a.m. and assigning me as the presiding officer. In anticipation of that hearing, I served a prehearing order on January 5, 2023, setting forth hearing information and the rules that would govern the proceeding.

The hearing was held as scheduled on February 21, 2023. Mr. Zeronian appeared on behalf of himself, and Nicholas Stobbe, Esquire appeared on behalf of PPL with one witness. Mr. Zeronian submitted two confidential exhibits that were admitted into the record (Zeronian

Confidential Exhibits A and B).¹ PPL submitted eight exhibits that were admitted into the record, including two late-filed exhibits submitted shortly after the hearing (PPL Exhibit numbers 1, 2, 4, 5, 6, 7, 8 and 9).² The record closed on March 14, 2023, upon the filing of the hearing transcript with the Commission.

FINDINGS OF FACT

1. The Complainant is Ervant Zeronian.
2. The Respondent is PPL Electric Utilities Corporation.
3. The Complainant's service address is 103 3rd Street, Greentown, PA 18426.
4. PPL's Universal Service and Energy Conservation Plan, November 2, 2017, is filed and approved with the Commission as a part of its tariff. Tr. 28; PPL Exhibit 6.
5. OnTrack is a customer assistance program through PPL's USECP that provides customized payments and debt forgiveness to its customers who are at or below 150% of the federal poverty level. Tr. 31; PPL Exhibit 6; USECP Section 2.1.
6. PPL uses income documentation to approve or deny a customer's OnTrack application. Tr. 30-31; PPL Exhibit 6.
7. To determine the income level for a customer, the income of all household members is counted, regardless of relationship. PPL Exhibit 6; USECP Section 2.2.1.

¹ Mr. Zeronian's exhibits contain sensitive information, such as the social security numbers for he and his family, and were therefore marked as confidential to protect that information. See Tr. 10-11, 22-24, 78.

² Mr. Zeronian indicated that he did not object to the late-filed exhibits via email dated March 6, 2023.

8. In determining household income for a self-employed potential OnTrack customer, caseworkers follow the Pennsylvania Department of Public Welfare's LIHEAP guidelines. PPL Exhibit 6; USECP Section 2.2.

9. According to LIHEAP guidelines, "Income" includes employee earnings; net profit from self-employment; gross income from roomers, boarders or apartment renters; and unearned income (including, but not limited to, unemployment income). PPL Exhibit 6; USECP Section 2.2.3.

10. OnTrack participants are required to recertify their income every 18 months while in the program. Tr. 36.

11. PPL's USECP requires self-employed customers to submit a copy of their latest federal income tax return with their OnTrack application to determine eligibility. Tr. 30, 36-37, 42; PPL Exhibit 6; USECP Section 2.2.2.

12. For the calendar year 2022, the OnTrack income limit (150% of the federal poverty level) for a household of one was \$20,385. Tr. 63; PPL Exhibits 7 and 8.

13. For the calendar year 2022, the OnTrack income limit (150% of the federal poverty level) for a household of two adults was \$27,465, and \$34,545 for a household of three adults. PPL Exhibit 8.

14. Regardless of household size, in the calendar year 2022, PPL would use a self-employed customer's 2021 federal income tax return as the only document to determine their eligibility for OnTrack. Tr. 36-37, 71-74; PPL Exhibit 6.

15. Mr. Zeronian and his wife are self-employed. Tr. 19, 36-37; Zeronian Confidential Exhibit A.

16. Mr. Zeronian was first enrolled in OnTrack on December 17, 2018. He remained on the program through December 16, 2021. Tr. 36; PPL Exhibit 7.

17. Mr. Zeronian applied to re-enroll in PPL's OnTrack Program five times throughout the calendar year of 2022. Tr. 33; PPL Exhibit 2.

18. Consistent with PPL's USECP, Mr. Zeronian submitted his 2021 federal income tax return as a part of his OnTrack applications. Tr. 37, 70-71; *See Zeronian Confidential Exhibit A.*

19. Mr. Zeronian's 2021 federal income tax return was jointly filed with his wife. Tr. 19, 38; Zeronian Confidential Exhibit A.

