

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Janice and Tom Risser	:	
	:	
v.	:	F-2017-2612481
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Elizabeth H. Barnes
Administrative Law Judge

INTRODUCTION

Residential customers complained that there were incorrect charges on their account and they seek a lump-sum refund of any credit owed them for overcharges as well as compensatory damages related to costs for an electrician, pain and suffering. This decision sustains the complaint in part and dismisses it in part. The utility is directed to refund Complainants’ account \$350 plus any outstanding credit currently due on their account and pay a civil penalty in the amount of \$2,000 within thirty days of the date of entry of a final order. Complainants’ request for compensatory damages is denied.

HISTORY OF THE PROCEEDING

On or about June 21, 2017, Janice and Tom Risser (“Complainants”) filed a formal complaint (“Complaint”) against PPL Electric Utilities Corporation (“PPL” or “Company” or “Respondent”) with the Pennsylvania Public Utility Commission (“Commission”). Complainants alleged that there were incorrect high charges on their account given that one person lived in the home in the summer months of 2015 and 2016. They also

dispute past due charges totaling over \$3,500. Complaint at 3. This is a timely appeal of BCS Decision No. 3497885 dated May 16, 2017.

On July 24, 2017, PPL filed an Answer to the Complaint and denied any current incorrect charges on Complainants' bill. However, PPL admitted that on January 19, 2016, it identified a possible malfunction in the customers' first meter. PPL contends that on March 28, 2016, when the meter was removed, PPL discovered the manual meter dials kept account of actual usage accrued by the customer, which was greater than what the meter had been posting. On April 21, 2016, PPL issued a rebill based upon actual meter readings of the first meter. Subsequently, on December 8, 2016, PPL rebilled the customers on an adjusted reading from March 21, 2016 through November 17, 2016, based upon actual readings taken from the second meter on November 30, 2016. The overall corrected billing added an additional 10,320 kWh and approximately \$3,500 in charges to the account. PPL contends the current account reflects the electric service used by Complainants.

On July 28, 2017, a Hearing Notice was issued scheduling a Call-In Telephonic Hearing on September 6, 2017. On August 1, 2017, a Prehearing Order was issued. At the Initial Telephonic Hearing, all parties appeared and agreed to defer the hearing until after November 6, 2017, for PPL to perform a meter test on the second meter installed in March 2016 at the service address. An Interim Order was issued on September 6, 2017 cancelling the hearing and directing PPL to conduct a meter test/high bill investigation at 938 Log Cabin Rd., Leola, PA and to share the results of the test/investigation with Complainants.

On October 23, 2017, a Hearing Notice was issued scheduling a Call-In Telephonic Hearing on Thursday, December 14, 2017 at 10:00 a.m. with Administrative Law Judge ("ALJ") Elizabeth Barnes presiding. On December 14, 2017, the evidentiary hearing convened as scheduled. Complainants were present and represented themselves *pro se*. Kimberly Krupka, Esquire was present as counsel for PPL accompanied by three witnesses.

Complainants offered Complainants' Exhibit No. 1, a 7-page exhibit including copies of some of their bills and a table of kilowatt usage in Mr. Risser's handwriting.

Respondent offered PPL Exhibit Nos. 1 (Account Activity Statement), 2 (Account Contact History) and 5 (Rebilling Summary). These exhibits were admitted into the record. There are two transcripts, one dated September 6, 2017, which consists of six pages, and the other dated December 14, 2017, which consists of 67 pages. The record closed on January 9, 2018, the date the latter transcript was filed. This matter is now ripe for a decision.

FINDINGS OF FACT

1. Complainants, Janice and Tom Risser, husband and wife, reside at 938 Log Cabin Road, Leola, Pennsylvania, 17540 (“service address”). N.T. 8.¹

2. Janice Risser is employed in Florida and Pennsylvania. N.T. 19.

3. In August 2015, Janice Risser was residing in Florida and Tom Risser was living at the service property alone because their two daughters were away at college. N.T. 19. Complainants’ Exhibit 1.

4. PPL Electric Utilities Corporation is an electric distribution company (EDC).

5. Complainants receive electric distribution service from PPL Utilities Corporation at Account No. ending in 5008, and Rate Schedule RTS.² Complainants’ Exhibit 1, PPL Exhibit 1, N.T. 8.

