PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held April 10, 2025

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Joann Roberts and James Roberts F-2024-3046011

v.

PPL Electric Utilities Corporation

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions and letter-petition requests for extension of time, filed by Joann Roberts and James Roberts (Complainants or "the Roberts")[1] on October 2, 2024, and directed to the Initial Decision (I.D.) of Special Agent

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[1] James Roberts is the son of Ms. Joann Roberts. As noted, *infra*, prior to the hearing, the Parties agreed that Mr. Roberts would be added as a co-complainant in this matter since he resides at the service address that is the subject of this proceeding. The Complainants are referred to, separately, as Mr. Roberts and Ms. Roberts and together as the Roberts, or Complainants. *See* Transcript (Tr.) at 5.

Michael J. Mroczka, which the Commission issued on August 12, 2024, in the above-captioned proceeding. No Replies to Exceptions have been filed.[2]

On consideration of the Exceptions, they shall be granted, in part, and denied, in part, consistent with our discussion in this Opinion and Order. The I.D. shall be modified and PPL shall be directed to re-bill the Roberts' account pursuant to the OnTrack Program as a "non-electric heat" customer from the date of the confirmed, actual notice of the non-electric heat status of the service address.

I. Background and History of Proceeding

The proceeding before the Commission is the formal complaint (Complaint) of the Roberts concerning PPL's administration of its "OnTrack" customer assistance program (CAP).[3] The Complainants, per Ms. Roberts, are a participant in the OnTrack Program, having originally enrolled on January 24, 2022. *See* PPL Answer to Complaint. The Complaint is a timely appeal of an informal decision of the Commission's Bureau of Consumer Services (BCS), issued on December 11, 2023, at BCS No. 3940212. *See* I.D. at 1. On consideration of the record, *infra*, Special Agent Michael J. Mroczka recommended that the Complaint be denied for failure of the Roberts to meet their burden of proof that PPL violated the Public Utility Code (Code), 66 Pa.C.S

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[2] Commission dockets indicate the filing of two letter-petitions for extension of time to file Exceptions by the Roberts, which filings did not contain a Certificate of Service evidencing service upon PPL Electric Utilities Corporation (PPL, the Company or Respondent). *See* Commission Secretarial Letters issued on October 2, 2024, October 7, 2024, and October 29, 2024. The Commission Secretarial Letters were served upon PPL.

[3] PPL, as an electric distribution company (EDC), is subject to the universal service reporting regulations at 52 Pa. Code §§ 54.71-54.78 and the low-income usage reduction regulations at 52 Pa. Code §§ 58.1-58.18 and is guided by the recommendations in the Commission's, CAP Policy Statement at 52 Pa. Code §§ 69.261-69.267.

§§ 101, *et seq.*, a Commission regulation, a Commission Order, or a PPL Commission-approved tariff. *Id.*[4]

On January 12, 2024, the Complaint was filed with the Commission naming PPL as Respondent.[5] In the Complaint, the Roberts checked the boxes requesting a payment agreement, alleging incorrect charges on the bill, and "Other."

In the space after "Other," the Roberts explained:

> [d]espite repeated requests last year, the company never furnished us with any explanation as to what the revised on track program entailed or the accompanying paperwork showing the complete work used for calculations. No supervisor ever step[ped] forward to provide such a briefing. All that we were told was that "everything is right." I did not learn about the inner workings of the program until after the investigator had already dismissed the complaint and then sent us a copy of his decision.

See I.D. at 2 (citing Complaint at ¶¶ 4).

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[4] The Commission acknowledges that the Special Agent's Initial Decision was based, in part, upon Chapter 14 of the Code, 66 Pa.C.S. §§ 1401-1419 (Chapter 14), and specifically 66 Pa.C.S. §1406, which was in effect and governed the conduct at issue at the time of the conduct in question. We further note that Chapter 14 has subsequently sunset (*i.e.*, expired), effective December 31, 2024, according to its provisions, and is not currently in effect. Moreover, the Commission has clarified that its Regulations codified at 52 Pa. Code Chapter 56 shall remain in effect until amended. *See Sunset of Chapter 14, Title 66 of the Pennsylvania Public Utility Code*, Docket No. M-2024-3052328 (Statement of Policy entered December 24, 2024). The Commission will apply this Statement of Policy in all proceedings related to issues in Chapter 14 until further direction is provided. *Id.* at 7. (Order entered December 24, 2024); 2024 WL 5262889.

[5] In the Complainants' Exceptions at 3, *infra*, Mr. Roberts clarifies that he, in fact, was the one who filed both the informal complaint and the instant Complaint on the family's behalf, as verified by his signature on the pertinent forms, notwithstanding the statement in the I.D. that the Complaint was filed by Ms. Roberts.

Under requested relief, the Roberts stated:

> The PUC really needs to take a long, hard look at how PPL devised their own revised plan as well as how effectively it is managing it. The current plan also does not have any mechanism in place by which a customer can challenge, let alone discuss the payment amount determination. As such an agreement may be necessary in this case. If you decide that we, as customers, were not billed correctly, a billing refund should be ordered. This assessment should include an examination of the service fees charged and the time that the payment amount became disputed, especially since the company offered no resolution. The company put in place[,] unilaterally[,] a plan that was never reviewed by us before. The company should be offered the chance to explain itself. It is now evident that the company did indeed not manage our account in accordance with its universal service plan[,] as such a fine should definitely be considered. Once this matter is finally resolved we hope that the PUC will chart a clear path forward for the sake of all customers of this company, not just us.

See I.D. at 2 (citing Complaint at ¶ 5).

On February 26, 2024, PPL filed an Answer to the Complaint (Answer), in which it admitted, in part, and denied, in part, various material allegations. In its Answer, PPL, by way of further reply, advised that its OnTrack Program is one of the Respondent's Universal Service and Energy Conservation Plan (USECP) programs that was revised on March 13, 2023. *See* PPL Answer at ¶ 4; *see also* I.D. at 9-10, *infra*, citing Docket No. M-2022-3031727.

In pertinent part, PPL explained its position, as follows:

> By way of further response, on January 24, 2022, Complainant enrolled in Company's OnTrack Program ("OnTrack"), the Company's customer assistance program ("CAP"), at a monthly rate of $119.00. This rate was based

> on the percent of bill payment plan. The Company transitioned to a new structure for the OnTrack plan. The Complainant had to reapply for OnTrack after eighteen months from originally enrolling on January 24, 2022. On July 18, 2023, the Company sent Complainant a letter advising of OnTrack's program changes and that Complainant's monthly OnTrack payment would be based on percent of income. The Company enrolled Complainant in the revised OnTrack at a monthly rate of $162.00 on the percent of income payment plan. An approval letter for Complainant's OnTrack application was sent to Complainant on August 21, 2023. The new payments began on the bill issued August 31, 2023. The Complainant's average monthly bill is $190.00.

See PPL Answer at ¶ 4.

In its Answer, PPL further alleged that the Company was not required to provide notice of the price change under the Code and that the Commission does not regulate the supply prices charged by electric generation suppliers. I.D. at 2-3.

By Hearing Notice dated February 28, 2024, an Initial Call-In Telephonic Hearing was scheduled for April 17, 2024, and the matter was assigned to Special Agent Mroczka as presiding officer. A Prehearing Order was issued and served on March 15, 2024, reminding the Parties of the date and time of the scheduled hearing, and informing them of the procedures applicable to this proceeding. I.D. at 3.

On April 17, 2024, the hearing convened, as scheduled. Mr. Roberts appeared on behalf of his mother, Joann Roberts (*i.e.* Ms. Roberts), as Complainants. Peter J. Kramer, Esquire and Nicholas A. Stobbe, Esquire appeared on behalf of PPL. As noted, prior to the hearing, the Parties agreed that Mr. Roberts would be added as a co-Complainant in this matter since he resides at the service address. *See* I.D. at 3 (citing

Tr. at 5). Mr. Roberts appeared, *pro se*, testified on his own behalf, and offered no exhibits for the record. I.D. at 3.[6]

PPL presented the testimony of one witness, Ms. Kelly Bell, customer service representative. Ms. Bell sponsored the following five exhibits, which were admitted into the record:

PPL Exhibit 1 – Account Activity
PPL Exhibit 2 – Customer Contacts
PPL Exhibit 4 – OnTrack Standard Agreement Letter 8/21/23
PPL Exhibit 5 – OnTrack Program New Terms Letter 7/19/23
PPL Exhibit 6 – OnTrack Program Approved USEP. I.D. at 3.

