

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Ross E. Schell	:	
	:	
v.	:	C-2017-2592821
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Jeffrey A. Watson
Administrative Law Judge

INTRODUCTION

Ross E. Schell (Complainant or Mr. Schell) filed a formal complaint against PPL Electric Utilities Corporation (PPL, Company or Respondent) alleging that he was having reliability, safety or quality problems with his utility service. This decision denies the formal complaint for failure of Complainant to meet his burden of proof.

HISTORY OF THE PROCEEDING

Complainant filed a formal complaint (complaint) dated January 14, 2017 at Docket No. C-2017-2592821. Complainant alleges reliability, safety or quality problems with his utility service. As relief, Complainant requested 17 years of bills paid to Respondent be paid back to Complainant.

Respondent filed its answer to the complaint on March 30, 2017. Respondent admitted that it provides electric service to Complainant and essentially denied the material averments that it failed to provide reasonable and adequate service as set forth in the complaint.

On June 27, 2017, a hearing notice was issued which scheduled the initial telephonic hearing for August 11, 2017 at 10:00 a.m. before the undersigned presiding officer. On June 28, 2017, the undersigned presiding officer issued a prehearing order, which set forth the procedural requirements for a formal hearing before the Commission.

On August 11, 2017, the undersigned presiding officer convened the initial telephonic hearing as scheduled. Complainant appeared *pro se* and testified on his own behalf. He offered Complainant Exhibits A, B and C. Complainant Exhibits A and C were admitted without objection. Respondent's objection to the admission of Complainant Exhibit B was sustained. Respondent was represented by Kimberly G. Krupka, Esquire, who presented testimony from two witnesses and offered one exhibit, Respondent Exhibit 2, which was admitted into evidence.

A transcript of the hearing, consisting of 81 pages, was received by the undersigned presiding officer on September 1, 2017. The record closed upon receipt of the hearing transcript.

For the reasons set forth below, the formal complaint will be denied.

FINDINGS OF FACT

1. The Complainant in this case is Ross E. Schell who resides at 203 Knollwood Drive in Harrisburg, Pennsylvania (service address or service location). Tr. 11, 22.
2. The Respondent in this case is PPL Electric Utilities Corporation.
3. Complainant complained of momentary interruptions of electric service at the service location with a duration of approximately one to two seconds; however, he did not know the dates of the outages. Tr. 20-22.

4. Complainant did not report any of the alleged outages to Respondent. Tr. 23-24; 54-56; 65-66.

5. As a result of issues raised by Complainant, Respondent made a continuing offer to install a volt recording meter on Complainant's line at no cost to Complainant. Tr. 28-29.

6. A volt recording meter records all voltage current into a residence and aids in diagnosing the cause of outages. Tr. 68-69.

7. Complainant declined the offer to install the volt recording meter. Tr. 29.

8. A representative of Respondent spoke with Complainant in April of 2017 regarding his past due balance and a payment arrangement but Complainant did not express any issues regarding momentary electric outages or service issues. Tr. 58.

9. Respondent regularly monitors the electric service provided to Complainant. Tr. 64-65.

10. Respondent's records indicate no power outages that would have affected Complainant's service during the time period in dispute. Tr. 66.

DISCUSSION

As the party seeking relief from the Commission, Complainant bears the burden of proving Respondent violated provisions of the Code or the Commission's regulations in some fashion.¹ To establish a sufficient case and satisfy the burden of proof, Complainant must show the

¹ Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a).

public utility is responsible or accountable for the problem described in the complaint.² Such a showing must be by a preponderance of the evidence.³ Complainant can meet that burden if he presents evidence more convincing, by even the smallest amount, than that evidence presented by Respondent.⁴

Section 1501 of the Public Utility Code (Code), 66 Pa.C.S. § 1501, requires all public utilities to furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and to make all repairs, changes, improvements, etc., to its service and facilities as shall be necessary or proper for the accommodation, convenience and safety of its patrons, employees, and the public. As defined, in pertinent part, in Section 102 of the Code, 66 Pa.C.S. § 102:

“Service.” Used in its broadest and most inclusive sense, 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 by public utilities...in the performance of their duties under this part to their patrons, employees, other public utilities, and the public....

Complainant avers the existence of reliability, safety or quality problems with his utility service and that he has experienced momentary outages of a one to two second duration. Complainant argues that Respondent violated the provisions of 66 Pa.C.S. § 1501. Absent proof by a preponderance of the evidence that Respondent violated the provisions of 66 Pa.C.S. § 1501, the Commission has no authority to require any action by Respondent. *West Penn Power Co. v. Pa. Pub. Util. Comm’n*, 478 A.2d 947 (Pa.Cmwlth. 1984).

