

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Janee Green

v.

PECO Energy Company

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F-2024-3047868

INITIAL DECISION

Before
Darlene Heep
Administrative Law Judge

INTRODUCTION

This Initial Decision sustains the Formal Complaint, finding that the Complainant, Janee Green, is not responsible for the bills for PECO service at an address where she did not reside. PECO will be ordered to amend its records to reflect that the Complainant did not incur the charges in question.

HISTORY OF THE PROCEEDING

On March 18, 2024, Janee Green (Ms. Green or Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO, Respondent, or the Company)

alleging that the Company improperly billed her for service to a residence where she has never lived.¹

On April 15, 2024, PECO filed an Answer denying the material allegations of the Complaint. PECO also contended that the Complainant is responsible for the service because their records show that Ms. Green was the customer of record at the service address based on information provided to the Company by the landlord of the service address.

On April 17, 2024, an Initial Telephonic Hearing Notice was issued setting the hearing for May 30, 2024. A Prehearing Order was issued on April 19, 2024.

The hearing convened as scheduled on May 30, 2024. Ms. Green appeared *pro se*. She testified on her own behalf. Khadijah Scott, Esq., represented the Respondent and presented the testimony of Michael Begley, PECO Regulatory Assessor. Mr. Begley sponsored four PECO exhibits, all of which were admitted into evidence.

Ms. Green was given until June 24, 2024 to send copies of documents supporting her Complaint. PECO was given until July 11, 2024 to respond to Ms. Green's proposed exhibits.

Ms. Green submitted the following documents after the hearing. They are:

Complainant Confidential Exhibit A
Complainant Confidential Exhibit B
Complainant Confidential Exhibit C
Complainant Confidential Exhibit D
Complainant Confidential Exhibit E

¹ This Formal Complaint is a timely appeal from a determination of Complainant's informal complaint by the Bureau of Consumer Services (BCS) at BCS No. 3956378. A timely BCS appeal is subject to de novo review. 52 Pa. Code § 56.173(a).

Complainant Exhibit 1 – Photos
Complainant Exhibit 2 – Fraud Alert Equifax

The record contains no response from PECO regarding Complainant’s exhibits. All exhibits submitted by the Complainant post hearing will be admitted into the record herein.

The 38-page transcript was received on June 18, 2023. The record is closed as of July 11, 2024 and this matter is ready for a decision.

FINDINGS OF FACT

1. The Complainant is Ms. Janee Green.
2. PECO billed the Complainant for electric service at 4074 Smick Street, Philadelphia, Pennsylvania (service address) in the Complainant’s name and social security number. Tr. 18.
3. The Complainant has lived on Emily Street in Philadelphia, Pennsylvania since she was born in 1997. Tr. 6-7.
4. Ms. Green has never lived at the service address. Confidential Complainant Exhibits 1-E and Complainant Exhibits 1,2.
5. PECO billed the Complainant for service at the service address for the period November 12th, 2019 until February 24th, 2023. PECO Exhibit 1, Tr. 18.
6. The Complainant became aware of the charges from PECO when she checked her credit report in October of 2023. Tr. 7.

7. The Complainant reported identity theft to the credit bureau on or about January 17, 2024. Tr.12; Complainant Exhibit 2.

DISCUSSION

The Pennsylvania Public Utility Code (“Code”) requires each public utility to provide the following:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities . . . Such service and facilities shall be in conformity with the regulations and orders of the commission.

66 Pa.C.S. § 1501. The Complainant contests PECO charging her for services at Smick Street. The Complainant bears the burden of proof pursuant to Section 332(a) of the Code. 66 Pa.C.S. § 332(a). To satisfy this burden, the Complainant 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. Therefore, the Complainant must prove by a preponderance of the evidence that she is not responsible for the balance transferred to her account from the service address. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 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). 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*, 413 A.2d 1037 (Pa. 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 his 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*, 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).

The Complainant credibly testified that she has never lived at the service address and that PECO should not hold her responsible for service there. She further testified that since she was born, she has never lived any place other than her family home on Emily Street, a residence owned by her mother. She also testified that she has never had a PECO account. Tr. 4-9, 11.

In rebuttal, PECO presented PECO Regulatory Assessor Michael Bagley who testified regarding PECO records showing that an account was opened at the service address in the Complainant's name. According to PECO, when the account was opened, the applicant for the service address provided the Complainant's name and social security number. Tr. 16-17; 26; PECO Exhibits 1, 2, 3. PECO issued bills to and for the service

address in the Complainant's name from November 2019 through February 2023. Tr. 18; PECO Exhibit 1.

However, the preponderance of evidence of record supports the Complainant. The record shows that the Complainant reported identity theft to the credit bureau in January of 2024. Complainant Exhibit 2.² Ms. Green submitted tax returns for the years 2018-2022, each showing the Emily Street address. Tr. 18; Complainant Confidential Exhibits A-D. The Complainant's driver's license, valid March 26, 2021 to March 8, 2025, also has the Emily Street address. Complainant Confidential Exhibit E.

Therefore, Ms. Green's credible testimony and the documentation showing that she lived on Emily Street during the period in question support finding in favor of the Complainant.

PECO incorrectly charged the Complainant for services on Smick Street, which is considered unreasonable service under Section 1501. Where there is a violation, a civil penalty may be imposed, if appropriate. 52 Pa. Code § 69.1201(a).

Here, however, the record demonstrates that PECO incorrectly billed the Complainant because someone misused the Complainant's identifying information to open a PECO account at an address where the Complainant has never lived. PECO followed its regular procedure to open an account, including running a credit check. Tr. 27. Given this, it would be inappropriate to impose a civil penalty upon PECO. However, the Company will be ordered to remove Ms. Green's name and identifying information from the service address account for all outstanding charges and cease efforts to collect the subject charges from Ms. Green.

² The Complainant also testified regarding, and submitted photos of, the people that she believes used her name and social security number to open a PECO account. Complainant Exhibit 1; Tr. 12-13.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to 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. The Complainant has established by a preponderance of the evidence that she should not be held responsible for bills issued in her name for the service address. *See Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the following exhibits are admitted into evidence:

Complainant Confidential Exhibit A
Complainant Confidential Exhibit B
Complainant Confidential Exhibit C
Complainant Confidential Exhibit D
Confidential Complainant Exhibit E
Complainant Exhibit 1
Complainant Exhibit 2

2. That the relief sought in the Complaint filed by Janee Green against PECO Energy Company at Docket No. F-2020-3047868 is granted.

3. That because the Complainant, Janee Green, did not reside at service address, she is not responsible for any PECO charges at that address.

4. That PECO cease efforts to collect charges incurred at the service address from Complainant Janee Green.

5. That within thirty (30) days of the entry of a final order in this case, PECO Energy Company shall remove the Complainant's name and social security number from the service address account and cease holding the Complainant responsible for the account balance and any associated fees, charges and interest.

6. That the Secretary mark this docket closed.

Date: September 13, 2024

/s/
Darlene Heep
Administrative Law Judge