6. From June through December 2017, Complainants’ electric generation supplier (EGS) was TriEagle Energy LP. Complainants’ Exhibit 1. N.T. 30, PPL Exhibit 2.

¹ “N.T.” references the notes of testimony from the December 14, 2017 hearing.

² “RTS” stands for Residential Thermal Storage. It is noted that Ms. Hankerson testified Complainants are on a “RSO” rate schedule. N.T. 30. RSO is a rate sub-class of the rate class RS for residential customers. It can have a load profile of RS-GRS – RS Non-Electric Heat or RS-EXR -RS Electric Heat. It is unclear whether Complainants are being charged the correct rate classification for electric service as they allegedly switched from electric heat to propane the summer of 2013 and there is a discrepancy in rate classification between Ms. Hankerson’s testimony and the bills provided by Complainants. Complainants’ Exhibit 1. N.T. 9.

7. Mr. Risser has been a customer of PPL since August 1968. N.T. 9.

8. In 2013, Complainants switched from electric heat to propane heat at the service property and the household size reduced from five to three when two daughters left for college; however, Complainants' electric bills kept increasing at the end of 2013 and beginning of 2014. N.T. 9. PPL Exhibit 1.

9. Mr. Risser telephoned PPL on March 10, 2014 to complain about: 1) increasing bills despite switching from electric to propane heat and a reduction in household size; and 2) an unauthorized switch in his electric generation supplier. N.T. 9, 19, PPL Exhibit 1 and 2.

10. On March 10, 2014, PPL reinstated Complainants' prior EGS but did not investigate a high bill complaint otherwise. PPL Exhibit 2.

11. On December 4, 2014, Complainants' EGS was switched to Energy Plus Holdings. PPL Exhibit 2.

12. After Mr. Risser complained he was slammed by Energy Plus Holdings on December 12, 2014, it was dropped as a supplier on December 15, 2014. PPL Exhibit 2.

13. Complainants frequently paid their bills through PPL's website. PPL Exhibit 2.

14. In July and August 2015, Complainants received unusually low bills of \$18.89 for 0 kWh usage. N.T. 9-10, 19, 24-26, PPL Exhibit 1.

15. In September 2015, Complainants received an unusually high make-up bill for \$969.78 for 7,920 kWh, and they paid these bills in a timely manner. N.T. 9-10, 19, 24-26, PPL Exhibit 1.

16. PPL used at least four “estimated” monthly meter reads from December 2015 through March 2016, even though the Company knew the first Automatic Meter Reading (AMR) meter was not posting actual reads correctly. N.T. 25.

17. On January 19, 2016, PPL’s customer service representative knew there was a possible stopped meter module at the service property and that PPL should investigate and change the meter if necessary. PPL Exhibit 2.

18. There are Customer Service Representative (CSR) comments from Donna J. Boos and Brenda J. Snyder requesting an investigation and change of meter if necessary on January 19, 2016, February 11, 2016, and March 22, 2016. PPL Exhibit 2.

19. Complainants’ Meter No. 85252994 was pulled and replaced with a second Meter No. 12-549-942 on March 28, 2016. N.T. 24, PPL Exhibit 2.

20. In April 2016, after the second meter was installed, there were difficulties in reposting the meter and the meter reading history was not able to be opened. N.T. 24, PPL Exhibit 2.

21. Mr. Risser called PPL numerous times to complain about increasing electric bills after March 28, 2016, but was told that his meter was new, accurate, and there was no immediate effort to test the second meter or conduct any other investigation into his high bill complaint until Mr. Risser’s phone call on December 16, 2016. N.T. 10-11, PPL Exhibit 2.

22. Because a customer service representative of PPL told Mr. Risser he has inefficient appliances and a well that might be running all the time, Mr. Risser hired an electrician at his expense and took two hours out of his work day to meet with the electrician to find out everything was working properly at the service property. N.T. 11.

23. In December 2016, PPL issued an un-amortized make-up bill because prior estimates for usage were believed to be 10,320 kWh lower than actual usage and PPL then billed Complainants for the difference, approximately \$3,500. Complaint, Answer, PPL Exhibit 2.

24. Up and until December 2016, except for one late payment charge of \$2.30 on June 16, 2016, Complainants timely paid their bills each month, and there were no balances forwarded on their account. PPL Exhibit 2.