During the hearing, Special Agent Mroczka requested that PPL provide copies of Ms. Roberts' OnTrack Program application and the prior OnTrack Program Description as late-filed exhibits. The Complainants were provided ten days to submit any exhibits that they desired to be entered into the record as late-filed exhibits. On April 25, 2024, PPL submitted its late-filed exhibits. The Complainants did not object to the admission of PPL's late-filed exhibits. On May 3, 2024, the Complainants' late-filed exhibits were submitted via email from Stacy Spano, Constituent Services Representative for State Senator Marty Flynn, copying Attorney Peter J. Kramer. I.D. at 3-4.

[6] Review of the Transcript indicates that Mr. Roberts acts as caretaker for his mother, Joann Roberts. Tr. at 88.

Although the Complainants' late-filed exhibits were submitted after the ten day period, as directed at the hearing[7], PPL did not object to their admission. The following late-filed exhibits were, therefore, admitted:

PPL Exhibit 8 – OnTrack Application

PPL Exhibit 9 – Approved PPL USECP 2017-2019; *also*:

Complainants Exhibit 1 – Undated LIHEAP Application Letter[8]

Complainants Exhibit 2 – Bill Due 4/25/24

Complainants Exhibit 3 – July 5, 2023 OnTrack Reapplication Letter, Instructions, and Application

Complainants Exhibit 4 – July 18, 2023 OnTrack Letter Addressing Changes to Program

Complainants Exhibit 5 – August 4, 2023 Letter Addressing Changes to Next Bill and New Payment Amount of $149

Complainants Exhibit 6 – August 21, 2023 OnTrack Approval Letter for $162

Complainants Exhibit 7 – August 28, 2023 Letter Regarding Account Balance and Account Activity Statement 8/5/21-8/24/23. *See* I.D. at 4.

The Complainants also proffered an Exhibit 8, a document similar to PPL Exhibit 3, to which PPL objected. The exhibit was not admitted into the record. *See* I.D. at 4, n. 4.

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[7] In Exceptions, *infra*, Mr. Roberts contests the characterization that the Complainants did not timely submit their exhibits.

[8] LIHEAP stands for "Low Income Home Energy Assistance Program."

The record closed on May 13, 2024, on receipt of the transcript, which totaled 115 pages. I.D. at 4.

On August 12, 2024, the I.D. of Special Agent Mroczka was served upon the parties. In the I.D., Special Agent Mroczka recommended that the Complaint be denied and dismissed, finding that the Complainants did not meet their burden of proof.

As noted, the Roberts filed Letter Petitions for extension of time on September 10, 2024 and October 4, 2024.

On October 2, 2024 and October 7, 2024, the Commission served the Letter Petitions on PPL via Secretarial Letters. Also on October 7, 2024, the Commission granted the Letter Petitions.

Subsequently, the Complainats filed Exceptions on October 29, 2024. Also on October 29, 2024, the Commission served the Complainants' Exceptions on PPL via Secretarial Letter.

No Replies to Exceptions have been filed.

II. Discussion

A. Legal Standards

As the proponent of a rule or order from the Commission, the Complainants bear the burden of proof. *See* 66 Pa.C.S. § 332(a).[9]

The term, "burden of proof," means that the party upon whom such burden is placed is required to establish a sufficient case and show that the utility/respondent is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pa.*, 72 Pa. P.U.C. 196 (1990) (*Patterson*). Such a showing must be made by an evidentiary standard referred to as a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992). The preponderance of the evidence standard means that a complainant's evidence must be more convincing, by even the smallest amount, than that presented by the utility/respondent, in this case, PPL. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950); *see also Povacz v. Pa. PUC*, 280 A.3d 975, 999, n. 25 (Pa. 2022) (*Povacz v. Pa. PUC*).

Additionally, the Commission's decision must be supported by substantial evidence in the record. *See* 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a

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[9] 66 Pa.C.S.§ 332(a):

> **§ 332. Procedures in general.**
>
> **(a) Burden of proof.--**Except as may be otherwise provided in section 315 (relating to burden of proof) or other provisions of this part or other relevant statute, the proponent of a rule or order has the burden of proof.

conclusion. *See Wilmer Baker v. Sunoco Pipeline, L.P.*, Docket No. C-2018-3004294 (Opinion and Order entered September 23, 2020); 2020 WL 5877007 (Pa.P.U.C.), citing *Consolidated Edison Company of New York v. National Labor Relations Board*, 305 U.S. 197, 229, 59 S.Ct. 206, 217 (1938). More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

Upon the presentation by a complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with evidence to rebut the evidence of the customer-complainant shifts to the respondent-utility. If the evidence presented by the respondent-utility is of co-equal value or "weight," the burden of proof has not been satisfied. The complainant now has to provide some additional evidence to rebut that of the respondent. *See Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983) (*Burleson*).

While the burden of going forward with the evidence may shift back and forth between the parties 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. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

The testimony of Complainants in support of their Complaint, and the gravamen of their Complaint, raises objection and criticism of the adequacy of PPL's customer service in satisfactorily responding to inquiries concerning modifications made to the OnTrack Program. The Complaints also make allegations challenging the procedure used to implement modifications to the OnTrack Program, the adequacy of

PPL's notice of such changes, and PPL's later administration of the revised terms and conditions for participation in the program.[10]

As noted by the Special Agent, the OnTrack Program is one of PPL's Universal Service Programs. *See* I.D. at 10; Finding of Fact No. 6; *see PPL Electric Utilities Corporation Universal Service and Energy Conservation Plan for 2023-2027 Submitted in Compliance with 52 Pa. Code § 57.74* , Docket No. M-2022-3031727 (Opinion and Order entered February 9, 2023) (*2023-2027 USECP*).[11]

The terms and conditions of the OnTrack Program are now part of an existing PPL tariff. *See* PPL Exh. 6; PPL Tariff Electric Pa. P.U.C. No. 201 (PPL Tariff).[12] As an existing tariff, the burden is upon the Complainants and such complainant ". . . carries a very heavy burden of proving that the facts and circumstances leading to the creation of the tariff provision have changed so drastically as to render the application of the tariff provision unreasonable." *See* I.D. at 10 (citing 66 Pa.C.S. § 316; *Kossman v. Pa. PUC*, 694 A.2d 1147 (Pa. Cmwlth. 1997); *Stiteler v. Bell Tel. Co. of Pa*., 379 A.2d 339 (Pa. Cmwlth. 1977); *Shenango Twp. Bd. of Supervisors v. Pa. PUC*, 686 A.2d 910 (Pa. Cmwlth. 1996); *see also PPL Elec. Utilities Corp. v. Pa. PUC*, 912 A.2d 386 (Pa. Cmwlth. 2006) (*PPL*)).

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[10] The Roberts also express general concern as to the ability of ratepayer/complainants to prosecute complaints before the Commission and further suggest that an investigation be instituted into PPL's administration of the OnTrack CAP program. *See* Exceptions, *infra*; Tr. at 100.

[11] Order Granting Reconsideration pending review on merits, entered March 2, 2023; (Order on Reconsideration (denied) entered April 20, 2023 (*PPL 2023-2027 USECP*)).

[12] The OnTrack Program provisions are attached as an appendix to the PPL Tariff. Herein, we shall refer to this section of the PPL Tariff as the "PPL Tariff Appendix."

B. Positions of the Parties

We address the issues raised in this Complaint consistent with the identification of issues by the Special Agent in his Initial Decision.

The Complainants argued that PPL provided unreasonable service or violated the Code, a Commission Regulation or Order, or Commission-approved tariff, in the following ways: (1) PPL overbilled them under the OnTrack Program during months where the usage was lower than the designated OnTrack Program payment; (2) PPL improperly designated the Complainants with a percentage of income rate of 7% when they do not have electric heat, and; (3) PPL did not provide notice that the household heating source is a factor in the calculation of the percent of income rate under the revised OnTrack program. *See* I.D. at 9.

PPL, through its witness, Ms. Bell, and exhibits, responded that the Complainants failed to show that PPL violated a Commission Order, Regulation, provision of the Code, or its Commission-approved tariff. Tr. at 106.

PPL additionally explained that on July 18, 2023, the Company sent the Complainants a letter advising of the OnTrack Program's changes and that the monthly OnTrack Program payment would be based on percent of income under the new plan. PPL then enrolled the Complainants in the revised OnTrack Program at a monthly rate of $162.00 based their percent of income. Tr. at 106. An approval letter for the Complainants' OnTrack application was sent on August 21, 2023. Tr. at 107. PPL explained that under the percent of income option, the Company calculates a monthly payment based on a customer's household size, monthly income, and whether a customer's home is electrically-heated, before multiplying by a percent of income factor. *Id*.

