

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joseph Taresco	:	
	:	
v.	:	C-2023-3044082
	:	
Pennsylvania Electric Company	:	

INITIAL DECISION

Before
Jeffrey A. Watson
Administrative Law Judge

INTRODUCTION

This decision dismisses the Formal Complaint for failure of Complainant to meet his burden of proof. This decision also bars Complainant from filing future informal or formal complaints regarding his electric utility account balance until the current balance is paid in full by Complainant. The Complainant’s unpaid balance exceeds \$18,000. The Complainant’s conduct of filing numerous complaints, breaking payment arrangements, and other behavior constitutes an abuse of the administrative process calculated to avoid or delay the termination of his utility service.

HISTORY OF THE PROCEEDING

Joseph Taresco (Complainant) filed a Formal Complaint (Complaint) on November 3, 2023, against Pennsylvania Electric Company (Company or Respondent). Complainant checked the boxes on the Complaint form noting that the utility was threatening to terminate his service and requesting a payment arrangement (PAR). For relief, Complainant requested a new payment arrangement and stated that he was experiencing health problems.

Respondent filed an Answer and New Matter on November 27, 2023. In its Answer, Respondent admitted that it had issued a 10-day termination notice. Respondent denied, among other things, that Complainant was entitled to a second Commission-issued payment arrangement. In its New Matter, Respondent averred that Complainant had defaulted on an earlier Commission-issued payment arrangement. Respondent also averred that Complainant has a poor payment history and has a balance of \$17,730.21. Respondent requested that the Commission bar Complainant from filing further complaints regarding his arrearage until his balance is paid in full. Respondent included a Notice to Plead which notified Complainant that the Commission's Rules of Procedure require him to file a response to the New Matter within 20 days. The notice also included instructions stating how to file a response.

On January 2, 2024, the Commission's Office of Administrative Law Judge scheduled Mr. Taresco's Complaint for a hearing on March 20, 2024, and assigned the case to me. I issued a prehearing order on January 2, 2024, which informed Complainant how to call in to participate in the hearing and included other important information regarding the procedure for the conduct of the hearing.

I convened the hearing, as scheduled, on March 20, 2024, at 10:00 a.m. Respondent appeared with legal counsel, Margaret Morris, along with one witness. Complainant did not appear. I attempted to contact Complainant and granted Respondent's request to present evidence and testimony in support of Respondent's abuse of process defense at 10:19 a.m. Subsequently, Complainant joined the hearing at 10:28 a.m.¹ Complainant requested a continuance to obtain an attorney. Respondent objected to the continuance request. The continuance request was denied.² Respondent presented Exhibits 1 through 15 which were admitted into the record. I provided Complainant an opportunity to present evidence to support his Complaint and Complainant provided testimony.³

¹ Tr. 16.

² Tr. 19-23.

³ Tr. 52.

After I received the transcript, I closed the record by order entered on April 22, 2024.

FINDINGS OF FACT

1. Complainant is Joseph Taresco.
2. Respondent, Pennsylvania Electric Company, is a jurisdictional public utility.
3. Mr. Taresco established service with Pennsylvania Electric Company on January 13, 2017. Tr. 14.
4. Mr. Taresco is enrolled in Respondent's budget billing program. Tr. 15.
5. Mr. Taresco's current budget bill amount for Respondent's distribution charges is \$113. Tr. 16; Respondent Ex. 2.
6. Mr. Taresco is not enrolled with an electric generation supplier (EGS). Tr. 16.
7. The account balance as of the date of February 26, 2024 was \$18,141.79. Tr. 16; Respondent Ex. 2.
8. Respondent received a medical certificate on August 16, 2018, with a balance of \$2,313.45. Tr. 30; Respondent Ex. 3.
9. Respondent received a second medical certificate on April 8, 2019, with a balance of \$3,670.27. Tr. 30; Respondent Ex. 3.

10. Respondent received a third medical certificate on July 9, 2019, with a balance of \$3,960.08. Tr. 30-31; Respondent Ex. 3.

11. Two valid payments posted by Complainant in 2017. Tr. 32.

12. There were no valid payments made by Complainant in 2018. Tr. 32.

13. There was one valid payment posted by Complainant in 2019. Tr. 32.

14. There were no valid payments posted by Complainant in 2020. Tr. 32.

15. Two valid payments posted by Complainant in 2021. Tr. 32.

16. There was one valid payment posted by Complainant in 2022. Tr. 32.

17. There were two valid payments posted by Complainant in 2023 and a Low-Income Home Energy Assistance Program (LIHEAP) tax credit of \$300. Tr. 32.

