

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bronwyn A. Fischer	:	
	:	
v.	:	C-2016-2532893
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Dennis J. Buckley
Administrative Law Judge

This Initial Decision dismisses the formal Complaint of Bronwyn A. Fischer (Complainant) against PPL Electric Utilities Corporation (PPL or Respondent) because the Complainant did not prove that PPL failed to provide adequate, efficient, safe, and reasonable service as alleged in the formal Complaint.

HISTORY OF THE PROCEEDING

On March 5, 2016, Complainant filed a formal Complaint against PPL alleging that PPL failed to provide adequate, efficient, safe, and reasonable service in that a power surge in Complainant's residence circa May 15-16, 2014, was caused by an alleged failure on the part of PPL to perform adequate tree trimming and to restore service properly. In consequence, appliances in Complainant's residence were damaged or destroyed by the surge.

The Complaint was served on PPL and on March 28, 2016, PPL filed an Answer in which it denied any violation of the Public Utility Code or the regulations of the Commission. PPL further stated that as Complainant's belongings were damaged by an act of nature, PPL was under no obligation to compensate Complainant for her losses.

On April 18, 2016, this case was assigned to Administrative Law Judge Ember S. Jandebeur, and a hearing was scheduled for May 11, 2016.

On April 20, 2016, a standard form Prehearing Order was issued.

On April 28, 2016, this case was reassigned from Judge Jandebeur to me. On that date, a notice was issued rescheduling the hearing for June 10, 2016.

On June 10, 2016, a telephonic hearing was held in this case. Complainant appeared and testified on her own behalf. Complainant offered three exhibits that were received into evidence: Exhibit C-1, a claim letter from Liberty Mutual Insurance; Exhibit C-2, a letter/statement from Complainant to Liberty Mutual; and, Exhibit C-3, a letter from Dr. Yitzchok B. Kurtzer dated April 1, 2014. PPL was represented by Ms. Kimberly G. Krupka, Esquire. Ms. Krupka presented the testimony of Joyce Clement, a Customer Contact Representative with PPL, and Michael Perrin, the Metering Supervisor for PPL in the Susquehanna and Central Regions, though at the time of the events in this case, he was the Supervisor of Customer Contact Representatives. PPL offered one exhibit that was received into evidence marked as PPL Exhibit 2, an Account Contact History.

The record in the case closed on July 6, 2016, with the filing of the transcript of the hearing. The record consists of a 56 page transcript and related exhibits.

FINDINGS OF FACT

1. Complainant is Bronwyn A. Fischer, who resides at 1184 Salem Park Lane, Lake Ariel, Pennsylvania. Complaint at ¶ 1.
2. Respondent is PPL Electric Utilities Corporation, a jurisdictional public utility company providing electric distribution service to the Complainant's service address.

3. On the evening of May 15-16, 2014, there was a storm-related service outage at Complainant's residence. Tr. at 11, 28.

4. PPL restored service at Complainant's residence by the early morning of May 16, 2014. Tr. at 11, 28.

5. The outage was caused by a tree limb across a distribution line that was on Complainant's property but which was not in PPL's right-of-way. Tr. at 30-32.

6. The impact of the tree limb dislodged a neutral bushing at the transformer near Complainant's residence which resulted in a 240 volt surge into 120 volt appliances. Tr. at 43.

7. The damage to Complainant's appliances occurred at the time of the outage. Tr. 33-37.

8. Responsibility for the grounding of the premises is the responsibility of the homeowner, typically through the employment of an electrician. Tr. at 40.