Finally, PPL took the position that, to the extent the Complainants contend that their service address is not an "electric heat source home," PPL did not have any notice, prior to the Complainants' testimony at the hearing, that the service address was not electrically-heated. Tr. at 107. PPL, through its counsel, acknowledged that it would be willing to work with the Complainants to make any account updates for the OnTrack Program and to issue a recertification. *Id.*

C. Special Agent's Initial Decision

In the Initial Decision, Special Agent Mroczka made thirty (30) Findings of Fact and drew twelve (12) Conclusions of Law. I.D. at 4-7, 15-16. We note that in their Exceptions, *infra*, the Complainants specifically lodge objections to the following Findings of Fact: Finding of Fact No. 19; Finding of Fact No. 24; and Finding of Fact Nos. 27-30.

Unless otherwise noted, we, hereby, adopt and incorporate the said Findings of Fact and Conclusions of Law by reference into our disposition without further comment, unless the said Findings of Fact or Conclusions of Law are expressly rejected or rejected by necessary implication in this Opinion and Order.

We reprint the Findings of Fact central to our consideration of the Roberts' Complaint[13]:

* * *

> 5. At the time of the OnTrack application in August 2023, Complainants' monthly household income was $2,311.

[13] We note that in setting forth the below findings of fact, the Special Agent referenced "PGW" on several occasions. However, such references should be to "PPL."

6. In March 2023, the Commission approved a new OnTrack program at Docket No. M-2022-3031727 and in August 2023, customers were transitioned to the new OnTrack program. Tr. 95.

7. Under the new program, monthly payments would be based on a percentage of income or average electric bill.

8. Under the new program, there is a different percentage of income used depending on whether the household uses electric heat. At Complainants' household income level, the percentage applied for households with electric heat is 7%. The percentage used for households without electric heat is 4%. Tr. 39, 73; PGW Ex. 6.

9. Under the old program, the OnTrack calculation did not consider whether the household used electric heat or another source of heat. Tr. 97; PGW Ex. 9.

10. Supplemental electric heat is not considered electric heat for the purposes of OnTrack. Tr. 74-75.

11. On July 5, 2023, the OnTrack recertification letter was sent to Complainants. Tr. 84; PGW Ex. 2.

12. On July 14, 2023, the OnTrack agency reached out to Mr. Roberts regarding the certification due date. Tr. 84-85; PGW Ex. 2.

13. On August 2, 2023, Complainants' OnTrack recertification was submitted. Tr. 85; PGW Ex. 2. 6

14. On August 4, 2023, PPL sent Complainants a letter explaining that with the new OnTrack format, their payment would be $149 per month. Compl. Ex. 5.

15. OnTrack was transitioned to the new format on August 5, 2023. Tr. 85; PGW Ex. 2.

16. On August 8, 2023, Complainants were switched to the new installment type, which was 7% of the household income. Tr. 85; PGW Ex. 2.

17. On August 10, 2023, an income verification e-mail reminder was sent to Complainants. Tr. 85; PGW Ex. 2.

18. On August 11, 2023, the Complainants were advised of a $156 OnTrack payment amount. Tr. 85; PGW Ex. 2.

19. On August 21, 2023, Complainants called PPL and advised of a change in income and Complainants' OnTrack payment amount was changed to $162. Tr. 83, 85; PGW Ex. 2.

20. Had Complainants' account been listed as non-electric heat, the monthly OnTrack bill would have been $93.[14] Tr. 74, 96.

21. PPL's notices regarding the OnTrack program adjustments did not address the change in the program regarding the difference in OnTrack billing between homes with electric heat and homes without electric heat. Tr. 92; see Compl. Exs. 3, 4, 5, 6, 7; PPL Exs. 4, 5.

22. The OnTrack online application requires the applicant to select the type of heating in the home. PPL Ex. 8 at 3.

23. The OnTrack paper application provides a section to select a primary heat source and provide the expenses for that heat source. Compl. Ex. 3 at 3.

24. When filling out the online OnTrack application, Complainants selected "Electric" for the question, "What type of installed heating does your home have?" PGW Ex. 8.

25. Complainants' PPL account was opened in 1971 in the name of Joseph Roberts. Tr. 59, 70.

26. PPL has had Complainants' account marked as electric heat since at least October 16, 2000. Tr. 70-71.

27. Complainants' usage patterns are consistent with electric heat. Tr. 31, 40.

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[14] $2,311 x .04 = $92.44.

> 28. It is a customer's responsibility to notify PPL of any change of heat source. Tr. 78.
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> 29. PPL will complete an investigation of the heat source if it is notified by the customer of a change in heat source. Tr. 93.
>
> 30. Complainants' outstanding balance at the time of the hearing was $31.75. Tr. 53; PPL Ex. 1.

I.D. at 5-7; (note omitted).

1. Whether PPL Overbilled the Complainants Under the OnTrack Program During Months Where the Usage was Lower than the Designated OnTrack Program Payment

The Special Agent concluded that the Complainants did not meet their burden of proof that PPL violated the Code. According to the Special Agent, the Complainants were not overbilled under their participation in the OnTrack Program. I.D. at 13.

Mr. Roberts asserted, in part, that during months where the Complainants' household electricity usage resulted in a bill that was lower than the OnTrack Program

payment amount, a credit[15] would be created. According to Mr. Roberts, PPL did not clearly explain how such credit would be applied to a customer's account in this instance. *See* Tr. at 15-16.

PPL, through its witness, Ms. Bell, responded that due to the operation of the program, the calculation of the monthly OnTrack Program payment resulted in the Complainants being charged the lower of a calculation of the average bill or their

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[15] "Credit," in this context has a specific reference under the OnTrack program and refers to credit against the amount that is applied for a participant's debt forgiveness. *See* Tr. at 72-73; 94:

> BY MR. ROBERTS:
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> Q. Miss Bell, the OnTrack Program as it stands now in its revised -- it is significantly different than the previous iteration of the OnTrack Program that was in effect before. And what I'm specifically asking is that, whereas the prior OnTrack Program was neither here nor there about the electrically-heated home issue, it's now more of a paramount issue to the revised plan, correct?
>
> A. Your heat source is what decides how much credits you're going to receive while you're on the program. But electric-heated customers get more credits than non electric-heated customers. And that hasn't changed in the revision.
>
> SPECIAL AGENT MROCZKA: And can you explain what credits are?
>
> THE WITNESS: Yes. It's the credit amount that's applied for the debt forgiveness.

Tr. at 72-73; *see also* PPL Exh. No. 6: II. PROGRAM DESCRIPTIONS; A. ONTRACK; 1. Overview and Background; PPL Exh. 6 Page 1 of 20.

percentage of income. The Special Agent found this explanation reasonable. In pertinent part, the Special Agent concluded:

> According to the calculation above, Complainants' payment would be the average bill or 7% of the household income, and Complainants were given the lower of the two. Mathematically, an average bill would be more than the electric usage during the months that usage is lower and less than the electric usage during the months usage is higher, but would even out in the end. Complainants' 7% payment is not that much lower than the average monthly bill, which could mean that their payments may be higher during lower usage months. However, since the 7% payment is lower than the average, it guarantees a lower bill during the higher usage months. This is not an overpayment during the lower usage months, but a result of the application of the program, which was approved by the Commission. The program is structured to keep payments low and steady through the higher usage months. I also note that this program is voluntary.

I.D. at 10 (citing Tr. at 35; emphasis added).

2. Whether PPL Improperly Designated the Complainants with a Percentage of Income Rate of 7% When They Do Not Have Electric Heat as Their Primary Heating Source

On consideration of the position of the Complainants that they were improperly charged a higher percentage (*i.e.,* 7%) of income under the OnTrack payment based on the use of electric heat as their primary heating source, when the service address uses propane as its primary heating source and, according to their testimony, should have been charged the lower percentage (*i.e.,* 4%), the Special Agent concluded that the Roberts did not meet their burden of proof. I.D. at 12. *See also Id.* at 5,6, Finding of Fact Nos. 8; 19-20, which we print, as follows:

> 8. Under the new program, there is a different percentage of income used depending on whether the household uses

> electric heat. At Complainants' household income level, the percentage applied for households with electric heat is 7%. The percentage used for households without electric heat is 4%. Tr. 39, 73; PGW Ex. 6.
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> *   *   *
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> 19. On August 21, 2023, Complainants called PPL and advised of a change in income and Complainants' OnTrack payment amount was changed to $162. Tr. 83, 85; PGW Ex. 2.
>
> 20. Had Complainants' account been listed as non-electric heat, the monthly OnTrack bill would have been $93. Tr. 74, 96.

I.D. at 12, FOF Nos. 8, 19-20.

The Special Agent found that, based on the information provided to PPL and presented at the hearing concerning the service address, including the Complainants' entries on the OnTrack Program application, PPL reasonably determined that the household had electric heat as its primary heating source. I.D. at 12.