18. No valid payments have been posted by Complainant in 2024. Tr. 32.

19. Complainant has only made nine valid payments in the 86-month period since the account was established.

20. Complainant entered into a Company-issued payment arrangement on June 27, 2017, with a balance of \$569.94. The terms were budget bill plus \$47 beginning August 21, 2017 and Complainant defaulted due to nonpayment. Tr. 34; Respondent Ex. 5.

21. The Bureau of Consumer Services (BCS) directed a payment arrangement at informal case number 3571045 entered on October 26, 2017, with a balance of \$1,067.22. Complainant's reported income was \$1,356.88 with a household size of two. The terms of the payment arrangement were budget bill plus \$15 beginning on November 20, 2017. No appeal

was filed, and the decision became a Commission-issued payment arrangement. Tr. 34, 37; Respondent Exhibit 5.

22. Complainant defaulted on the Commission-approved payment arrangement for nonpayment. Tr. 34.

23. Thirty-one 10-day notices have been issued on this account since June 2017. Tr. 47.

24. From June 2017 through March 2024, Complainant has prevented termination of electric service by making payments that were not honored, presenting medical certificates, entering into Company- or Commission-issued payment arrangements, enrolling twice in the Pennsylvania Customer Assistance Program (PCAP) program, filing eight informal complaints, filing the instant Complaint, and utilizing the winter moratorium and Covid moratorium, when the Company could not terminate service. Tr. 47.

25. Complainant has resided alone since 2019. Tr. 60.

26. Complainant's gross monthly income is \$1,456. Tr. 61.

27. The account was initially enrolled in PCAP in 2008 and was reenrolled effective April 23, 2021. The income reported was \$1,264. Tr. 34-35.

28. A Covid-19 Payment Arrangement was entered on the account on June 9, 2021, with a balance of \$15,078.94. Complainant's reported income was \$1,264 and the terms were budget billing plus \$251 beginning July 15, 2021. Complainant defaulted for nonpayment. Tr. 35.

29. A Company-issued payment arrangement was entered on May 9, 2022, to restore service. The balance was \$15,011.54, with a reported income of \$1,244. The terms were

budget bill plus \$652, beginning June 16, 2022. Complainant defaulted for nonpayment. Tr. 35-36.

DISCUSSION

Complainant filed a Formal Complaint seeking relief from the Commission in the form of a second Commission-issued payment arrangement. Complainant must prove that he is entitled to this relief from the Commission.⁴ Complainant appeared at the hearing and provided testimony.

Payment Arrangement Request

Complainant indicated on the Formal Complaint, that he is seeking a second Commission-issued payment arrangement. Respondent submits that Complainant is not entitled to a subsequent Commission PAR. In 2017, Complainant was issued a Commission-issued Level 1⁵ payment arrangement by BCS at BCS Decision No. 3571045 (2017 Commission PAR). The 2017 Commission PAR was based on a reported household of four with gross monthly income of \$1,356.88. The 2017 Commission PAR defaulted due to non-payment.

Here, Complainant reported a household of two with gross monthly income of \$1,326.00. Consistent with 66 Pa.C.S. §§ 1403 and 1405(d), Complainant is not entitled to a subsequent Commission PAR as the household income has not decreased by 10%. Consistent with 66 Pa.C.S. § 1405(e), Complainant is not entitled to an extension of the defaulted 2017 Commission PAR because the household size has decreased.

⁴ 66 Pa.C.S. § 332.

⁵ Level 1 is defined as a household with gross monthly income level not exceeding 150 % of the Federal poverty level. 66 Pa.C.S. § 1405(b)(1).

By law, a public utility is entitled to receive payment for the service it provides.⁶ The Complainant must pay for the utility service consumed. Otherwise, unpaid bills are included in the utility's uncollectible expenses, which all of the utility's remaining customers must pay.⁷

In addition, 52 Pa. Code § 56.1(a) imposes an obligation on utilities to utilize the procedures in Chapter 56 to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages, such as the Complainant's arrearage. Actions taken by customers to avoid paying for services used thwarts the Company's efforts to collect payment for such services forcing other customers, who dutifully and regularly provide payment for their utility service, to shoulder the burden as unpaid bills are included in the utility's uncollectible expenses.⁸

Respondent argues that Complainant, while seeking the protections of Chapter 56 to prevent lawful termination for non-payment, has violated the basic obligation of Chapter 56 which applies to both the residential customer and the utility: "[e]very privilege conferred or duty required under [Chapter 56] imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement."⁹ Respondent submits Complainant's filing of meritless complaints to prevent lawful termination has not been in good faith; the failure to pay for services rendered is not consistent with honesty; and Complainant's failure to honor prior Company-issued PARs or the 2017 Commission-issued PAR, along with his complete failure to make payments,¹⁰ reflects a lack of fair dealing.