20. The New York address listed on Mr. Zeronian's 2021 tax return is the address where his wife works. Tr. 17; Zeronian Confidential Exhibit A.

21. Mr. Zeronian's income on his 2021 federal income tax return was listed as \$29,544, with an adjusted income of \$29,193. Tr. 38; Zeronian Confidential Exhibit A.

22. Mr. Zeronian's net profit from his self-employment for calendar year 2021 was listed as \$458. Tr. 38-40; Zeronian Confidential Exhibit A.

23. Mr. Zeronian's wife's net profit from her self-employment for calendar year 2021 was listed as \$4,966. Tr. 38-40; Zeronian Confidential Exhibit A.

24. In calculating Mr. Zeronian's adjusted income, and the self-employment net profits of Mr. Zeronian and his wife, Mr. Zeronian's total household income in the year 2021 was \$34,617. Tr. 40; Zeronian Confidential Exhibit A.

25. All five of Complainant's OnTrack applications were denied, based on the total household income of \$34,617 reflected on his 2021 federal income tax return, which is

above the income thresholds for OnTrack. Tr. 12, 33-40, 42, 53-54, 70-71; Zeronian Confidential Exhibit A; PPL Exhibits 2, 6, 7 and 8.

26. Following the denial of one of his OnTrack applications, Complainant told PPL that his wife and stepson no longer lived with him. Tr. 13.³

27. Complainant submitted with one of his later OnTrack applications a New York Department of Labor Form 1099-G, which purportedly reflected his receipt of unemployment income in the amount of \$16,388 (his purported portion of the \$29,193 adjusted income), and \$458 in Amazon income. Tr. 13-14, 68-69; Zeronian Confidential Exhibit B.

28. PPL advised Complainant that it cannot split his 2021 tax information and cannot do anything further with his OnTrack application until tax information for the year 2022 is available. Tr. 15-16, 82.⁴

29. Mr. Zeronian may apply for OnTrack in the future with his 2022 federal income tax return. Tr. 42, 51.

30. Ms. Holly Hankerson is Customer Service Lead for PPL Electric. Tr. 26.

31. Ms. Hankerson has worked for PPL for a total of 36 years, the last ten years as Customer Service Lead. Tr. 26-27.

32. Ms. Hankerson assists customers with billing inquiries. Tr. 27.

33. PPL referred Mr. Zeronian to its other customer assistance programs, such as LIHEAP (low-income energy assistance), Operation HELP (hardship fund), and WRAP

³ Complainant did not specify the date in the year 2022 on which he had this conversation with PPL.

⁴ On transcript page 82, line 9, the word “serve” should be “sever.”

(Winter Relief Assistance Program), in the year 2022. Tr. 43; PPL Exhibit 2; *See also* PPL Exhibit 9.

34. Mr. Zeronian was granted assistance from Operation HELP in the amount of \$916.90 during the year 2022. Tr. 43; PPL Exhibit 2.

35. PPL explained emergency medical procedures to Mr. Zeronian on May 24, 2022, in case they were needed. Tr. 43-44; PPL Exhibit 2.

36. As of the date of the hearing, Mr. Zeronian had a past due balance of \$477.47. Tr. 45-46; PPL Exhibit 1 (outstanding balance updated through PPL witness testimony).

37. Mr. Zeronian makes partial payments on his account. Tr. 46; PPL Exhibit 1.

38. Mr. Zeronian may contact PPL if he wishes to set up a payment arrangement. Tr. 51.

DISCUSSION

Burden of Proof

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). “Burden of proof” means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990). The offense must be a violation of the Public Utility Code, the Commission’s regulations, or an outstanding order of the

Commission. 66 Pa.C.S. § 701. In this proceeding, Mr. Zeronian has alleged that PPL incorrectly denied his request for OnTrack Program benefits. Therefore, Mr. Zeronian has the burden of proof in this proceeding.