Based on the foregoing, the Special Agent concluded that PPL reasonably charged the Complainants as if they had electric heating under the revised OnTrack. The Special Agent found PPL's business records of the service address as electrically heated and the electric consumption at the residence consistent with this conclusion. *See* I.D. at 7, Finding of Fact Nos. 26-27.

3. Whether PPL Provided Notice that the Household Heating Source is a Factor in the Calculation of the Percent of Income Rate

As to the Roberts' claim that PPL did not provide adequate notice that the household heating source designation, as electric, would be a factor and that it would

have a significant impact upon the calculation of the OnTrack Program payment, Special Agent Mroczka concluded that the Complainants were correct in their contention. The Special Agent found that the letters and notices sent by PPL did not explain the difference in percentage for homes with electric heat as their primary heating sources vs. homes with other sources of heat as their primary heating source. I.D. at 13 (citing Complainants' Exhs. 3, 4, 5, 6, and 7; PPL Exhs. 4 and 5.)

Notwithstanding his finding that PPL did not provide a sufficient explanation concerning the relationship between the heating source and the revised OnTrack Program payment amount, two considerations led the Special Agent to recommend that the Complaint be denied and dismissed.

First, the Special Agent reasoned that the notices sent to the Complainants, which were the same as the notices sent out to every OnTrack Program participant, would not, in all likelihood, result in an OnTrack Program participant changing the heating source in their home/service address simply in order to qualify for the lower percent of income option. I.D. at 13.

Second, Special Agent Mroczka observed that the Roberts selected "electric heat" when filling out the OnTrack Program application - online. The Special Agent noted the testimony of the Complainants, per Mr. Roberts, that their service address does not, in fact, use electricity as a primary heating source and that the OnTrack Program application was not clear concerning the importance of that distinction in determining the monthly payment calculation. However, the Special Agent found that the record evidence presented by PPL demonstrated that the Company reasonably understood the household to have electric heat as its primary heating source. Based on the foregoing, the Special Agent found that PPL reasonably relied upon its records which had, historically, listed the house as having electric heat. As noted, the Special Agent further concluded

that the PPL's assumption was corroborated by the fact that the Complainants' usage patterns were "consistent with electric heat." I.D. at 13; Finding of Fact Nos. 26-27.

The Special Agent recommended that, going forward, the Complainants are free to inform PPL that their primary heat source has changed, or that it was mistakenly marked as electric. The Special Agent stated that, thereafter, PPL should complete its investigation into the household's heat source and update the Complainants' account accordingly. I.D. at 13. However, the Special Agent concluded that charging the Complainants based on the information that was provided to PPL was not unreasonable, or a violation of the Code, a Commission Regulation, a Commission Order, or the Company's tariff. *Id.*

D. Complainants' Exceptions

1. Complainants' Request for Extension of Time to File Exceptions

As previously noted, on September 10, 2024, the Commission received a Letter Petition, wherein the Complainants sought an extension of time to file Exceptions. Therein, the Complainants explained that they were seeking assistance in preparing a response to the I.D. that would conform to the Commission's Rules of Practice concerning Exceptions. The Complainants explained that they contacted a State Representative's office which, initially, gave them an indication that they could be of assistance. According to the Complainants, such assistance was not forthcoming, and the Complainants advised in the Letter Petition that additional time was needed to pursue other options for assistance. September 10, 2024 Letter Petition at 1.

On October 4, 2024, Commission dockets indicate that a second letter was received from the Complainants. In the October 4, 2024, submittal, the Complainants explained their ongoing attempts to obtain assistance in submitting Exceptions to the I.D.

The October 4, 2024 submittal is construed as a second, Letter Petition seeking an extension of time. October 4, 2024 Letter Petition at 1.

By Secretarial Letter of October 7, 2024, the Parties were advised that an extension of time to file Exceptions was granted. The time for filing Exceptions was extended to twenty (20) days from the date of the October 7, 2024 Secretarial Letter. Replies to Exceptions would, therefore, be due ten (10) days thereafter.

By Secretarial Letter of October 29, 2024, the Parties were advised of the Commission's receipt of the Exceptions of the Complainants and the Parties were served with a copy of the Exceptions via the October 29, 2024 Secretarial Letter.

On review of the Commission Secretarial Letter issued on October 29, 2024, additionally appended to Complainants' Exceptions were two letter submissions. *See* Secretarial Letter of October 29, 2024. The letter submittals are undated and consist of: (1) a two-page letter directed to the Commissioners; and (2) a six-page letter directed to the Special Agent. We conclude that the submittals appended to the October 29, 2024, Secretarial Letter, which include references by the Complainants to statements and documents, which were not provided to, or authorized by, the Special Agent at the hearing are extra-record. Pursuant to Section 5.431(b) of Commission Regulations, as extra record materials, the submittals are not permitted for our consideration as part of the record of this Complaint, which has been closed, unless authorized upon motion for good cause shown. 52 Pa. Code § 5.431(b); *see Michael Markovcy v. Met. Edison Company*, Docket No. C-2019-3012549 (Opinion and Order entered April 4, 2024): 2024 WL 1549763 (Pa.P.U.C.), citing *Kyu Son Yi v. State Bd. of Veterinary Med.*, 960 A.2d 864, 873 (Pa. Cmwlth 2008). Finding no such authorization for our consideration of the extra-record submittals, they will not be considered.

Section 1.15(a)(1) of our Regulations, 52 Pa. Code § 1.15(a)(1), provides that, for good cause, we may extend the time period for filing Exceptions. On consideration of the explanation of the Complainants and the specific facts of this Complaint, we find that the Complainants have shown good cause for an extension of time in which to file their Exceptions. We note that the Letter Petitions submitted by the Complainants did not provide evidence of service upon PPL. This lack of service, however, has been cured by Commission Secretarial Letter of October 29, 2024.

Based on the foregoing, we find that the extension requests of the Complainants have not prejudiced the Respondent. We will, therefore, exercise our discretion and accept the Exceptions pursuant to Section 1.2(a) of our Regulations, 52 Pa. Code § 1.2(a), in order to secure a just, speedy, and inexpensive determination in this proceeding. The Complainants' letter-petitions for an extension of time to file Exceptions are granted.

2. Merits of the Complainants' Exceptions

We note that the Complainants' Exceptions do not strictly comply with Section 5.533(b) of our Regulations, 52 Pa. Code § 5.533(b)-(c). In pertinent part, our regulations, *inter alia*, require each exception to be numbered and identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision. Also, in pertinent part, the Regulations provide that the exceptions must be concise and statements of reasons supporting exceptions must, insofar as practicable, incorporate by reference and citation, relevant portions of the record.

Pursuant to Section 1.2(a) of our Regulations, 52 Pa. Code § 1.2(a), we will disregard the procedural defects and, to the extent needed, reference the issues we identify as the subject of the Complainants' Exceptions to the I.D.

a. Exception to Procedure

In their Exceptions, which are set forth in a detailed, type-written[16] narrative, the Roberts initially lodge generalized complaints concerning the role of the Special Agent in this proceeding. Additionally, the Roberts state their lack of familiarity with Commission procedures in a complaint proceeding. The Complainants express concern regarding their obligation as ratepayers and laypersons to be familiar with applicable Commission Regulations, codes, utility tariffs, and other pertinent documents, in order to establish their burden of proof of the allegations set out in their Complaint against PPL. Exc. at 1-2. As noted above, the evidentiary standard of proof in a complaint is referred to as a 'preponderance of the evidence.'

We note that the Complainants make statements which show a misunderstanding of the role of the Special Agent in complaint proceedings before the Commission. The Complainants, in their Exceptions, express a perception that the Special Agent could have been more of an advocate on their behalf in support of proving the Complaint allegations against the utility, PPL, during the hearing. *See* Exc. at 1-2. Namely, the Complainants state, as follows: "I did provide the special agent with the contact numbers of the key players in this case. He therefore had the opportunity to question them on his own, if he so choose. If he ever did, the decision does not make any mention of it." *Id.* The Complainants also assert that: "[t]he special agent's willingness to let the company keep the curtain drawn at the hearing is evident. He could have and should have explored these matters more, but he chose not to do so." *Id*. at 9.