² *Patterson v. Bell Telephone Company of Pennsylvania*, 72 Pa. PUC 196 (Opinion and Order entered February 8, 1990); *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. PUC 300 (Opinion and Order entered October 6, 1976).

³ *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n*, 134 Pa.Cmwlth. 218; 221-222, 578 A.2d 600, 602 (1990), *alloc. den.*, 602 A.2d 863 (1992).

⁴ *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (Pa. 1950).

In determining whether Respondent 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.” *Manuel A. Biason v. Metropolitan Edison Company*, PUC Docket No. C-00004450 (Opinion and Order entered December 19, 2001). Likewise, service must only be reasonably continuous and without unreasonable interruptions or delay. The Code does not mandate perfect service nor must a public utility provide the best possible service. Most certainly, a public utility is not a guarantor of either perfect service or the best possible service. *Re Metropolitan Edison Company*, 80 Pa. PUC 662 (November 19, 1993).

Complainant testified that his electricity has been going on and off for a duration of one to two seconds. Complainant offered no credible evidence as to the number or dates of the alleged outages. In addition, Complainant did not report any of the alleged outages to Respondent. Moreover, a representative of Respondent spoke with Complainant in April of 2017 regarding his past due balance and a payment arrangement but Complainant did not express any issues regarding momentary electric outages or service issues.

In his complaint, Mr. Schell failed to allege any specific date or time period in which his electric service was allegedly interrupted. In addition, Complainant did not contact Respondent when the alleged outages occurred. As a result of issues raised by Complainant, Respondent made a continuing offer to install a volt recording meter on Complainant’s line at no cost to Complainant. A volt recording meter records all voltage current into a residence and aids in diagnosing the cause of outages. Complainant declined the offer to install the volt recording meter.

Michael Hadginske (Mr. Hadginske), a senior electrical engineer employed by Respondent, credibly testified that he is familiar with the complaints made by Mr. Schell and that Respondent regularly monitors the electric service provided to Complainant. Respondent’s records indicate no power outages that would have effected Complainant’s service during the time period in dispute.

No credible evidence was presented that Complainant experienced momentary electric outages from and after March of 2017. The evidence presented by Complainant is not sufficient to support a finding that Respondent provided inadequate, inefficient, unsafe, or unreasonable service and facilities. Mr. Schell failed to establish a *prima facie* case. Complainant presented no credible evidence or authority to establish, under the circumstances, the occurrence of any outages or that the customer service provided to Complainant constituted inadequate, inefficient, unsafe, or unreasonable service.

In *Elkin v. Bell Telephone Company*, 372 A.2d 1203 (Pa.Super. 1977), the Pennsylvania Superior Court defined “reasonable and adequate” service and explained:

“Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons . . . and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission” *Id.* 372 A.2d at 1205-06.

As the Court further explained in *Elkin*, the duty is upon the Commission to determine, on the basis of the facts and circumstances indicated by substantial evidence, whether the service provided was reasonable and adequate. Therefore, a case by case analysis must be made with regard to the length of time required by the Company to respond to the concerns raised by the customer.

Mr. Schell has not established that Respondent failed to provide him with adequate, safe, efficient and reasonable utility service in violation of 66 Pa.C.S. § 1501. Mr. Schell failed to establish a *prima facie* case. He has failed to meet his burden of proof. Accordingly, the complaint will be dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S. § 701.
2. Complainant has the burden of proof. 66 Pa.C.S. § 332(a).
3. In determining whether Respondent has violated the provisions of 66 Pa.C.S. § 1501, adequate, efficient, safe, and reasonable service and facilities, not “perfect service” is required. *Manuel A. Biason v. Metropolitan Edison Company*, PUC Docket No. C-00004450 (Opinion and Order entered December 19, 2001).
4. Complainant failed to meet his burden of proving that Respondent violated the Public Utility Code, a Commission regulation or a Commission order. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal complaint filed by Ross E. Schell against PPL Electric Utilities Corporation at Docket No. C-2017-2592821 is denied.
2. That the Secretary’s Bureau shall mark the docket at Docket No. C-2017-2592821 closed.

Date: October 17, 2017

_____/s/
Jeffrey A. Watson
Administrative Law Judge