25. There were numerous credit adjustments made to the account on November 29, 2016, totaling approximately \$1,487.85, then from November 30 – December 15, 2016, approximately \$3,552.15 was charged to the account. PPL Exhibit 2.

26. On December 16, 2016, Mr. Risser disputed his bill because he believed that he had already paid a reconciliation bill on October 3, 2016, in the amount of \$940.20. PPL Exhibit 2.

27. Mr. Risser was not satisfied with his call on December 16, 2016 and was mailed a letter notifying him of his dispute rights. N.T. 20, PPL Exhibit 2.

28. On December 28, 2016, one week before a payment of \$2,064.30 was due, Complainants filed an informal complaint regarding a billing dispute. N.T. 48-49, PPL Exhibit 2.

29. Complainants made a \$500 payment on February 21, 2017, a \$250 payment on March 28, 2017, and a \$250 payment on April 24, 2017. PPL Exhibit 2.

30. On May 16, 2017, BCS Decision No. 3497885 was issued holding all bills were correct as rendered and that the customer should be given at least 9 months to pay off the outstanding balance of \$1,740.75. PPL Exhibit 2.

31. Complainants paid PPL \$155 on May 26, 2017. PPL Exhibit 2.

32. Complainants filed a Request for Formal Complaint Forms on May 30, 2017, and a formal complaint on June 21, 2017. PPL Exhibit 2, Complaint.

33. On June 26, 2017, TriEagle Energy LP was added as Complainants' electric generation supplier. PPL Exhibit 2.

34. On June 30, 2017, a termination notice was mailed to Complainants noting a termination date of July 17, 2017 for an amount due of \$2,416.94. N.T. 48, PPL Exhibit 2.

35. The formal complaint was electronically served upon Respondent on July 3, 2017. PPL Exhibit 2.

36. A company-payment arrangement was initiated on or about July 3, 2017, wherein Complainants agreed to pay \$1,305 on July 10, 2017 plus monthly installments of \$805. N.T. 48-49, PPL Exhibit 2.

37. On July 5, 7 and 10, 2017, Complainants paid \$500, \$300 and \$505 respectively for a total of \$1,305 through the PPL website. PPL Exhibits 1 and 2.

38. Complainants were financially stressed by PPL's July termination notices and they withdrew a total of \$1,300 from their children's college funds and their business account to pay the amount owed by July 10, 2017 to PPL pursuant to the company-payment arrangement. N.T. 14, 48-49. PPL Exhibits 1 and 2.

39. On or about September 21, 2017, after the first hearing and interim order were entered on September 6, 2017, Complainants were first notified that due to a missing exhibit in a CSS calculation function, they had been billed at a constant of 80 instead of 40 since meter 12-549-942 was installed on March 28, 2016. N.T. 11-12, PPL Exhibit 2.

40. A Radio Frequency (RF) Meter No. 12549942 was installed on October 24, 2017. PPL Exhibit 2.

41. As of July 24, 2017, Complainants' Account Balance on Account No. ending in 5008 was (-\$1,599.06); however, PPL has not credited Complainants' account for overbilling occurring in August, September or October 2017. N.T. 15, 27-28, 41-42 PPL Exhibits 1 and 5.

42. On or about August 5, 2017, the multiplier error was discovered. PPL Exhibit 2, N.T. 29-30.

43. Twenty-seven billing adjustments were made to the account on September 22, 2017 in addition to multiple other re-billings and cancelled bills; however, there is no adjustment made in October's bill and it is unclear what months the billing adjustments made on September 22, 2017 pertain to as there is no information regarding to which prior bill the credit applies. N.T. 29, PPL Exhibit 1.

44. The re-bills in Complainants' Exhibit 1 appear to be re-bills for July, August, September and part of October 2017, showing a running credit of over \$1,000, but they are not self-explanatory and are confusing to a reasonable customer. N.T. 16-17, 31-32, 42-47. Complainants Exhibit 1.

45. The account balance on PPL Exhibit 5 in the amount of \$3,078.52 does not match any line item in the account activity statement, PPL Exhibit 2. N.T. 35, PPL Exhibits 2 and 5.

46. As of December 14, 2017, a \$963.02 credit remains on the account. N.T. 36.

47. A reasonable customer would not know he was being credited for an error in calculations dating back to March 28, 2016 based only upon typical monthly invoices and PPL did not explain the multiplier error or how PPL would be recalculating past bills in a clear or reasonable manner. N.T. 17-18.