Significantly, in their Exceptions, the Complainants allege that they were not informed of their rights during the proceedings. The Complainants further assert, as follows: "There was never any offer to send this complaint elsewhere within the

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[16] We note that, in contrast, the Letter Petitions requesting an extension were hand-written.

commission for mediation or anything of the sort." The underlying theme of this portion of the Complainants' Exceptions is the Roberts' claim that they were not provided information concerning the "inner workings" of the OnTrack Program, as revised. *See* Exc. at 1.

b. Alleged Utility Termination Activity During Pendency of Complaint

After stating their objections concerning the administrative procedure before the Commission and the ability of a ratepayer to prosecute formal complaints, the Roberts allege that PPL initiated two separate termination actions/processes during the pendency of the instant Complaint. The termination actions of PPL were, ostensibly, in violation of Commission's Regulations.[17] The Complainants attribute PPL's motive in these actions as an attempt to force them to pay the disputed portion of their monthly bills. The Complainants assert that the Special Agent did not mention the termination actions alleged by the Complainants. The Complainants concede, however, that the allegations of improper termination attempts by PPL during the pendency of this Complaint are a matter(s) separate from the Complaint before the Commission. *See* Exc. at 2-3.[18]

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[17] *See* 52 Pa. Code § 56.141(2).

[18] In their Exceptions, the Complainants also state that "My point in raising that incident is that I have never had any conversations with a Trehab employee during this whole process; . . ." *See* Exc. at 3. As discussed, *infra*, Trehab is identified as the partner agency retained for education and outreach to PPL customers concerning the OnTrack Program. Tr. at 41-42.

3. Exceptions to Finding of Fact Nos. 19; 24; 27-30[19]

Next, the Complainants' Exceptions specifically dispute Finding of Fact Nos. 19; 24; and 27-30 of the I.D. Prior to giving the specific allegations of error concerning these findings, the Complainants: (1) clarify that it was Mr. Roberts who filed the informal and formal complaints on behalf of the household. The Complainants state that this is in contradiction to the statement of the Special Agent that Ms. Roberts filed the documents; and (2) the Complainants assert that the exhibits submitted on behalf of the Complainants, as authorized by the Special Agent at the close of the hearing, were timely submitted. In this regard, the Complainants explain that the exhibits were submitted via the office of a State Senator. The Complainants object to the Special Agent's characterization of these submittals as "untimely." To the extent the documents were not timely received by the Special Agent, the Complainants attribute this to technical problems involving their submission. *See* Exc. at 3-4.

Next, the Complainants dispute Finding of Fact No. 19, which we have reprinted, *supra*. Based on their review of PPL Exhibit 2, and from their recollection of the testimony at the hearing, the Complainants deny that they initiated contact with the Company or that they initiated contact with the goal of advising of a change in income. The Roberts emphasize their position that this finding is inconsistent with their overall position in the case. More specifically, the Complainants explain that their position is that there was no satisfactory reason given for the three OnTrack monthly payment amounts issued for their participation. The Complainants assert, as follows:

> My mother's income comes solely from Social Security. As you may be aware, the disbursement amount is set in stone for the year and does not change in any way, even by a penny, from day-to-day, week-to-week, or month-to-month. Therefore, there absolutely was no change in income that we

[19] *See* I.D. at 6-7.

> reported on August 21, let alone one to speak of at all since none existed.

See Exc. at 4.

The Complainants also dispute Finding of Fact No. 24. The Complainants, essentially, dispute whether this finding is supported by substantial evidence. The Roberts assert that a copy of the completed application could not be retrieved prior to the hearing, as the online application, as filled out by the Complainants, was not accessible. They argue that, in their opinion, the application was "pre-populated," meaning that information/data has already been entered by the utility into the computerized system which could not be unlocked. Exc. at 4. The Complainants, continuing with their exception to Finding of Fact No. 24, allege that "coding" on the service account, the existence of which was only learned at the hearing, is ". . . something that a customer could not access and change themselves." *Id.*

Based on the foregoing, as we understand this Exception to Finding of Fact No. 24, the Complainants argue that the online PPL application does not accurately reflect their information, particularly, the status of their service account as an electric heat account. The Complainants also claim that, ". . . the instructions specifically said only to provide an answer [heating source for service address] if the fuel is the primary heating source for the home." The Roberts except to any finding that the instructions were clear and were answered appropriately. Therefore, they take the position that the Commission should not place any reliance on the copy of the application provided by PPL at hearing and should not draw any inferences from the application concerning the status of their home as electrically heated. Exc. 5-6; *see also* Exc. at 11.

Further, the Complainants dispute Finding of Fact No. 27, regarding the statement of the Special Agent concerning the usage patterns at the service address as

being "consistent with electric heat." The Roberts assert that this finding is based on an unfounded assumption by the Special Agent concerning, *inter alia*, the purposes for which the electricity is being used in a home. Exc. at 6.

Moreover, the Complainants dispute and object to Finding of Fact No. 28. As noted above, in making this Finding of Fact, the Special Agent found, in pertinent part, that it is the responsibility of the customer to notify PPL of any change in heating source. The Complainants assert that: (1) a customer could not be expected to know of coding that is not transparent, *i.e.*, kept from his/her view; (2) the PPL letters issued regarding the changes to the OnTrack Program never mentioned the changes in the program pertaining to the heating source for a residence and its effect on the OnTrack revised payment; and (3) the switch in heating pre-dates the existence of the OnTrack Program. The Complainants state that at such time as Mr. Roberts' parents made determinations concerning their service address and service account, they were not a part of any CAP. As such, the Roberts argue that the decision concerning the source of heat should not fall on the Complainant, James Roberts. Exc. at 6.

Finally, the Complainants dispute and object to Finding of Fact No. 29. Here, the Roberts take issue with the training and accuracy of information given in response to their contacts and inquiries about the changes to the OnTrack Program. Such criticism is directed toward PPL (*e.g.,* insufficient information in form letters), PPL representatives (alleged poor training), PPL's third party representative, Trehab, and the Commission's BCS.[20] The Complainants take the position that the action cited by the Special Agent in Finding of Fact No. 29 could have been completed several times during the past year. *See* Exc. at 6-7.

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[20] The Complainants further assert that the Commission needs to take responsibility for, *inter alia*, "failures," involving the process under which PPL has been authorized to implement the current, revised, CAP program(s), including the OnTrack Program. *See* Exc. at 14.

4. Accuracy of PPL's Billing Under OnTrack Program

Beginning with their Exception to Finding of Fact No. 30, the Complainants insist that PPL overbilled them during their participation in the OnTrack Program. The Roberts' allegations of error by the Special Agent concerning the Complainants' overbilling claims are somewhat repetitive of their essential allegations of Code violations by PPL. The Complainants' discussion, however, falls within the three predominant subject areas of their Complaint which were addressed by the Special Agent in the I.D.: (1) the fact that, under the OnTrack program, the monthly payment could possibly be higher than payment for actual consumption for a particular month and whether this results in overbilling – this includes allegations that the Complainants are being billed for a service (electric heat) that does not apply to their service account; (2) whether the Complainants were billed under the most advantageous rate under the program, given that the primary source of heating at their residence is not electronic heat; and (3) whether the monthly OnTrack payment amount of $162 is, in fact, accurate. The Complainants provide the following description:

> In the discussion section, the special agent states the following: "PPL overbilled them under the OnTrack program during months where the usage was lower than the designated OnTrack payment." No, the special agent has the argument incorrect. The billing matter is strictly tied to the 7% rate. It is a two-fold situation. Not only is the company not applying the correct percentage in the billing, which leads to higher bills, but also it is charging us for a service that we do not use at all, namely electricity as the main heating source for the dwelling. The bills presented are an accurate statement of the actual amount of electricity being used by the home, which, for many months, is actually clocking in at a value less than $162.

Exc. at 9.

E. Disposition

At the outset, we advise the Parties that any issue or argument that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider, expressly or at length, each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, Univ. of Pa. v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).[21]

1. Exceptions to Procedure Regarding Complaints

To the extent the Complainants allege an inability to have obtained disposition of their Complaint concerning PPL's administration of the OnTrack Program through an alternative dispute resolution process, such allegations would not appear to be consistent with the record of this matter. On consideration of the Exceptions of the Roberts, the Exceptions are, therefore, denied.

As noted, the Complaint of the Roberts is an appeal from a BCS informal decision, disposing of the Complainant's informal complaint. *See* 52 Pa. Code §§ 56.391-394. Should the Commission's informal complaint process initiated by a ratepayer fail to result in a satisfactory resolution, the Parties are entitled to proceed with

[21] *See also, Metropolitan Edison Co. v. Pa. PUC*, 22 A.3d 353 (Pa. Cmwlth. 2011), *appeal denied*, 22 A.3d 353 (Pa. 2012), citing *Wheeling & Lake Erie Railway Company v. Pa. PUC*, 778 A.2d 785, 794 (Pa. Cmwlth. 2001) for the proposition that the Commission is not required to expressly consider all of the arguments set forth by the parties in its Order.

the formal complaint procedures of the Commission, as has been done in this case. *See* 66 Pa.C.S. § 701; 52 Pa. Code §§ 56.401-404.[22]

Further, the availability of mediation, in lieu of disposition by a Commission Administrative Law Judge or Special Agent, pursuant to an 'on-the-record hearing', is an additional, alternative means of resolving utility-ratepayer disputes. This is an option that is a part of Commission Regulations. *See* 52 Pa. Code § 69.392. "Availability of mediation process." As a routine matter, the Commission's Office of Administrative Law Judge advises Parties of the availability of mediation to resolve a dispute. Mediation, however, requires the consent of each party.