DISCUSSION

As the party seeking affirmative relief from the Commission, Complainant bears the burden of proof. 66 Pa. C.S.A § 332(a). To satisfy this burden, a complainant must show that the named utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Telephone Company of Pennsylvania*, 72 PA PUC 196 (1990); *Feinstein v. Philadelphia Suburban Water Company*, 50 PA PUC 300 (1976). This must be shown by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. PA Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. den.*, 602 A.2d 863 (Pa. 1992). That is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v.*

Comm'w., PA Pub. Util. Comm'n, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transportation Corp. v. PA Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993), 2 Pa.C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. PA Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Commonwealth, Dep't. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

In this case, a wind storm occurred in the area of Complainant's home on the evening of May 15-16, 2014. During that storm, a tree branch came down on an electric line providing distribution service to Complainant's residence. The tree was on Complainant's property, but it was not in PPL's right-of-way; therefore, PPL could not and did not trim the tree. When the wire was impacted by the branch, the impact pulled loose a neutral bushing at the transformer that serves Complainant's residence. The displacement of this neutral bushing resulted in a power surge of up to 240 volts into 120 volt-rated appliances in Complainant's residence with the result that several appliances were destroyed. Complainant was compensated in part for those losses by her property insurance carrier, Liberty Mutual Insurance. See Complainant's Exhibit 1. The formal Complaint filed by Complainant requested, in part, that PPL reimburse Liberty Mutual and pay Complainant for any claims not previously reimbursed by Liberty Mutual.

The Commission does not have authority to award damages. *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977). On the other hand, that does not mean that the Commission lacks jurisdiction to hear a complaint that seeks damages. If such a complaint alleges a violation of the Public Utility Code, and if the allegations are established by the evidence presented at a hearing, an Administrative law Judge (ALJ) and the Commission might conclude that the utility committed violation of 66 Pa. C.S. § 1501 by failing to provide adequate, efficient, safe, and reasonable service. Although the Commission would not be able to award damages, it may decide to impose a civil penalty upon the utility. See *Seidel v. Ralph G. Smith, Inc.*, 49 Pa. PUC 557 (1975); *Robert Attianese and Michele Attianese v. Santoro*

Enterprises, Inc., t/d/b/a Thomas Gerrity Movers and Storage and Paul Arpin Van Lines, Inc.,
Docket No. A-00113019C0203 (March 12, 2004).

In assessing this matter, I note that the tree that caused the electrical fault on May 15-16, 2016 was on Complainant's property, but it was not in PPL's right-of-way, therefore PPL could not and did not trim the tree.

At hearing, Complainant testified that the power surge and consequent damage to her property occurred because a PPL technician re-connected the power incorrectly, and that the technician told Complainant that she might have, "a problem." Tr. at 11-13. However, no corroborating testimony was provided to this alleged statement, nor did Complainant provide any evidence to establish how an improper reconnection occurred, how that alleged improper reconnection caused damage to Complainant's appliances, or when the alleged improper connection was corrected and by whom.

PPL's witnesses were not on the scene at the time of the incident but gave as their testimony that when the distribution wire was impacted by the branch and the impact pulled loose a neutral bushing at the transformer that serves Complainant's residence, damage occurred immediately. The displacement of this neutral bushing resulted in a power surge of up to 240 volts into 120 volt-rated appliances in Complainant's residence with the result that several appliances were destroyed. Tr. 33-37, 43. This event was as the result of the wind storm, not due to any failure on the part of PPL.

Based on the evidence presented, the Complainant has not established by a preponderance of the evidence that PPL failed to provide adequate, efficient, safe, and reasonable service, or that PPL violated any provision of the Public Utility Code or the regulations of the Commission. The Complaint must be dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa. C.S. §701.

2. Pursuant to 66 Pa. C.S. § 332(a), the burden of proof in this proceeding is on the Complainant.

3. The Complainant has not met her burden of proving that she is entitled to relief. 66 Pa. C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Bronwyn A. Fischer against PPL Electric Utilities Corporation at Docket No. C-2016-2532893 is hereby dismissed.

2. That the case at Docket No. C-2016-2532893 be marked closed.

Dated: December 20, 2016

/s/
Dennis J. Buckley
Administrative Law Judge