48. PPL never offered Complainants a lump-sum refund for the amount overbilled from March 28, 2016; however, each month, the credit was lessened by the amount billed for the month, slowly lowering the negative balance. N.T. 17, Exhibit C-1.

49. Holly Hankerson is a Lead Customer Service Representative working for PPL. N.T. 22.

50. PPL credited Complainants a late payment charge that had been added to the account during the disputed time-period in the amount of \$2.30. N.T. 32.

51. Complainants have been customers of PPL for 49 years and have been timely in their payments as evidenced by only one late charge assessed in the amount of \$2.30. N.T. 32, 46-47, PP Exhibit 5.

52. Mr. Risser never received a letter explaining the overbilling until the week of the December 14, 2017 hearing. N.T. 47.

53. Debbie Tulay is supervisor of AMR Operations Support for PPL Electric Utilities, responsible for checking transformer rated metering to ensure correct billing, constant and correct equipment on record. N.T. 50-51.

54. Debbie Tulay was not looking for a missing exhibit, which is what happened in the instant case. N.T. 51.

55. Complainants have a current transformer at the service property which reduces the current level so that PPL can meter it. N.T. 52.

56. There is a calculation formula used in PPL's billing system based upon the size of the current transformer at the residence that calculates the billing constant and because the billing constant was missing, Complainants' and 24 other accounts' meter multiplier were

doubled, causing them to receive double billing for twice the kilowatt hours than they were using. N.T. 52-53.

57. If a customer switched its EGS and afterwards had a meter change, there was a date fail that was missed when PPL completed the supplier switch causing the Exhibit No. 2 to drop out of the system, which in turn caused 25 customer accounts to be assessed for double their actual usage monthly from when the meter was changed after a supplier switch. N.T. 53.

58. Seven factors occurred causing Complainants to be overbilled after March 28, 2016 including: 1) Complainants have a current transformer at their service property; 2) Complainants' EGS was switched twice in March and December 2015; 3) Complainants' meter was changed after an EGS switch on March 28, 2016; 4) Exhibit No. 2 was dropped from the billing equation when the meter was changed on March 28, 2016; 5) due to the missing Exhibit No. 2, Complainants were billed at a constant of 80 since March 28, 2016 instead of at a constant of 40 until August 5, 2017, when PPL first realized its error; 6) PPL personnel were not looking for a missing exhibit; and 7) PPL had no routine inspection for missing exhibits. N.T. 52-54, 58 PPL Exhibit 2.

59. PPL now checks on a weekly basis for dropped exhibits so they can identify and rectify billing issues before they occur on the customers' accounts. N.T. 54, 58.

60. Joe Chunko is Supervisor for Commercial Industrial Metering Segment with PPL since January of 2009. N.T. 55.

61. Mr. Chunko supervises field meter technicians that do the installation, maintenance and decommissioning of commercial and industrial revenue metering. N.T. 55.

62. Complainants' service falls under Mr. Chunko's area because it is transformer rated service, different than what is typically found on a normal residence. N.T. 55.

63. Complainants' account required an Exhibit No. 2 attached to it, which is an internal term used by PPL to describe a wiring of the transformer rated equipment. N.T. 56.

64. PPL has a total of 14 Exhibits that describe how to wire the revenue metering circuit and what calculations are needed to compute this multiplier. N.T. 56.

65. An Exhibit No. 2 requires an additional step to be divided by two to properly compute the multiplier and instead of multiplying by 80, PPL should have been multiplying by 40 from March 28, 2016 to October 2017. N.T. 56-57.

66. There was a problem in the equation that a customer service representative might not see immediately as they are speaking with a customer. N.T. 57.

67. Complainants' kilowatt hour usage comparison:

Month/Year	2012	2013	2014	2015	2016	2017
January	3640	3480	3523	2720	2920	4800
February	2960	1960	2360	2480	2840	1920
March	2443	1720	2440	3040	2960 (meter change)	1920
April	1680	1400	1960	1440	1440	2240
May	1443	1480	1600	1440	2880	2080
June	2520	2760	2840	1600	6320	4240
July	3080		3520	0		
August	2680	2880	2880	0		
September	2600	2760	2480	7920	4820	
October	1480	1960	1040	1040	3680	
November	1760	1560	1280	1040	960	
December	2280	2920	2240	1400	2800	

Complainants' Exhibit 1.