We would also point out that the Commission's website offers guidance concerning the ability of consumers to obtain assistance, as needed, for disputes or clarification of their rights, duties, and obligations as utility ratepayers.[23] In addition to the Commission's website as a resource for consumers, Commission Regulations require summaries of changes to our Regulations, as well as a summary of the rights and responsibilities of the public utility and its customers in accordance with this chapter [52 Pa. Code §§ 56.1, *et seq.*], to be reproduced by the utility and displayed prominently

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[22] The Commission is the ultimate fact-finder in formal complaint proceedings; it weighs the evidence and resolves conflicts in the testimony. 66 Pa.C.S. § 335(a); *Pennsylvania Elec. Co. v. Pa. PUC,* 473 A.2d 704 (Pa. Cmwlth. 1984). When reviewing the initial decision of an administrative law judge, the Commission has all the powers that it would have had in making the initial decision except as to any limits that it may impose by notice or by rule. 66 Pa.C.S. § 335(a). The Commission, as explained, utilizes the "preponderance of evidence standard." A preponderance of the evidence means that one party must present evidence which is more convincing by even the smallest amount, than the evidence presented by an opposing party. *Se-Ling Hosiery v. Margulies, supra*.

[23] A review of the Exhibits submitted by the Complainants also shows documentation advising, generally, of a ratepayer's rights under the Code.

on the utility's web site. 52 Pa. Code § 56.431. The utility is required to deliver or mail a copy of such summary upon the request of a customer or applicant. *Id*.

Based on the foregoing, we acknowledge that an on-the-record formal complaint proceeding may be intimidating to a *pro se* utility consumer and non-attorney. However, the Commission's Regulations and long-standing Commission administrative precedent are implemented for the policy objective of affording parties, particularly complainants who are unrepresented participants and appear, *pro se*, or without attorney representation, the opportunity to provide this agency with the necessary facts, evidence, and information to make a record on which we may comprehensively review and fairly decide matters coming before us. *See Karen Feitt & Higinio Mendoza Jr. v. Duquesne Light Company*, Docket No. C-2022-3037095 (Opinion and Order entered December 7, 2023); 2023 WL 8714914 (Pa.P.U.C.) (Reconsideration denied, August 1, 2024) (citing *Jones v. PGW*, Docket No. C-2019-3007984 (Opinion and Order entered July 16, 2020); 2020 WL 4207498 (Pa. P.U.C.); *also Richard Carlock v. United Telephone Co*., 82 Pa. P.U.C. 68, 79 (1994) (*Carlock*); and *Sheri Horinka v. Pennsylvania Power Company*, Docket No. C-2017-2582842 (Opinion and Order entered August 4, 2017); 2017 WL 3872519 (Pa. P.U.C.), discussing, *inter alia*, policy considerations of *Carlock* as clarified in *Wroblewski v. Pennsylvania Electric Company*,

Docket No. C-2008-2058385 (Opinion and Order entered May 15, 2009) (*Wroblewski*)).[24]

In the specific instance of OnTrack, as a CAP program, such program is the result of extensive development with public advocates and other stakeholder parties' involvement and participation, including comment, suggestions, and input. OnTrack is a program designed to be administered by seven community-based organizations (CBOs) in addition to the involvement of trained caseworkers. These trained caseworkers are available and are counted upon to remain knowledgeable of the program requirements so as to assist the utility's ratepayer base in obtaining information for possible access to the benefits. These CBOs, caseworkers, *et al.*, in addition to Commission and utility information resources, are of valuable assistance by, *inter alia*, acting as liaisons in performing outreach to ratepayers for questions of eligibility and the successful operation of CAP programs. PPL customers can call or visit these and other agencies to apply for the program.

We also observe that the applicable OnTrack tariff provisions, as set forth in the PPL Tariff Appendix, further include a step by step process for appeal if a putative

[24] In *Carlock*, the Commission held that, in the normal course, the Commission would not dismiss a *pro se* complaint without first providing a hearing during which the *pro se* complainant could further explain his or her position and the factual basis for the complaint. The Commission determined that unrepresented complainants should have an opportunity to be heard orally and not have their case dismissed because of a preliminary pleading. *See Carlock* at 7 (in many cases unrepresented complainants can explain their dispute orally much better than they can communicate their grievance in written form, and to deny unrepresented complainants a meaningful opportunity to be heard in such cases can be viewed as a gross abuse of authority) (*citing*, *Halpern v. The Bell Telephone Company of Pennsylvania,* Docket No. C-00923950 (Opinion and Order entered October 1992) and *Schleisher v. The Bell Telephone Company of Pennsylvania*, Docket No. F-00161252 (Opinion and Order entered December 17, 1992)); *see also*, *Gera v. PPL Electric Utilities Corporation*, Docket No. C-20054657 (Opinion and Order entered November 2, 2005).

OnTrack participant feels they have not been afforded fair treatment. PPL Tariff Appendix at 28; *See also*, *Id*. at 29; 30-31.

Based on the foregoing, we shall deny the Exceptions of the Complainants on the issue of procedural access for ratepayer disputes with PPL and, specifically, the OnTrack Program. However, we acknowledge the findings and conclusions of the Special Agent that the modifications were not clearly identified and explained to the Complainants, satisfactorily, upon their inquiries. *See*, I.D. at 6, Finding of Fact No. 21. As noted, Ms. Roberts was a prior CAP/OnTrack participant who, understandably, was disconcerted with the modifications to the OnTrack Program that resulted in a higher monthly payment, while she did not have any, corresponding, increase and/or change in income.

However, we also find that the Complainants have admitted to limited contact with the third party administrator, Trehab, in this matter. *See*, Exc. at 3. We would refer the Complainants to, and recommend that, they fully avail themselves of the opportunities and resources of the Commission, the utility (*i.e.* PPL), and stakeholder organizations, including as identified in this record, Trehab, who are supportive of assisting ratepayers in complying with any applicable requirements for obtaining the benefits of a CAP program. This would be consistent in maintaining the goals of Chapter 56. 52 Pa. Code § 69.265; *See* PPL Tariff Appendix at 22, which states, in pertinent part, a follows:

> **5. Customer Encouragement & Responsibilities**
>
> Success in the OnTrack program demands focus from the customer and the Company. PPL Electric is committed to providing the customer with all the information, education material, and tools to make on-time payments and control energy usage. In many cases, the customer needs to change existing habits that will keep his or her payment plan current and the usage under control. To further strengthen this

> partnership between the two parties, the Company attempts to partner other services that may help the customer remain in the program.

See also PPL Tariff Appendix at 24, which states:

> 8. Review the post-enrollment package and all customer letters/emails sent by PPL Electric. The customer should contact the CBO office or PPL Electric if he/she has any questions. The guidelines below provide direction regarding what office to contact (CBO or PPL). If the customer contacts the wrong office, the office representative helps to re-direct the customer.

2. Exceptions to and Allegations of Overbilling Under the Monthly Charge for OnTrack

On consideration of the Exceptions of the Roberts that they were overcharged in their monthly, OnTrack Program payment, we find that they have failed to meet their burden of proving that their participation and monthly payment under the OnTrack Program, resulted in an overbilling. The finding of the Special Agent on this issue is, therefore, adopted.

We are, however, constrained to acknowledge that, on the record before us, with a limited sample size provided, the Complainants correctly noted that an actual utility bill for the billing period of April, 2024, was lower than the OnTrack monthly payment of $162. *See* Complainants Exh. 2.

Notwithstanding the fact that the Complainants' presented evidence of one, isolated, bill for the month of April, 2024 to illustrate an instance where the OnTrack payment was greater than the actual bill, the Complainants fail to acknowledge that the purpose of the OnTrack Program is to provide a payment that is level over the course of

the enrollment period, while in the aggregate, reducing an arrearage (if any) and providing an affordable payment for eligible participants. For example, on review of PPL Exhibit 1, Account Activity Statement, this exhibit shows the bill payment history at the service address, including the actual bill and application of an "OnTrack" credit. The account activity shows that, by participation in the OnTrack Program, the Complainants received a "credit" which appears as an amount debited to (*i.e.* reducing) the amount owed on the service account for various months. Consequently, the Complainants' argument also fail to acknowledge, that in certain months, the OnTrack payment is *less* than actual consumption. PPL Exh. 1 at 1-6.

