

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Fatima Bogan	:	
	:	
v.	:	F-2025-3053984
	:	
PECO Energy Company	:	

**INITIAL DECISION**

Before  
Marta Guhl  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision denies Fatima Bogan’s Formal Complaint against PECO Energy Company. In particular, Ms. Bogan’s Complaint is denied with regard to her claim concerning any violations by PECO Energy Company related to the restoration of her utility service at the Service Address.

**HISTORY OF THE PROCEEDING**

On March 3, 2025, Fatima Bogan (Complainant or Ms. Bogan) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO, Company, or Respondent) averring that she had a reliability, safety or quality problem with her electric service as the result of an incident when she was without power for ten days.

On April 4, 2025,<sup>1</sup> PECO filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

An Initial Call-in Telephonic Hearing Notice dated April 10, 2025, notified the parties that an initial call-in telephone hearing was scheduled on June 10, 2025, at 10:00 a.m.

On April 10, 2025, I issued a Prehearing Order. The Prehearing Order directed the parties to comply with various procedural requirements, reminded them of the time and date of the hearing and provided instructions for calling in to the hearing.

The hearing was convened as scheduled on June 10, 2025. Ms. Bogan appeared *pro se* and testified on behalf of the Complaint. Khadijah Scott, Esq., appeared on behalf of the Respondent and presented the testimony of Michael Begley who is a Regulatory Assessor for PECO. The Respondent sponsored four exhibits which were admitted into the record.

The record in this matter closed on July 2, 2025, when I received my copy of the transcript.

#### FINDINGS OF FACT

1. The Complainant is Fatima Bogan, who owns 4429 Sherwood Road, Philadelphia, PA 19131 (Service Address). Tr. 8.

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<sup>1</sup> The Formal Complaint was served on the Respondent on March 17, 2025 by the Commission's Secretary's Bureau.

2. The Respondent is PECO Energy Company.
3. Ms. Bogan owns the Service Address and has tenants that occupy the property. Tr. 14-15.
4. PECO shut off service at the Service Address in October 2024. Tr. 23.
5. PECO removed the meter from the Service Address on February 12, 2025, due to theft flags. Tr. 23.
6. PECO's Tariff Section 10.5 establishes that the Company has the right to access its equipment, including meters, on properties. Tr. 23; PECO Ex. 1.
7. PECO's Tariff Section 10.6 establishes that the meter may be removed from a property if the service is off and there is not an active ratepayer. Tr. 24; PECO Exh. 1.
8. Ms. Bogan contacted PECO on February 12, 2025 to have service placed in her name at the Service Address on Saturday, February 15, 2025. Tr. 25; PECO Exh. 2.
9. Ms. Bogan contacted the Company again on February 13, 2025 to move up her connection date to February 14, 2025. Tr. 25; PECO Exh. 2.
10. On February 14, 2025, a PECO technician went to the Service Address to connect service but was unable to access the property to complete the turn on. Tr. 25-26; PECO Exh. 2.

11. On February 19, 2025, the PECO technician returned to the Service Address to complete the meter installation but was unable to complete it due to a voltage/partial outage issue. Tr. 26; PECO Exh. 2.

12. There was a severe wind storm from February 15, 2025 to February 16, 2025 which impacted a number of PECO customers. Tr. 28; PECO Exh. 4.

13. The storm would have impacted the connection of Ms. Bogan's service because service crews were diverted to storm duty and not doing new connections. Tr. 29; PECO Exh. 4.

14. On February 21, 2025, PECO was able to complete the repairs to the Complainant's property and connect service at the Service Address. Tr. 32; PECO Exh. 3.

## DISCUSSION

### Burden of Proof

As the party seeking affirmative relief from the Commission, a complainant has the burden of proof by a preponderance of the evidence. 66 Pa.C.S. § 332(a); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A preponderance of the evidence is evidence that is more convincing, by even the smallest amount, than that presented by the opposing party. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the Complaint in order to prevail and that the offense is a violation of the Public Utility Code (Code), the Commission's regulations, or order. 66 Pa.C.S. § 701; *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990). The burden of proof is comprised of two distinct burdens: (1)

the burden of production; and (2) the burden of persuasion. *Hurley v. Hurley*, 754 A.2d 1283 (Pa. Super. 2000). The burden of production, also called the burden of going forward with the evidence, determines which party must come forward with evidence to support a particular claim or defense. *Moore v. Nat'l Fuel Gas Distrib.*, Docket. No. C-2014-2458555 (Final Order entered Aug. 25, 2015) (*Moore*). The burden of production goes to the legal sufficiency of a party's claim or affirmative defense. *Id.* The burden of production may shift between the parties during a hearing. A complainant may establish a prima facie case with circumstantial evidence. *See, Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001) (*Milkie*). If a complainant introduces sufficient evidence to establish legal sufficiency of the claim, also called a prima facie case, the burden of production shifts to the utility to rebut the complainant's evidence. *See Moore*.

If the utility introduces evidence sufficient to balance the evidence introduced by the complainant, that is, evidence of co-equal value or weight, the complainant's burden of proof has not been satisfied and the burden of going forward with the evidence shifts back to the complainant, who must provide some additional evidence favorable to the complainant's claim. *See Milkie* at 1220; *see also, Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983) (*Burleson*).