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth 2001); *see also, Burlison v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth 1982). Moreover, 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. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980). A mere trace of evidence or a suspicion of the existence of a fact is insufficient. *Erie Resistor Corp. v. Unemployment Com. Bd. Of Rev.*, 166 A.2d 96 (Pa. Super. 1960). A complainant cannot establish a case merely by stating his or her personal beliefs, since assertions, personal opinions or perceptions do not constitute evidence. *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

OnTrack Program Denial

Ms. Holly Hankerson, Customer Service Lead and witness for PPL, testified that, per PPL's USECP, a self-employed customer's most recent tax return must be used to determine eligibility for its OnTrack Program. Tr. 36. Under Section 2.2.2. of PPL's Commission-approved Universal Service and Energy Conservation Plan, customers who are self-employed or own a small business must include a copy of the latest federal income tax return as part of their income documentation, and net profit (not gross income) will be used to determine eligibility for OnTrack. USECP Section 2.2.2.; PPL Exhibit 6. Moreover, PPL's USECP states that, to determine household income for a self-employed potential OnTrack customer, caseworkers follow the Pennsylvania Department of Public Welfare's LIHEAP guidelines. PPL Exhibit 6;

USECP Section 2.2. Section 2.2.3. of PPL's USECP lays out LIHEAP guidelines for the various types of income that are included in an income calculation for potential OnTrack eligibility. PPL Exhibit 6; USECP Section 2.2.3. Complainant is self-employed. Tr. 19, 36-37; Zeronian Confidential Exhibit A. Complainant submitted his 2021 federal income tax return to PPL as a part of his OnTrack applications, which indicated that his reported income for 2021 was over the eligibility guidelines for enrollment in OnTrack. Mr. Zeronian's OnTrack applications were therefore denied. Tr. 12, 33-40, 42, 53-54, 70-71; Zeronian Confidential Exhibit A; PPL Exhibits 2, 6, 7 and 8.

Mr. Zeronian has averred that PPL improperly calculated his income and denied his OnTrack benefits. Specifically, Mr. Zeronian argued that after his wife and stepson moved out, only his unemployment income of \$16,388 and his self-employment income of \$458 should have been considered to determine his eligibility for OnTrack. Tr. 13-14, 68-69, 79; *See also* Zeronian Confidential Exhibits A and B. Mr. Zeronian testified that he called PPL and told them that his wife and stepson had moved out of his house in the summer of 2022. Tr. 13, 18. Mr. Zeronian's position is that because $\$16,388 + \$458 = \$16,846$, which is below the federal poverty guidelines for both a household of one (\$20,385) and a household of three (\$34,545), he should have been approved for OnTrack.

The record evidence shows that Complainant's federal income tax return was filed jointly with his wife in 2021. Tr. 19, 38; Zeronian Confidential Exhibit A. As noted above, a self-employed customer's most recent tax return must be used to determine eligibility for PPL's OnTrack Program. Tr. 36; PPL Exhibit 6. There does not appear to be an exception in PPL's USECP for a change in income throughout the year. PPL Exhibit 6; *see also* PPL Exhibit 9. PPL also advised Complainant that it cannot split or sever federal income tax information for purposes of determining OnTrack eligibility. Tr. 15-16, 82.⁵ Moreover, to determine the income level for a customer, the income of all household members is counted. PPL Exhibit 6; USECP Section 2.2.1. It is noted that Complainant did not submit any proof into the record showing that his household went from a household of three down to a household of one beyond his Confidential Exhibit B, which only shows the unemployment income that he

⁵ On transcript page 82, line 9, the word "serve" should be "sever."

purportedly received from New York's Department of Labor. Nevertheless, Ms. Hankerson testified that, per PPL's Commission-approved USECP, regardless of Mr. Zeronian's household size, the only income documentation that would be used to determine Mr. Zeronian's eligibility for OnTrack in the year 2022 was his 2021 federal income tax return. Tr. 36-37, 71-74; PPL Exhibit 6.