Based on the foregoing, we cannot conclude, on the basis of the record of this matter, that the OnTrack program has resulted in an overbilling of the Complainants. Additionally, we cannot conclude that the monthly payment charge of $162.00 has been computed by PPL in a manner that is inconsistent with the terms and conditions of the CAP program and its tariff.[25] As noted, the OnTrack program is now included within the PPL Tariff. As a tariff provision, such tariff has the force of law and must be adhered to. 66 Pa.C.S. § 1303.

Although we find that the OnTrack Program payment amount has not been shown to be unreasonable, improperly calculated, or in violation of PPL's tariff, we nonetheless find merit in the contention of the Roberts that a violation of Section 1501 of the Code has been shown. To the extent that the program transitioned OnTrack enrollees from a percentage of bill calculation to a percentage of income calculation, PPL's issuance of three, separate and differing monthly payment amounts to the Complainants was not explained.

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[25] We note, that no workpapers demonstrating the calculation of the $162.00 per month payment were introduced into the record.

The Roberts have argued that PPL was overpaid for several months " . . . because the advice of the Bureau was to utilize the previous rate set prior to last summer." Exc. at 8. The Complainants did not pay the differing amounts of $149, $156 or $162, because those amounts, in their view, could not be correct and accurate all at the same time. They have pointed out that, with a CAP amount set as a percentage of income, with the income at a fixed level, varying outcomes are mutually exclusive. *See* Exc. at 4; 8.

The different amounts issued to the Complainants for participation in the OnTrack Program resulted in frustration and has led to an unfortunate atmosphere of contention and distrust as between utility and customer. As explained by the Complainants, they found it offensive that the monthly OnTrack Program payment amount increased, overall. *See* Exc. at 8. This is so when, all things being equal, their household income remained fixed pursuant to Social Security. Also, as expressed in their Exceptions, the Complainants take umbrage to the finding and discussion in the I.D. that, at the time of hearing, their outstanding account balance was $31.75. *See* I.D. at 7, Finding of Fact No. 30. While the amount of $31.75, in and of itself, is not substantial, we find that the Complainants have made a valid point that the payment increase and dispute concerning the accuracy of the OnTrack amount should not be trivialized regarding its effect on their household budget. Exc. at 10.

On consideration of the Exceptions of the Complainants asserting a violation of the duty of PPL to provide reasonable service concerning the monthly charge for the OnTrack Program payment for the enrollment period in dispute in this Complaint, their Exceptions will be granted solely to the extent consistent with this Opinion and Order.

Section 1501 of the Code, 66 Pa.C.S. § 1501 imposes an obligation upon utilities to provide adequate service.[26] The term "service" is [u]sed in its broadest and most inclusive sense, [and] includes any and all acts done, rendered or performed and any and all things furnished or supplied, and any and all facilities used, furnished or supplied … in the performances of their duties…." Co*untry Place Waste Treatment Co., Inc. v. Pa. PUC*, 654 A.2d 72 (Pa. Cmwlth. 1995); 66 Pa.C.S. § 102.[27]

The appellate courts have considered the issue of adequacy and reasonableness of service by public utilities and have determined that certain acts, done while rendering a service, are actionable under the Code. In determining whether PPL has violated the provisions of 66 Pa.C.S. § 1501, it must be understood that what is required is adequate, efficient, safe, and reasonable service and facilities, not "perfect service." *See Manuel A. Biason v. Metropolitan Edison Company*, Docket No. C-00004450 (Opinion and Order entered December 19, 2001).

On consideration of the record, we find the conduct of PPL in this Complaint to fall within the conduct found actionable in *AT&T Communications of Pa. v. Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth. 1990) (*AT&T*). In *AT&T*, the Commonwealth Court affirmed the Commission in concluding that *AT&T* committed a Section 1501 violation, upon a finding of misrepresentation of telephone rates to a customer by the telephone utility. Such misrepresentation (including misquotation of rates) was

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[26] In order for the Commission to sustain a complaint brought under this section, the utility must be in violation of its duty under this section. Without such a violation by the utility, the Commission does not have the authority, when acting on a customer's complaint, to require any action by the utility. *West Penn Power Co. v. Pa. PUC*, 478 A.2d 947 (Pa. Cmwlth. 1984) (*West Penn*).

[27] When a utility's failure to maintain reasonable and adequate service is alleged, regardless of form of pleading in which allegations are couched, it is for the Commission initially to determine whether service provided by the utility has fallen short of statutory standard required of it. *Honey Brook Water Co. v. Pa. PUC*, 647 A.2d 653 (Pa. Cmwlth. 1994), *appeal denied*, 655 A.2d 518 (Pa. 1995).

tantamount to failure to provide "reasonable service" and was therefore actionable under the Code.

The Roberts have complained that they were provided three different monthly payment amounts after being certified (re-certified) for eligibility to participate in the OnTrack Program. PPL has sought to deflect responsibility for this occurrence by suggesting the submission of different income amounts by the Complainants in the re-certification/application process. Although the role of the third party administrator entity, Trehab, is central to the administration of OnTrack and essential to the success of the program, we find that PPL cannot avoid its responsibility under the facts of this Complaint proceeding.[28] We also note that the Complainants, admittedly, did not fully avail themselves of the services of Trehab and must share some of the responsibility for a perception of a lack of transparency of the operation of the OnTrack Program. However, we find PPL has committed a violation of the Code in the obligation to provide reasonable service, as a result of the issuance of three, separate, differing monthly payment amounts to the Complainants. *See* Finding of Fact Nos. 14; 18-19, which we reprint, as follows:[29]

> 14. On August 4, 2023, PPL sent Complainants a letter explaining that with the new OnTrack format, their payment would be $149 per month. Compl. Ex. 5.
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> * * *
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> 18. On August 11, 2023, the Complainants were advised of a $156 OnTrack payment amount. Tr. 85; PGW Ex. 2.

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[28] No representative of Trehab participated in this matter. Trehab is listed as a "CBO" – Community Based Organization – in PPL's service territory. *See* PPL Tariff Appendix at 31.

[29] As previously noted, in his Findings of Fact, the Special Agent referenced "PGW" on several occasions. However, such references should be to "PPL."

> 19. On August 21, 2023, Complainants called PPL and advised of a change in income and Complainants' OnTrack payment amount was changed to $162. Tr. 83, 85; PGW Ex. 2.

I.D. at 7.

3. Whether PPL Improperly Designated the Complainants With a Percentage of Income Rate of 7% Rather than 4% When They Do Not Have Electric Heating as Their Primary Heating Source

As previously noted, the terms and conditions of the current OnTrack Program have been embodied in the PPL Tariff. On consideration of the position of the Roberts, we shall grant their Exceptions concerning their claim that PPL improperly billed them as an electric heating customer when, in fact, their home, which is the service address, does not use electric heating as its primary heating source.

Pursuant to Section 1303 of the Code, 66 Pa.C.S. § 1303, a utility, on receipt of notice of service conditions, is under a duty to compute bills to a patron under ". . . the rate most advantageous to the patron." *See* 66 Pa.C.S. §1303:

> No public utility shall, directly or indirectly, by any device whatsoever, or in anywise, demand or receive from any person, corporation, or municipal corporation a greater or less rate for any service rendered or to be rendered by such public utility than that specified in the tariffs of such public utility applicable thereto. The rates specified in such tariffs shall be the lawful rates of such public utility until changed, as provided in this part. <u>Any public utility, having more than one rate applicable to service rendered to a patron, shall, after notice of service conditions, compute bills under the rate most advantageous to the patron.</u>

66 Pa.C.S. §1303 (emphasis added).

In the present dispute, the Roberts argue that they were not billed correctly, *i.e.*, that they were not billed under the most advantageous rate available (4% vs.7% of income; electric vs. non-electric heating) under the terms and conditions of the OnTrack Program (as revised).[30]

The Roberts argue that PPL should have known that their service address does not have electric heating as its primary heating source. In support of their position, the Complainants have provided extensive criticism of the notice of changes to the OnTrack Program provided by PPL, the transparency of those changes/revisions to them, as participants, and the adequacy of the training of PPL employees and third party agents regarding the operation of OnTrack.

