

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Stephanie Smith

v.

PECO Energy Co.

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C-2024-3049750

**INITIAL DECISION**

Before  
Christopher P. Pell  
Deputy Chief Administrative Law Judge

**INTRODUCTION**

This Initial Decision sustains the Complainant’s Formal Complaint in part and directs PECO Energy Company to restore the Complainant’s services after she pays one sixtieth (1/60<sup>th</sup>) of her outstanding balance plus PECO Energy Company’s reconnection fees. This Decision further finds the Complainant eligible for a sixty-month payment arrangement, provided she makes the required initial payment to have her services restored. This Decision denies the Complainant’s Complaint in part because she failed to meet her burden of demonstrating that PECO Energy Company incorrectly terminated her services, or that it billed her incorrectly for service.

**HISTORY OF THE PROCEEDING**

On June 20, 2024, Stephanie Smith (Complainant) filed a Formal Complaint (Complaint) against PECO Energy Company (PECO or Respondent) with the Pennsylvania

Public Utility Commission (Commission). In the Complaint, the Complainant placed checkmarks in the boxes indicating “[t]he utility is threatening to shut off my service or has already shut off my service,” “I would like a payment agreement,” and “[i]ncorrect charges are on my bill.” Next to the box marked “[o]ther” the Complainant provided a handwritten statement averring that the electric service had been left on at her old address, and that PECO billed her for this mistake. Under the “requested relief” section of the Complaint, the Complainant indicated that she would like a payment plan and a “clean slate.”

On July 8, 2024, the Respondent filed an Answer denying all material allegations of fact in the Complaint. PECO also indicated in its Answer that the Complainant does not currently have an active account with PECO and is no longer a PECO customer.<sup>1</sup> PECO explained that the Complainant’s service has been discontinued since October 2023 and, pursuant to 66 Pa.C.S. 1403, she is no longer a customer of PECO and consequently, the Commission does not have jurisdiction to award the Complainant a payment agreement on her final balance pursuant to 66 Pa.C.S. 1405(a).

By Initial Call-In Telephonic Hearing Notice dated July 26, 2024, an initial call-in telephonic hearing was scheduled for September 3, 2024 at 10:00 a.m., and the matter was assigned to me.

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<sup>1</sup> The Public Utility Code defines a customer as follows:

A natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested. The term includes a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility.

66 Pa.C.S. 1403.

I issued a Prehearing Order on July 31, 2024. The Prehearing Order also advised the parties of the date and time of the scheduled hearing and also explained that the Complainant bears the burden of proof to establish that the respondent violated its tariff, the Public Utility Code, or a Commission Order or regulation, and that she is entitled to the relief requested in the Complaint.

The hearing convened as scheduled on September 3, 2024. The Complainant appeared *pro se* and testified. The Respondent appeared and was represented by Khadijah Scott, Esq., who presented the testimony of Renee Tarpley, a PECO Senior Regulatory Assessor. The Respondent submitted six exhibits, all of which were admitted into the record.

During the telephonic hearing, the Complainant disconnected from the call at approximately 10:30 a.m. At the time of disconnection, the Complainant had finished presenting her case and PECO was about to begin presenting their case. I paused the hearing to allow the Complainant an opportunity to call back in to the hearing, which she did not do. I also asked my legal assistant to contact the Complainant to ask if she intended to rejoin the hearing. However, my legal assistant was not able to reach the Complainant by phone, nor was she able to leave her a voicemail message. After approximately 20 minutes, the hearing continued in the Complainant's absence. To date, the Complainant has not contacted my office to explain her absence from the remainder of the hearing.

The record closed on September 10, 2024, the date the transcript was filed with the Commission.

## FINDINGS OF FACT

1. The Complainant in this case is Stephanie Smith.
2. The Respondent in this case is PECO Energy Company.
3. The Complainant currently resides at 3 South 13<sup>th</sup> Street, Darby, PA (service address). Tr. 9, 27.
4. The Complainant is not currently a PECO gas or electric customer but seeks to have both services restored. Tr. 9, 25-26.
5. When the Complainant was a PECO gas and electric customer, she did not pay her bills on time and in full each month. Tr. 30-31.
6. A customer who is moving and wants service in their name terminated at a particular address must inform a PECO Customer Care Representative that they no longer require service at that address. Tr. 48.
7. From April 20, 2011 until December 3, 2019, the Complainant had PECO gas and electric service in her name at an address on Arlington Avenue, Upper Darby, PA 19082 (Arlington Avenue Address). Tr. 11, 39; PECO Exhs. 1 & 2.
8. The Complainant left a combined unpaid PECO gas and electric balance of \$6,407.45 at the Arlington Avenue address. Tr. 40; PECO Exhs. 1 & 2.
9. If an account closes with a balance that is not paid by the final due date, PECO will transfer it to an active account. Tr. 42.