DISCUSSION

The party filing the Complaint bears the burden of proving that he or she is entitled to relief from the Commission. 66 Pa.C.S. § 332(a). “Burden of proof” means a duty to establish one’s case by a preponderance of the evidence, which requires that the evidence be more convincing by even the smallest degree, than the evidence presented by the other side. *Selling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). To satisfy the burden of proof against a utility, the Complainant must show that the utility is responsible or accountable for the problem described in the Complaint, *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. PUC 300 (1976), or that the utility has violated either its duty under the Public Utility Code or the orders or regulations of the Commission. 66 Pa. C.S. § 701.

Any finding of fact necessary to support the Commission’s adjudication must be based upon substantial evidence. *Mill v. Commw., Pa. Pub. Util. Comm’n*, 67 Pa. Commw. 597, 447 A.2d 1100 (1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm’n*, 154 Pa. Commw. 21, 623 A.2d 6 (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*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 194 Pa. Super. 278, 166 A.2d 96 (1960); *Murphy v. Commonwealth, Dept. of Public Welfare, White Haven Center*, 85 Pa. Commw. 23, 480 A.2d 382 (1984).

Since a portion of the complaint here alleges a billing dispute, the Complainants’ burden of proof regarding that portion of the complaint is governed by *Waldron v. Philadelphia Electric Co.*, 54 Pa. PUC 98 (1980) In *Waldron*, the Commission concluded that a Complainant may establish a prima facie case by showing that: (1) the number of occupants of the household has not changed; (2) the potential for energy utilization is low; and (3) the prior billing history shows no previous abnormalities. If the Complainant has submitted such evidence, the burden of going forward with evidence shifts to the Respondent. If the Respondent fails to rebut the Complainant’s evidence, then the Complainant would prevail. If the Respondent places into the record evidence to rebut the Complainant’s *prima facie* case, the burden of going forward with the evidence shifts back to the Complainant. In order to satisfy the burden of proof, the Complainant must rebut the

Respondent's evidence by a preponderance of the evidence. Although the burden of going forward with the evidence may shift from one party to another during a proceeding, the "burden of proof" never shifts. It always remains on the Complainant. *Replogle v. Pennsylvania Electric Co.*, 54 Pa. PUC 528 (1980).

The Commonwealth Court broadened the Commission's ruling in Waldron in *Milkie v. Pa. Pub. Util. Com.*, 768 A.2d 1217 (Pa. Cmwlth. 2001) (*Milkie*). The Commonwealth Court held that the Commission's requirement that the Complainant must establish certain specific elements in order to make out a *prima facie* case was too restrictive. The Commonwealth Court ruled that even where the utility has presented evidence that it has tested the customer's meter and found it to be accurate; the customer may prove his or her case by circumstantial evidence that the metered usage exceeded actual usage. The Commission may consider the billing history of the account, any change in usage pattern or any other relevant facts or circumstances that come to light during the proceeding. *Bennett v Peoples Natural Gas Co.*, Docket No. C-2009-2122979 (Order entered October 13, 2010); *Thomas v PECO Energy Co.*, Docket No. C-2010-2187197 (Order entered November 15, 2011). This rule protects the Complainant from dismissal because of his inability to produce direct proof that the meter malfunctioned.

As noted above, the burden of proof always remains with the Complainant and if the utility presents evidence that is co-equal or greater in weight than the Complainant's, the Complainant will not have met his burden of proof. The Commonwealth Court in *Milkie* emphasized that the mere proof by the utility that its measuring devices are accurate is no longer the sole determinant of whether there is a basis to a complaint of over billing. *Burleson v. Pa. Pub. Util. Comm'n*, 461 A.2d 1234 (Pa. 1983).

The following Commission Regulations also apply to the instant case.

§ 56.12. Meter reading; estimated billing; customer readings.

Except as provided in this section, a public utility shall render bills based on actual meter readings by public utility company personnel.

(1) *Inapplicability to seasonally billed customers.* This section does not apply to customers billed on a seasonal basis under terms included in the tariff of the public utility.

(2) *Estimates for bills rendered on a monthly basis.* If a public utility bills on a monthly basis, it may estimate usage of service every other billing month, so long as the public utility provides a customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills must be based on the information provided, except for an account when it is apparent that the information is erroneous.