I agree with Respondent that Complainant's history of nonpayment while enjoying continued utility service should not be condoned. Complainant has filed numerous

⁶ *Scaccia v. West Penn Power Co.*, 55 Pa.P.U.C. 637 (1982); *Kea v. Peoples Natural Gas Co.*, 60 Pa.P.U.C. 215 (1985); *Mill v. Pa. Public Utility Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982).

⁷ 66 Pa.C.S. § 1402(1).

⁸ *O'Toole v. Bell Tel. Co. of Pa.*, Docket No. C-923964 (Final Order entered Aug. 20, 1992).

⁹ 52 Pa. Code § 56.1(a).

¹⁰ Complainant has only made nine valid payments in the entire 86-month history of the account. Tr. 32.

complaints seeking a Commission PAR to prevent lawful termination, while his account balance currently exceeds \$18,000.00. Complainant is abusing the protections of Chapter 56 to prevent termination by ignoring his obligation to pay all undisputed bills.¹¹ Since 2017, Complainant has filed eight informal complaints and the present Formal Complaint. In each proceeding, he requested a PAR. None of the complaints were sustained by the Commission, other than for the purpose of establishing the 2017 Commission PAR. Complainant has exhibited a pattern of disrespect for the administrative process and continues to request a Commission PAR simply to delay Respondent's right to lawfully terminate service. Complainant fails to make complete and timely payment for the utility services he receives. When termination is undertaken, Complainant files additional complaints with the Commission to delay termination, resulting in higher arrearages.

When Complainant's first informal complaint was filed on October 18, 2017, the outstanding balance was \$1,067.22. When the instant Formal Complaint dated November 3, 2023 was filed, the outstanding balance was \$17,905.93. The Company has the right to collect for services it provides; other ratepayers should not have to subsidize the large arrearage accumulated on this account. The fact that the balance has grown from approximately \$1,067.22 in 2017 to over \$18,000.00 in 2024 is undisputed evidence that Complainant does not timely pay his bill each month in full. Commission precedent supports the finding that Complainant has abused the administrative process and as a result, he should be barred from the filing of any complaint with the Commission until the balance is paid in full.¹²

The 2017 Commission-issued PAR directed a Level 1 PAR consistent with 66 Pa.C.S. § 1405(b)(1).

¹¹ 52 Pa. Code §56.181.

¹² See *Potora v. Pa. Am. Water Co.*, Docket No. C-2017-2627873, (Opinion and Order entered Aug. 8, 2019); *Potora v. Pa. Am. Water Co.*, Docket No. C-2018-3003485, (Opinion and Order entered Aug. 8, 2019); *Grossman v. Bell Tel. Co. of Pa.*, 67 Pa.P.U.C. 714 (1988); *Manu v. Bell Tel. Co. of Pa.*, Docket No. F-09029141 (Opinion and Order entered May 9, 1994); *DiFilippo v. PECO Energy Co.*, Docket No. C-20027116 (Final Order entered Oct. 3, 2002); *Seidenstricker v. Metro. Edison Co.*, Docket No. F-2008-2019388 (Opinion and Order entered July 28, 2009); *Thomas v. Peoples Nat. Gas Co.*, Docket No. 2009-2102194 (Opinion and Order entered June 17, 2010); *Curry v Pa. Elec. Co.*, Docket No. C-2022-3032454 (Final Order entered Mar. 16, 2023);

The Complainant requests a Commission-issued PAR in the instant Complaint, yet Complainant has violated the basic obligation of Chapter 56 on both the residential customer and the utility: “every privilege conferred or duty required under [Chapter 56] imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement.”¹³ Since 2017, Complainant has defaulted on three Company-issued PARs and one Commission-issued PAR. Given the poor payment history of Complainant and the amount of the outstanding balance, Complainant’s payment history does not support his request for an additional payment arrangement.

Abuse of the Administrative Process

In appropriate circumstances, the Commission may bar a complainant from filing further complaints until the outstanding balance has been paid, where the Commission determines that the complainant is abusing the Commission’s administrative process in order to avoid termination of utility service.

Respondent asserts that Complainant has abused the Commission’s administrative process and requests that Complainant be barred from filing further complaints about his arrearage until his account balance has been paid. Complainant had notice of Respondent’s defense. Respondent pled the abuse of process claim in its New Matter. Respondent’s New Matter included a Notice to Plead which informed Complainant that he was required to respond. The Notice to Plead included instructions for responding. Complainant did not respond to the New Matter, nor did he provide any substantive evidence at the hearing to dispute the claim.