10. On February 10, 2020, PECO transferred the \$6,407.45 unpaid balance from the Arlington Avenue Address to the Complainant's account for service at an address on North 2<sup>nd</sup> Street, First Floor in Darby, PA (North 2<sup>nd</sup> Street Address). Tr. 40-41; PECO Exhs. 1, 2, & 3.

11. From January 31, 2020 until May 13, 2023, the Complainant had PECO gas and electric service in her name at the North 2<sup>nd</sup> Street Address. Tr. 13-14, 41; PECO Exhs. 1 & 3.

12. When the Complainant's account for gas and electric service at the North 2<sup>nd</sup> Street Address closed on May 13, 2023, the Complainant left a combined unpaid PECO gas and electric balance of \$17,172.72. Tr. 41; PECO Exhs. 1 & 3.

13. The Complainant did not request discontinuance of the gas and electric service in her name at the North 2<sup>nd</sup> Street address when she moved out. Tr. 51-52.

14. PECO took gas and electric service for the North 2<sup>nd</sup> Street Address out of the Complainant's name in May 2023 when she filed an informal complaint about her account balance. Tr. 52.

15. On June 14, 2023, PECO transferred the \$17,172.72 balance to the Complainant's account for gas and electric service at 3 South 13<sup>th</sup> Street, Darby, PA 19023 (South 13<sup>th</sup> Street Address). PECO Exhs. 1 & 4.

16. On September 14, 2022, PECO initiated gas and electric service in the Complainant's name at the South 13<sup>th</sup> Street Address. Tr. 43; PECO Exhs. 1 & 4.

17. The Complainant last made a payment towards her gas and electric services on November 16, 2021. Tr. 42; PECO Exh. 3.

18. On or about July 11, 2023, PECO terminated electric service to the South 13<sup>th</sup> Street Address. PECO Exh. 4.

19. On or about October 26, 2023, PECO terminated gas service to the South 13<sup>th</sup> Street Address. Tr. 43; PECO Exh. 4.

20. Prior to termination of the Complainant's gas and electric at the South 13<sup>th</sup> Street Address, PECO issued the Complainant a termination notice that explained steps she could follow to avoid termination. Tr. 23-24.

21. When the Complainant's account for gas and electric service at the South 13<sup>th</sup> Street address closed, the Complainant left an unpaid balance of \$23,293.21. Tr. 44; PECO Exhs. 1 & 4.

22. PECO entered into payment agreements with the Complainant on July 1, 2021 and November 23, 2021. Tr. 45, 49; PECO Exh. 5.

23. The Complainant defaulted on both of these company-issued payment arrangements. Tr. 49; PECO Exh. 5.

24. The Complainant's balance does not include any arrearages accrued under PECO's Customer Assistance Program (CAP). Tr. 46.

25. The Complainant's household is a five-person household, consisting of the Complainant and four children. Tr. 21-22, 27.

26. The Complainant's gross monthly household income is \$1,400. Tr.  
22.

### DISCUSSION

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). 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 (Opinion and Order entered Feb. 8, 1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (Opinion and Order entered Oct. 6, 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). A complainant can meet that burden if he presents evidence more convincing, by even the smallest amount, than that evidence presented by Respondent. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). The offense must be a violation of the Public Utility Code (Code), a Commission Regulation or Order, or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701.

The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "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); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

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 the 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).

### **Termination of Service**

The Complainant testified that PECO terminated her gas and electric services in 2023. Although the Complainant did not offer any notices as exhibits, she did testify that the notices she received advised her of steps she could follow to avoid termination of service. Tr. 23-24. The Complainant further acknowledged that she did not pay her bills on time and in full each month. The Complainant did not offer any additional testimony regarding PECO's termination of her gas and electric service or PECO's termination notices. Based on the limited testimony provided by the Complainant, the Complainant did not meet her burden of demonstrating that PECO improperly issued her service termination notices, that the contents of those notices failed to meet the notice requirements set out in 52 Pa. Code § 56.91, or that PECO improperly terminated her gas and electric service.

Accordingly, the Complainant's claim regarding termination of service is denied.

