

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**JOHNATHAN DIBELLO
COMPLAINANT**

v.

**PECO ENERGY COMPANY,
RESPONDENT**

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Docket No. C-2025-3054440

REPLY EXCEPTIONS OF PECO ENERGY COMPANY

PECO Energy Company (“PECO Energy”) hereby replies to the Exceptions filed by JOHNATHAN DIBELLO (“Complainant”) on June 3, 2025. On April 7, 2025, PECO Energy was served with a formal complaint filed by the Complainant against PECO Energy. In the formal Complaint, the Complainant states that PECO Energy is threatening to shut off the utility services. The Complainant also asserts that PECO must stay his termination due to his Commonwealth Court of Pennsylvania appeal. On April 25, 2025, PECO Energy filed an Answer to the Complaint denying all conclusions of law and material allegations of the Complaint and averred that PECO is not required to stay a termination pending an appeal in the Commonwealth Court of Pennsylvania. Moreover, the Public Utility Commission does not have jurisdiction over the Commonwealth Court of Pennsylvania. On April 25, 2025, PECO Energy filed simultaneous preliminary objections averring the same. On May 5, 2025, the Complainant filed an Answer to PECO Energy’s preliminary objections. On May 16, 2025, the Complainant filed an untimely Answer to PECO’s New Matter.¹

¹ 52 Pa. Code §§5.101 and 5.62

On June 12, 2025, Administrative Law Judge, F. Joseph Brady, (ALJ Brady) issued a well-reasoned Initial Decision in this matter sustaining PECO Energy's preliminary objections and dismissing the Complainant's Complaint with prejudice.

On June 3, 2025, the Complainant filed Exceptions to ALJ Brady's Initial Decision. In his writing, the Complainant seems to attempt to relitigate the facts of his Complaint before the Commission. He challenges the lack of jurisdiction by the Public Utility Commission to grant him a Stay of termination during his pending appeal before the Commonwealth Court of Pennsylvania.

PECO Energy files the instant Reply Exceptions and hereby respectfully requests that the Commission deny the Complainant's Exceptions and issue an Order adopting the Initial Decision of ALJ Brady.

I. Scope of Review

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Code, 66 Pa. C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the Complainant must show that the respondent utility, PECO Energy, is responsible or accountable for the problem described in the Complaint through a violation of the Code or a regulation or order of the Commission. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). Such a showing must be by 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). That is, the Complainant's evidence must be more convincing, by even the smallest amount, than that presented by the respondent. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

Additionally, the Commission's decision must be supported by substantial evidence in the record, which is defined as 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 & 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 the evidence, sometimes called the burden of persuasion, to rebut the evidence of the complainant, shifts to the respondent. If the evidence presented by the respondent 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. *Burleson v Pa. PUC*, 443 A.2d 1371 (Pa. Cmwlth. 1982), *aff’d*, 433 A.2d 1234 (Pa. 1983). While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

It should be noted that 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, *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

II. Legal Argument

a. The Public Utility Commission does not have jurisdiction to grant the Complainant a Stay from termination pending a Commonwealth Court of Pennsylvania Appeal.

On September 22, 2022, the Complainant filed for Chapter 13 Bankruptcy in the Eastern District of Pennsylvania under docket number 22-12547. The Complainant has an active Chapter 13 Bankruptcy petition pending. Accordingly, the Commission does not have jurisdiction over the Complainant’s request for a payment agreement on post-petition debt. The Complainant asserts that jurisdiction exists, otherwise, PECO Energy would be barred from

sending him a shut-off notice with respect to the post-petition amount due. However, mere bald assertions, personal opinions or perceptions do not constitute evidence to bolster a claim. *Pa. Bureau of Corrections v. City of Pittsburgh*, 516 Pa. 75, 532 A.2d 12 (1987); *Helen Leung v. Philadelphia Gas Works*, 2021 PA. PUC LEXIS 519 (2021).

Federal bankruptcy law provides that the filing of a bankruptcy petition . . . operates as a stay, applicable to all entities, of . . . the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title. 11 U.S.C. §362(a)(1). The U.S. Bankruptcy courts have jurisdiction over the Complainant’s assets. All claims against a debtor, including claims arising subsequent to the filing of a petition, are to be adjusted and paid in accordance with the plan required by Chapter 13. Thus, the Complainant’s filing a petition for personal bankruptcy has pre-empted the Commission from establishing any payment schedule with respect to amounts owed by the Complainant to PECO Energy. *See, Michelle Chavous v. PECO Energy Company*, Docket No. F 2010-2215689 (Final Order entered Dec. 20, 2011)(holding “the Commission lacks jurisdiction to direct a payment arrangement for Complainant, who is a debtor with an active Chapter 13 bankruptcy proceeding, even where the subject of the payment arrangement is a post-petition arrearage.”) The Complainant’s payment agreement request was properly dismissed for lack of subject matter jurisdiction.

On December 7, 2023, the Complainant filed an appeal in the Commonwealth Court of Pennsylvania. PECO is not required to stay a termination pending an appeal in the Commonwealth Court of Pennsylvania. It is also important to note that the Complainant’s appeal does not even

involve termination of services, but his ability to obtain a payment agreement, while in Chapter 13 bankruptcy. Moreover, the Public Utility Commission does not have jurisdiction over the Commonwealth Court of Pennsylvania. Pa. R. C.P. §1701(a).

Accordingly, ALJ Brady's Initial Decision is well-reasoned with ample support from the law. As detailed in the Initial Decision, the Complainant has failed to prove that the Public Utility Commission has jurisdiction over his Chapter 13 bankruptcy post-petition debt. Accordingly, the Complainant's Exceptions should be dismissed.

III. Conclusion

ALJ Brady correctly determined that the Public Utility Commission does not have jurisdiction over Commonwealth Court of Pennsylvania matters. Accordingly, ALJ Brady's decision to dismiss the Complainant's case against PECO Energy should be upheld.

For the reasons set forth above, PECO respectfully requests that the Commission deny the Exceptions and issue an Order upholding the Initial Decision in its entirety.

Respectfully submitted,



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VERIFICATION

I, Khadijah Scott, hereby declare that I am counsel for PECO Energy Company; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Pleading are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. §4904 pertaining to false statements to authorities.



Date: July 11, 2025

Khadijah Scott

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CERTIFICATE OF SERVICE

I, Khadijah Scott, hereby certify that I have this day served a copy of PECO Energy Company's Reply Exceptions in the above matter upon all interested parties by E-mailing a copy to:

JONATHAN DIBELLO
813 LAFAYETTE AVE
APT 1B
PROSPECT PARK PA 19076
Via Email: jonathandibello1984@gmail.com

Dated: July 11, 2025



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