In support of its position, Respondent points to Complainant’s very large account balance, poor payment history, and history of defaulted payment arrangements. Respondent also argues that Complainant’s pattern of filing formal and informal complaints and medical certificates point to a pattern of using the Commission’s process to avoid termination.

¹³ 52 Pa. Code § 56.1(a).

Respondent asserts that Complainant is abusing the Commission's complaint process by filing meritless complaints in response to lawful termination notices issued due to non-payment and as a result he should be barred from the filing of any complaint until the balance is paid in full.

Although the Commission does not have specific standards for determining that a complainant is abusing the Commission's administrative process, there are factors that the Commission has considered in past decisions. The Commission has barred complaints from individuals who frequently request hearing continuances and afterward fail to appear.¹⁴ The Commission has also considered the number and nature of complaints filed by a customer, the number of defaulted payment arrangements, the complainant's payment history and the use of tactics to avoid payments and service terminations.¹⁵

In *Herr v. West Penn Power Co.*, the Commission precluded a complainant from filing further complaints in circumstances similar to the facts present here.¹⁶ In *Herr*, the Commission concluded that the complainant had a substantial unpaid balance and had made only ten payments in a seven-year period. The complainant did not comply with any payment arrangements, including a Commission-issued payment arrangement, company-issued payment arrangements and customer assistance plan arrangements. The Commission also considered that the complainant had filed eight informal complaints and two formal complaints seeking relief from the Commission in the form of payment arrangements. Unlike the instant case, the complainant in *Herr* failed to appear for a hearing and did not provide a good reason for failing to appear, even though the complainant was provided with ample opportunity to do so. Taking all of these factors into consideration, the Commission determined that the complainant was abusing the administrative process in order to avoid termination of utility service. Accordingly,

¹⁴ Grossman v. Bell Tel. Co. of Pa., 67 Pa.P.U.C. 714 (1988).

¹⁵ See *Hogan v. W. Penn Power Co.*, Docket F-2019-3012920 (Final Order entered Mar. 10, 2020); *Potora v. UGI Penn Nat. Gas, Inc.* Docket No. C-2018-3003485 (Opinion and Order entered Aug. 8, 2019); *DiFilippo v. PECO Energy Co.*, Docket No. C-20027116 (Final Order entered Oct. 3, 2002).

¹⁶ *Herr v. W. Penn Power Co.*, Docket C-2021-3028202 (Order and Opinion entered Sept. 15, 2022) (*Herr*).

the Commission precluded the complainant from filing further complaints regarding the arrearages on her account until all arrearages were paid in full.¹⁷

The evidence in this record in this case supports the same conclusion that the Commission reached in *Herr*. Complainant has a substantial account balance of \$18,141.79. Since June of 2017, Complainant has only made only nine good or valid payments on his account. Complainant typically does not make payments on his account during the Winter Moratorium.¹⁸ In addition, Complainant has qualified for three medical certificates.

Complainant has also been provided with several payment arrangements since 2017. These payments arrangements include payment plans offered by Respondent, PCAP, and one Commission-issued payment arrangement. Complainant has not complied with the payment terms provided by any of these plans.

In addition, like the complainant in *Herr*, Complainant has filed several informal and formal complaints regarding his account arrearage. Since 2017, he has filed eight informal complaints, and the instant formal complaint.

Respondent deserves to be paid for the service it has provided to Complainant. In this case, despite numerous attempts to assist Complainant in resolving his account arrearages, Complainant has failed to adequately address his increasing account balance. The evidence indicates that Complainant has not made a good-faith effort to make regular payments on his account. Instead, he has engaged in a pattern of activity to avoid or delay termination of his utility service. Serious consideration should be given before entering an order barring a customer from filing further complaints until the customer pays an account balance. However,

¹⁷ The Commission did not preclude Ms. Herr from filing any complaint with the Commission, but only those claims in which Ms. Herr contested the validity of her account balance or claims related to the payment of her account balance. Indeed, the Commission permitted this complainant to file a subsequent complaint alleging that the utility had improperly denied her request for a medical certificate. *Herr*.

¹⁸ See 52 Pa. Code § 56.100. Most utilities, including electric distribution utilities, may not terminate service to certain low-income customers between December 1 and March 31. However, this section does not relieve customers from the responsibility from making payments for utility service during that same time period.

the Commission must also consider the interests of the utility and the utility's other customers. Unpaid bills are included in the utility's uncollectible expenses. A utility's customers pay this expense as part of the utility's rates.¹⁹ Respondent's other customers should not be responsible for Complainant's failure to make any good faith effort to pay for his service. Therefore, I find that Complainant has abused the Commission's administrative process and should be barred from filing further formal or informal complaints regarding his arrearage until his balance is paid in full.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa.C.S. § 701.