### **Incorrect Charges**

Regarding the Complainant's claim that there were incorrect charges on her bills, the Complainant testified that when she moved out of the 21 North 2<sup>nd</sup> Street address, PECO did not terminate service in her name for that address. Tr. 12.

Commission regulations regarding transfer of accounts at 52 Pa. Code § 56.16 provide in pertinent part:

A customer who is about to vacate premises supplied with public utility service or who wishes to have service discontinued shall give at least 7 days notice to the public utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered.

52 Pa. Code § 56.16(a).

Although the Complainant offered testimony that she specifically instructed PECO to take service out of her name for the 21 North 2<sup>nd</sup> Street address, she also testified that she “figured because I called and moved the electric to 3 South 13<sup>th</sup> Street that, you know, they would automatically cut it off there.” Tr. 16. Based on the contradictory testimony offered by the Complainant, I must conclude that she did not instruct PECO to take service out of her name at the 21 North 2<sup>nd</sup> Street address. Therefore, pursuant to 52 Pa. Code § 56.16(a), PECO properly held the Complainant responsible for the charges that accrued at the 21 North 2<sup>nd</sup> Street address after she moved out.

Accordingly, the Complainant’s Complaint regarding incorrect charges is denied.

### **Restoration of Service/Payment Arrangement**

In this case, PECO terminated the Complainant’s electric service on July 11, 2023, and her gas service on October 26, 2023. The Complainant is seeking

reconnection of both services and a payment arrangement. PECO initially sought 50% of this balance to be paid in order to restore service. However, at the time of the hearing, PECO advised that it required a \$5,000 payment to restore service and provide a payment arrangement to the Complainant.

The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401–1419, applies to complaints requesting reconnection of a terminated service. This law provides strict guidelines that the Commission must follow when determining the payment of any outstanding balances and reconnection fees before the restoration of terminated service and whether a payment arrangement can be issued in those circumstances.

Section 1403 of the Public Utility Code (Code) defines the term “applicant” as “[a] natural person not currently receiving service who applies for residential service provided by a public utility or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested.” 66 Pa.C.S. § 1403. The Code further provides that the term “applicant” “does not include a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location with the service territory or the public utility.” *Id.* Although the Complainant seeks to restore service at the service address, since PECO terminated her electric service on July 11, 2023 and her gas service on October 26, 2023, she meets the definition of “applicant” in this case.

Section 1407(c) of the Code regarding reconnection of service reads in pertinent part:

**(c) Payment to restore service.--**

(2) A public utility may require:

- (i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal poverty level or has defaulted on two or more payment arrangements.
- (ii) Full payment of any reconnection fees together with repayment over 12 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income exceeding 150% of the Federal poverty level but not greater than 300% of the Federal poverty level.
- (iii) Full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level.

66 Pa.C.S. § 1407(c)(2)(i)-(iii) (emphasis added).

However, in *Crawford v. National Fuel Gas Distribution Corp.*, Docket No. C-20066348 (Opinion and Order entered Dec. 6, 2007) (*Crawford*), the Commission found that Section 1407 of the Code does not preclude the Commission from ordering a payment arrangement under Section 1405 when seeking reconnection of service. The Commission concluded that:

while Subsection 1407(c) delineates the terms a utility may impose upon a customer/applicant seeking restoration of service, Subsection 1407(c) in no way divests the Commission of its duty to act as the final arbiter of a utility consumer's rights with respect to payment disputes. If the consumer petitions the Commission for further relief, Subsection 1405(b) delineates the payment arrangement terms the Commission may then impose.

*Crawford* at 14.

The Complainant testified that her gross monthly household income for a five-person household is \$1,400. Tr. 21-22, 27. According to the 2024 Federal Poverty Income Guidelines, the Complainant's gross monthly household income places her at less than 50% of the Federal Poverty Level.<sup>2</sup> Pursuant to 66 Pa.C.S. § 1407(c)(2)(iii), PECO is permitted to require “[f]ull payment of any reconnection fees together with payment over 24 months of any outstanding balance.” This would require the Complainant to pay \$970.55 per month ( $\$23,293.21/24 \text{ months} = \$970.55$ ) in addition to her regular monthly bills.