It is noted that while Mr. Zeronian's 2022 OnTrack applications were denied, PPL did refer Mr. Zeronian to other customer assistance programs, one of which he was able to benefit from. Mr. Zeronian was granted assistance from Operation HELP in the amount of \$916.90 during the year 2022. Tr. 43; PPL Exhibit 2. PPL also provided Mr. Zeronian with emergency medical certificate procedures in case they were needed. *Id.* Ms. Hankerson also testified that Mr. Zeronian may contact PPL to set up a payment arrangement if needed. Tr. 51. Lastly, consistent with Ms. Hankerson's testimony, while Mr. Zeronian's joint tax return, filed in 2021, did not qualify him for PPL's OnTrack Program in the year 2022, Mr. Zeronian may re-apply for OnTrack in the future utilizing his 2022 tax return. Tr. 42, 51. Under PPL's USECP, if Mr. Zeronian's income on his 2022 tax return reflects a household income within the eligibility guidelines for OnTrack, he should be approved for that program going forward.

It is important for utility companies to adhere to the income guidelines for their customer assistance programs to ensure that only customers who qualify for a program receive the assistance that the program provides; primarily because the costs of these programs are ultimately passed on to the utilities' remaining customers. To keep costs reasonable and fair to all customers, income guidelines, which are established federally, must be followed. Mr. Zeronian is self-employed, and his 2021 tax return, which was his most recent tax return at the time of his 2022 OnTrack applications, was therefore utilized consistent with PPL's Commission-approved USECP. Mr. Zeronian's tax return showed a total household income of \$34,617. PPL properly determined that Mr. Zeronian's household income was above the 150% federal poverty income threshold for a household of three (\$34,545 or less) and therefore ineligible for OnTrack benefits. Even if Mr. Zeronian had a household of one, his income as reflected on his joint tax return would still have been above the federal poverty threshold

(\$20,385 or less). PPL therefore properly denied Mr. Zeronian's OnTrack applications based on his 2021 federal income tax return.

Accordingly, for the reasons stated above, Mr. Zeronian has failed to satisfy his burden of demonstrating that PPL violated the Public Utility Code, a Commission order or regulation or its Commission-approved tariff as it relates to his ineligibility for PPL's OnTrack benefits, and, therefore, his Complaint is dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter within its regulations and the parties to this proceeding. 66 Pa.C.S. § 701.
2. Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).
3. A complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990).
4. "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).
5. The offense must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701.
6. If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence

by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *see also*, *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

7. To determine the income level for a customer, the income of all household members is counted, regardless of relationship. PPL Universal Service and Energy Conservation Plan, November 6, 2017, Section 2.2.1. – Income Counted.

8. In determining household income for a self-employed potential OnTrack customer, caseworkers follow the Pennsylvania Department of Public Welfare's LIHEAP guidelines. PPL Exhibit 6; PPL Universal Service and Energy Conservation Plan, November 6, 2017, Section 2.2. – Determining and Calculating Income.

9. According to LIHEAP guidelines, "Income" includes employee earnings; net profit from self-employment; gross income from roomers, boarders or apartment renters; and unearned income (including, but not limited to, unemployment income). PPL Exhibit 6; PPL Universal Service and Energy Conservation Plan, November 6, 2017, Section 2.2.3. – Income Defined.

10. If a PPL customer is self-employed or owns a small business, the income documentation must include a copy of the latest federal income tax return and net profit (not gross income) will be used to determine eligibility for the OnTrack Program. PPL Universal Service and Energy Conservation Plan, Section 2.2.2 – Income Documentation.

11. The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

12. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa.*

Pub. Util. Comm'n, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. Of Rev.*, 166 A.2d 96 (Pa. Super.1961); and *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

13. Mr. Zeronian has failed to satisfy his burden to demonstrate that PPL has violated the Public Utility Code, a Commission order or regulation or a Commission-approved tariff. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Ervant Zeronian in *Ervant Zeronian v. PPL Electric Utilities Corporation* at docket number F-2022-3036845 is hereby dismissed.
2. That this matter is marked closed.

Date: June 8, 2023

/s/
Charece Z. Collins
Administrative Law Judge