Having produced sufficient evidence to establish legal sufficiency of a claim, the party with the burden of proof must also carry the burden of persuasion to be entitled to a favorable ruling. *See Moore*. While the burden of production may shift back and forth during a proceeding, the burden of persuasion never shifts; it always remains on a complainant as the party seeking affirmative relief from the Commission. *See Milkie* at 1220; *see also, Riedel v. Cnty. of Allegheny*, 633 A.2d 1325 (Pa. Cmwlth. 1993); *Burleson* at 1375. It is entirely possible for a party to carry the burden of production but not be entitled to a favorable ruling because the party did not carry the burden of persuasion. *See, Moore*. In determining whether a complainant has met the burden of persuasion, the

fact-finder may engage in determinations of credibility, may accept or reject testimony of any witness in whole or in part, and may accept or reject inferences from the evidence. *See Moore* (citing *Suber v. Pa. Comm'n on Crime & Delinquency*, 885 A.2d 678 (Pa. Cmwlth. 2005)).

Additionally, any decision of the Commission must be supported by substantial evidence in the record; more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. 2 Pa.C.S. § 704; *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

### Restoration of Service

The Complainant contends that the Company took too long to connect service at her property. According to the Company, there were extenuating circumstances which led to the delay in connecting service.

Under the Commission's regulation, Section 56.191, a public utility must connect service for an applicant within 24 hours after November 30 and before April 1. 52 Pa. Code § 56.191(b)(2)(ii).

The Complainant also asserts that PECO violated her rights by trespassing on her property to remove the meter. The Complainant asserts that she was without power from February 12 to February 19, 2025. Tr. 10. This would establish a violation of the Commission's regulations.

However, PECO's witness, Mr. Begley, testified that PECO had shut off service at the Service Address in October 2024. Tr. 23. PECO removed the meter from the Service Address on February 12, 2025, due to theft flags. Tr. 23. PECO's Tariff Section 10.5 establishes that the Company has the right to access its equipment, including

meters, on properties. Tr. 23; PECO Ex. 1. PECO's Tariff Section 10.6 establishes that the meter may be removed from a property if the service is off and there is not an active ratepayer. Tr. 24, PECO Ex. 1. The Complainant did not present any evidence to challenge the Company's tariff. As such, her Complaint in this regard must be dismissed.

Further, Mr. Begley also testified regarding the Complainant's connection of service at her property. Ms. Bogan contacted PECO on February 12, 2025 to have service placed in her name at the Service Address on Saturday, February 15, 2025 at the Complainant's request. Tr. 25; PECO Ex. 2. Ms. Bogan contacted the Company again on February 13, 2025 to move up her connection date to February 14, 2025. Tr. 25; PECO Ex. 2. While the Complainant disputes that there was no technician on February 14, 2025, the Company presented credible testimony and evidence that on February 14, 2025, a PECO technician went to the Service Address to connect service but was unable to access the property to complete the turn on. Tr. 25-26; PECO Ex. 2.

On February 19, 2025, the PECO technician returned to the Service Address to complete the meter installation but was unable to complete it due to a voltage/partial outage issue. Tr. 26; PECO Ex. 2. Mr. Begley also noted that there was a severe wind storm from February 15, 2025 to February 16, 2025 which impacted a number of PECO customers. Tr. 28; PECO Ex. 4. The storm would have impacted the connection of Ms. Bogan's service because service crews were diverted to storm duty and were not doing new connections during this period. Tr. 29; PECO Ex. 4. On February 21, 2025, PECO was able to complete the repairs to the Complainant's property and connect service at the Service Address. Tr. 32; PECO Ex. 3.

Based on the information above, the Complainant has established that there was a delay in the requested connection of electric service at the service address. However, PECO presented credible testimony and evidence to establish that there were extenuating circumstances in this matter which delayed the connection. First, the

Complainant requested service to begin on February 15, 2025 and then asked for the date to be moved to February 14, 2025. Second, a technician went to the property on February 14, 2025 but was unable to complete the connection due to lack of access. Third, there was a severe wind storm between February 15 to February 16, 2025 which caused a number of outages for PECO customers. PECO's witness credibly testified that it had to divert service crews to storm duty and was not able to do new connections. Fourth, when a technician was able to return to the property to complete the connection, there was a voltage/partial outage issue and the connection was not able to be completed. However, PECO was able to complete the connection at the Service Address on February 21, 2025 when the voltage issue was resolved. While I understand the Complainant's frustration and concern about the delay for her service connection, the record demonstrates that PECO did not cause the delay, and that PECO worked as best it could under the circumstances to connect the Complainant's service. As such, the Complainant's Complaint is denied.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S. § 701.
  
2. The burden of proof in this proceeding is on the Complainant. 66 Pa.C.S. § 332(a).
  
3. Preponderance of the evidence means that the party with the burden of proof has presented evidence that is more convincing than that presented by the other party. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

4. The Commission’s decision must be supported by “substantial evidence,” which consists of evidence that a reasonable mind might accept as adequate to support a conclusion. 2 Pa.C.S. § 704. A mere “trace of evidence or a suspicion of the existence of a fact” is insufficient. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm’n*, 413 A.2d 1037 (Pa. 1980).

5. Under the Commission’s regulation, Section 56.191, a public utility must connect service for an applicant within 24 hours after November 30 and before April 1. 52 Pa. Code § 56.191(b)(2)(ii).

6. The Complainant has not established that PECO purposely violated the Commission’s regulations in this matter as there were extenuating circumstances. 66 Pa.C.S. § 332(a).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Fatima Bogan in *Fatima Bogan v PECO Energy Company* at Docket No. F-2025-3053984 is denied.