The Complainants have also identified deficiencies and/or ambiguities in the PPL exhibits concerning the application for re-enrollment for the OnTrack Program. The Roberts assert that the question(s) on the application was not clear concerning the proper response to identify the heating source for the service address. This response, in turn, was relied upon by PPL to classify the applicant's service address as electric-heated. The Complainants have also attacked the probative value of the application, essentially, contending that the actual application was not made a part of this record. It is the position of the Complainants that PPL should be held to have had the requisite notice of service condition such that the Company had the obligation to charge them the most

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[30] *See e.g. 2023-2027 USECP* at 60-61 discussing, generally, the most advantageous rate when CAP customer establishes new service at a new account within 30 days of the prior account's finalization; Ordering Para. 5.r.

advantageous rate available, *i.e.*, a non-electric primary heating source, as a result of these factors. *See* Exc. at 5-6; 11-12.[31]

However, running counter to the position of the Complainants is a review of Question #5 on the application, "Monthly Expenses." This question provides for the OnTrack applicant to check a box for, gas, oil, coal, wood, propane, electric heat, only if the expense is for the primary heating source.

On consideration of the position of the Complainants, however, their Exceptions shall be granted, in part. The "notice" of service conditions required under the Code to establish a violation of Section 1303 has been interpreted by the Commission to mean, 'actual' notice received by the utility. *See The Victory Condominium Assoc. v. PECO Energy Company*, Docket No. C-2011-2268126 (Opinion and Order entered September 27, 2012); 2012 WL 6087518 (Pa.P.U.C.), citing *Springfield Township v. Pa. PUC*, 676 A.2d 304 (Pa. Cmwlth. 1996); and *Mauro v. Duquesne Light Co.*, 69 Pa. P.U.C. 105 (1989); *see also KA at Fairless Hills, LP v. PECO Energy Company*, Docket No. C-2017-2592335 (Opinion and Order entered December 17, 2018); 2018 WL 6697133 (Pa.P.U.C.), explaining Commission decisions applying Section 1303 of the Code.

[31] The Complainants argue that additional support for their position is an alleged correlation between PPL's records and the Complainants' eligibility, or lack thereof, to qualify for LIHEAP grant assistance. *See, generally*, Tr. at 25. Under this reasoning, which we find to be tenuous, the failure of the household to qualify for LIHEAP grant assistance, in the view of the Complainants, should be held as an indication of a lack of electric heating at the service address; and, this should be sufficient to provide notice to PPL of its obligation to charge them at a non-electric heating rate. However, counter to this reasoning is the fact that PPL's records indicate that, since at least October 16, 2000, the Complainant's service address has been listed as having electric heating. *See Id.* at 70-71.

On review of the record evidence, we find that the Roberts have met their burden of proof that PPL has committed a violation of Section 1303 of the Code. As noted, the "notice" of service conditions required under the Code to sustain a violation of this section has been interpreted by the Commission to mean, 'actual' notice received by the utility. The instant Complaint and record before this Commission will provide PPL the actual notice that is required under Section 1303 of the Code regarding the proper classification and status of the Complainant's service address on which to compute the Complainants' bill under the rate (percentage) most advantageous to them.

Consistent with the foregoing, we shall grant, in part, the Exceptions of the Complainants. PPL, upon confirmation, shall be directed to adjust its records and to properly record the service address of the Complainants as being "non-electric." PPL is further directed to re-bill the Complainants' account under the OnTrack Program at the most advantageous (*i.e.,* non-electric primary heating source) rate from the date of the filing of the Complaint at this docket (*i.e.,* from January 12, 2024, onward) upon such confirmation.

4. Civil Penalty Under "Rosi" Standards

As noted, we conclude that PPL's violation of Section 1501 of the Code, 66 Pa.C.S. § 1501, arises based upon PPL's misquotation of the applicable rate for OnTrack enrollment and that such conduct merits a civil penalty. *See Rosi v. Bell Atlantic-Pa., Inc.*, Docket No. C-00992409 (Opinion and Order entered March 16, 2000); 2000 Pa. PUC LEXIS 5 (2000); *ruling codified* at 52 Pa. Code § 69.1201(c)(1)-(10) (*i.e.*, the "Rosi" Standards).

Commission Rules of Practice at 52 Pa. Code §§ 69.1201(c), provide for the consideration of the following factors and standards when considering a civil penalty:

> (1) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.

We conclude that the conduct of PPL is of the less egregious nature pursuant to our Regulations. We make this finding while cognizant of the position that the Company's efforts at notification of ratepayers of the changes to OnTrack, in the specific instance of the Roberts, has been found lacking. This finding is made against the backdrop of extensive proceedings resulting, which involved the participation of various stakeholder parties and public advocates prior to obtaining final approval of the current, OnTrack Program.

> (2) Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.

We conclude that the consequences of the conduct at issue are of a serious nature, notwithstanding there is no harm to the persons or property involved. The Complainants, who are of the class of ratepayers for whom the CAP program is intended as primary beneficiaries, have been severely inconvenienced in their ability to plan and budget for household financial management purposes. The lack of dialogue between the Complainants, PPL representatives, and the CBOs, have not adequately foreclosed the dispute in this matter. The result of which is the need for a Complaint. While the

Complainant must share in the lack of communication, we have found that they have met their burden of proof that PPL violated the Code.

> (3) Whether the conduct at issue was deemed intentional or negligent. This factor may only be considered in evaluating litigated cases. When conduct has been deemed intentional, the conduct may result in a higher penalty.

We conclude that PPL's conduct was intentional, although suggestive of indifference to the proper operation of the OnTrack Program.

> (4) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.

Inherent in the PPL Tariff are safeguards which represent a balance of interests for CAP enrollees and the utility. We conclude that PPL, through its tariff, has in place internal practices and procedures to address the conduct at issue in this Complaint.

The Complainants, in their Exceptions, have argued for a proceeding in the nature of an investigation. We find that there are sufficient procedural avenues for the involvement and participation of the Complainants in the PPL CAP process.

> (5) The number of customers affected and the duration of the violation.

Although we find that the Complainants have been affected by the conduct of PPL, the Complainants have also suggested other ratepayers who may experience similar issues, as addressed in this Complaint, concerning the OnTrack Program. However, we find this suggestion speculative and not supported by the record.

> (6) The compliance history of the regulated entity which committed the violation. An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty.

The record does not indicate that there is any matter related to this proceeding and, as such, we consider this Complaint as an isolated matter.

> (7) Whether the regulated entity cooperated with the Commission's investigation. Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty.

This factor is not applicable to this proceeding.

> (8) The amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.

On review, we find that the facts of this proceeding support a lesser penalty.

(9) Past Commission decisions in similar situations.

We find that Commission decisions in analogous situations support a lesser penalty.

(10) Other relevant factors.

On consideration of other relevant factors, including allegations related to PPL's conduct involving both its communication to the Complainants regarding the terms of the OnTrack Program and PPL's failure to bill the Complainants at the rate most advantageous (*i.e.*, non-electric primary heating source), we conclude that a civil penalty of $1,000 is appropriate. Accordingly, in the ordering paragraphs below, we shall direct PPL to remit a civil penalty in this amount within thirty (30) days of the entry date of this Opinion and Order.

III. Conclusion

On consideration of the Exceptions of Complainants to the Initial Decision, the Exceptions are granted, in part, and denied, in part, and the Initial Decision is modified, consistent with the discussion in this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Exceptions of Joann and James Roberts to the Initial Decision of Special Agent Michael J. Mroczka, issued on August 12, 2024 at Docket No. F-2024-3046011, are, hereby, granted, in part, and denied, in part.

2. That the Initial Decision of Special Agent Michael J. Mroczka, issued on August 12, 2024, is modified, consistent with the discussion in this Opinion and Order.

3. That the formal Complaint of Joann and James Roberts, filed on January 12, 2024, at Docket No. F-2024-3046011, is sustained, in part, consistent with this Opinion and Order.

4. That PPL Electric Utilities Corporation, upon confirmation, shall be directed to adjust its records and properly record the primary heating source of the service address of the Joann and James Roberts as "non-electric." PPL Electric Utilities Corporation is further directed to re-bill the account of Joann and James Roberts under the OnTrack Program at the most advantageous rate from the date of the filing of the Formal Complaint at Docket No. F-2024-3046011, upon such confirmation.

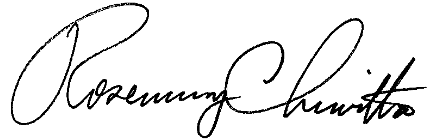
5. That within thirty (30) days of the entry date of a final Order in this matter, PPL Electric Utilities Corporation shall remit a civil penalty of $1,000, payable by certified check or money order, to "Commonwealth of Pennsylvania" with the docket number of this proceeding listed, and sent to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

6. That, a copy of this Opinion and Order, at Docket No. F-2024-3046011, shall be served upon the Financial and Assessment Bureau, Bureau of Administration.

7. That, upon remittance by PPL Electric Utilities Corporation of the civil penalty specified in Ordering Paragraph No. 5, above, this proceeding at Docket No. F-2024-3046011 shall be marked closed.

BY THE COMMISSION:



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: April 10, 2025

ORDER ENTERED: April 10, 2025