2. Complainant as the proponent of a rule or order has the burden of proof. 66 Pa.C.S. § 332(a).

3. The Complainant had adequate notice of the defense raised by Respondent in its new matter and his due process rights have been fully protected. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

4. The Commission may preclude a complainant from filing further complaints until all account arrearages are paid in full when the Commission determines that the complainant has abused the Commission's administrative process. *Herr v. W. Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022); *Hogan v. W. Penn Power Co.*, Docket F-2019-3012920 (Final Order entered Mar. 10, 2020); *Potora v. UGI Penn Nat. Gas, Inc.*, Docket No. C-2018-3003485 (Opinion and Order entered Aug. 8, 2019); *DiFilippo v. PECO Energy Co.*, Docket No. C-20027116 (Final Order entered Oct. 3, 2002).

¹⁹ 66 Pa.C.S 1402(1). A utility's customers also pay the legal expenses incurred in defending a customer's complaint.

5. The Complainant's conduct constitutes an abuse of administrative process to avoid or delay the termination of her utility service. *Herr v. W. Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022); *Hogan v. W. Penn Power Co.*, Docket F-2019-3012920 (Final Order entered Mar. 10, 2020); *Potora v. UGI Penn Nat. Gas, Inc.*, Docket No. C-2018-3003485 (Opinion and Order entered Aug. 8, 2019); *DiFilippo v. PECO Energy Co.*, Docket No. C-20027116 (Final Order entered Oct. 3, 2002).

6. It is appropriate to preclude the Complainant from filing further complaints regarding his account balance until his account balance is paid in full. *Herr v. W. Penn Power*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022); *Hogan v. W. Penn Power Co.*, Docket F-2019-3012920 (Final Order entered Mar. 10, 2020); *Potora v. UGI Penn Nat. Gas, Inc.*, Docket No. C-2018-3003485 (Opinion and Order entered Aug. 8, 2019); *DiFilippo v. PECO Energy Co.*, Docket No. C 20027116 (Final Order entered Oct. 3, 2002).

7. The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401–1419, applies to this proceeding.

8. The Public Utility Code permits the Commission to grant a payment arrangement and dictates its terms. 66 Pa.C.S. § 1405(b).

9. Complainant did not meet his burden of proving he was entitled to a subsequent payment arrangement or an extension of his payment arrangement. 66 Pa.C.S. §§ 332(a), 1405.

10. Complainant is not entitled to a subsequent Commission PAR as the household income has not decreased by 10%. 66 Pa.C.S. §§ 1403 and 1405(d).

11. Complainant is not entitled to an extension of the defaulted 2017 Commission PAR because the household size has decreased. 66 Pa.C.S. § 1405(e).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Joseph Taresco in Joseph Taresco v. Pennsylvania Electric Company, filed at Docket C-2023-3044082, is dismissed, with prejudice.
2. That commencing with the next billing period subsequent to the Commission's Final Order in this proceeding, Joseph Taresco shall pay to Pennsylvania Electric Company, by cash, certified check, or money order, his account balance in full.
3. That if Joseph Taresco fails to comply with the terms of this Order, Pennsylvania Electric Company is hereby authorized to suspend or terminate service upon compliance with all applicable tariff and regulatory requirements, and take any other action permitted by law.
4. That Joseph Taresco is precluded from filing further formal or informal complaints with the Commission regarding the current balance on his account for electric service rendered by Pennsylvania Electric Company, until all arrearages are paid in full.
5. That the Commission's Bureau of Consumer Services and the Secretary for the Commission shall reject any further complaints, either informal or formal, by Joseph Taresco against Pennsylvania Electric Company, on the arrearages for electric service rendered by Pennsylvania Electric Company until all the arrearages are paid in full.

6. That Pennsylvania Electric Company shall file a notice with the Commission, with a copy to all Parties to this proceeding, at Docket No. C-2023-3044082, within seven days of the date that Joseph Taresco's arrearages are paid in full.

7. That a copy of this Opinion and Order shall be served upon the Commission's Bureau of Consumer Services and the Secretary's Bureau.

8. That upon the filing of the notice required in Ordering Paragraph No.6 above, the Secretary's Bureau shall mark Docket No. C-2023-3044082 closed.

Date: July 12, 2024

/s/
Jeffrey A. Watson
Administrative Law Judge