Under *Crawford*, the Commission has discretion to award a more favorable payment arrangement under 66 Pa.C.S. § 1405(b). This section of the Public Utility Code provides in pertinent part, the following regarding the length of payment arrangements:

The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment arrangement that is investigated by the commission and is entered into by a public utility and a customer shall not extend beyond:

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<sup>2</sup> See Federal poverty guidelines, 89 Fed. Reg. 2961 (Jan. 17, 2024); <https://aspe.hhs.gov/sites/default/files/documents/7240229f28375f54435c5b83a3764cd1/detailed-guidelines-2024.pdf>.

(1) Five years for customers with a gross monthly household income level not exceeding 150% of the Federal poverty level.

66 Pa.C.S. § 1405(b)(1). This provision would afford the Complainant a 60-month payment arrangement, pursuant to which she would be required to pay \$388.22 per month ( $\$23,293.21/60 \text{ months} = \$388.22$ ) in addition to her regular monthly bills.

I recognize that the Complainant's payment history has been extremely poor, which explains why she amassed such a sizeable unpaid balance. However, considering her household size, that her household consists of her and four children, that her household income is at less than 50% of the Federal Poverty Level, and that she has not received a payment arrangement from the Commission, I find that she is eligible to receive a 60-month payment arrangement. The Complainant will be required to pay \$388.22 along with PECO's reconnection fees in order to have her gas and electric services restored. Provided the Complainant makes this required payment to have her services restored, she will then be required to pay \$388.22 each month in addition to her regular monthly charges. Failure to adhere to the terms of this decision may result in the Complainant's services again being terminated.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.
2. The burden of proof in this proceeding is upon the Complainant. 66 Pa.C.S. § 332(a).

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. The Complainant failed to sustain her burden of establishing that PECO improperly issued her service termination notices, failed to demonstrate that PECO's termination notices did not adhere to the regulations regarding the contents of termination notices at 52 Pa. Code § 56.91, and failed to demonstrate that PECO improperly terminated her services. 66 Pa.C.S. § 332(a).

5. A customer who is about to vacate premises supplied with public utility service or who wishes to have service discontinued shall give at least 7 days notice to the public utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered. 52 Pa. Code § 56.16(a).

6. The Complainant failed to meet her burden of demonstrating that PECO incorrectly held her responsible for the charges that accrued at the 21 North 2<sup>nd</sup> Street address after she moved to a new address. 66 Pa.C.S. § 332(a).

7. Prior to reconnecting service, a public utility may require full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level. 66 Pa.C.S. § 1407(c)(2)(iii).

8. Section 1407 of the Code does not preclude the Commission from ordering a payment arrangement under Section 1405 when seeking reconnection of

service. *Crawford v. Nat'l Fuel Gas Dist. Corp.*, Docket No. C-20066348 (Opinion and Order entered Dec. 6, 2007)

9. The Commission is authorized to establish a payment arrangement between a public utility and a customer. 66 Pa.C.S. § 1405(a).

10. The Commission may establish a five-year payment arrangement for customers with a gross monthly household income level not exceeding 150% of the Federal poverty level. 66 Pa.C.S. § 1405(b)(1).

11. The Complainant is eligible for a 60-month payment arrangement under 66 Pa.C.S. § 1405(b)(1).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Stephanie Smith against PECO Energy Company at Docket No. C-2024-3049750 is sustained in part and denied in part.

2. That the Complaint is sustained in that the Complainant is eligible for restoration of her services and for a Commission-issued payment arrangement, provided she makes the required payment to have her services restored.

3. That upon receipt of payment by the Complainant of one-sixtieth (1/60<sup>th</sup>) of her outstanding arrearage plus PECO Energy Company's reconnection fees, PECO shall restore the Complainant's gas and electric services.

4. That the Complainant shall continue to make monthly payments consisting of her current monthly bills plus one-sixtieth (1/60<sup>th</sup>) of the arrearage owed on the account, commencing with the first billing due date following the entry of the Commission's Final Order in this case, and continuing thereafter on the due date for the payment of each regular monthly bill, until the arrearage on her account has been paid in full.

5. That if the Complainant does not make the payment to have her services restored, PECO shall not restore the Complainant's gas or electric services.

6. That as long as the Complainant makes the required payment to have her gas and electric services restored and maintains the terms of the arrangement stated herein, PECO Energy Company shall not suspend or terminate her utility services except for valid safety or emergency reasons or assess late payments or finance charges against her account.

7. That if the Complainant does not keep the payment schedule stated herein after services are restored, PECO Energy Company is authorized to suspend or terminate her utility service in accordance with the Public Utility Code and Commission Regulations.

8. That the Complainant's Formal Complaint regarding termination of service and incorrect charges is denied.