(i) Upon the request of the customer, the public utility shall, at least annually, provide preaddressed postcards on which the customer may report the reading. The public utility shall provide additional preaddressed postcards on request. The public utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

(ii) The public utility may establish due dates by which the customer supplied reading shall be received for a bill to be based upon the meter reading of the customer or occupant. If the reading of a customer or occupant is not received by that due date, the public utility may estimate the quantity of usage. The public utility may establish due dates for submitting a meter reading when the customer or occupant utilizes an electronic method for reporting meter readings.

(3) *Estimates permitted under exigent circumstances.* A public utility may estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading.

(4) *Estimates when public utility personnel are unable to gain access.* A public utility may estimate the bill of a customer if public utility personnel are unable to gain access to obtain an actual meter reading, as long as the following apply:

(i) The public utility has undertaken reasonable alternative measures to obtain a meter reading, including, but not limited to, the provision of preaddressed postcards upon which the customer may report the reading or the telephone reporting of the reading.

(ii) The public utility, at least every 6 months, or every four billing periods for public utilities permitted to bill for periods in excess of 1 month, obtains an actual meter reading or customer supplied reading to verify the accuracy of the estimated readings.

(iii) The public utility, at least once every 12 months, obtains an actual meter reading to verify the accuracy of the readings, either estimated or customer read.

52 Pa. Code § 56.12.

§ 56.14. Previously unbilled public utility service.

When a public utility renders a make-up bill for previously unbilled public utility service which accrued within the past 4 years resulting from public utility billing error, meter failure, leakage that could not reasonably have been detected or loss of service, or four or more consecutive estimated bills and the make-up bill exceeds the otherwise normal estimated bill for the billing period during which the make-up bill is issued by at least 50% or at least \$50, whichever is greater:

(1) The public utility shall explain the bill to the customer and make a reasonable attempt to amortize the bill.

(2) The period of the amortization may, at the option of the customer, extend at least as long as:

(i) The period during which the excess amount accrued.

(ii) Necessary so that the quantity of service billed in any one billing period is not greater than the normal estimated quantity for that period plus 50%.

52 Pa. Code §56.14.

Commission regulations define AMR as,

AMR—Automatic meter reading—

(i) Metering using technologies that automatically read and collect data from metering devices and transfer that data to a central database for billing and other purposes.

(ii) The term does not include remote meter reading devices as defined by this section.

(iii) Meter readings by an AMR shall be deemed actual readings for the purposes of this chapter.

52 Pa.Code § 56.2.

Section 56.22 (c) of Title 52 of the Pennsylvania Code states,

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because public utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

52 Pa. Code § 56.22(c).

The issues in this proceeding include:

1. Whether there were incorrect charges on Complainants' account;
2. Whether Complainants are entitled to a refund/credit on their account;
3. Whether PPL's service was unreasonable and in violation of the Public Utility Code, Commission's Regulations and/or Orders;
4. Whether any violations should result in a civil penalty; and
5. Whether Complainants are entitled to compensatory damages.

Whether there were incorrect charges on Complainants' account

Complainants offered a kilowatt hour usage comparison chart in Mr. Risser's handwriting to show there were anomalies in kilowatt hour usage over the past several years that are inconsistent with factors that should have reduced usage. Many of the kWh readings on Complainants' Exhibit 1 match readings provided on PPL Exhibit 1. Complainants contend that they exchanged propane heat for electric heat in the Summer of 2013, and in the same year made their central air conditioner more efficient. Additionally, until September 1, 2013, five persons resided at the house, then the size of the household reduced to three and in the summers of 2015 and 2016 only one person lived in the house, Mr. Risser. Thus, Complainants claim there are high bills on their account because their bills should have decreased since 2014 instead of increasing.

Complainants' kilowatt hour usage comparison:

Month/Year	2012	2013	2014	2015	2016	2017
January	3640	3480	3523	2720	2920	4800
February	2960	1960	2360	2480	2840	1920
March	2443	1720	2440	3040	2960 (meter change)	1920
April	1680	1400	1960	1440	1440	2240
May	1443	1480	1600	1440	2880	2080
June	2520	2760	2840	1600	6320	4240
July	3080		3520	0		
August	2680	2880	2880	0		
September	2600	2760	2480	7920	4820	
October	1480	1960	1040	1040	3680	
November	1760	1560	1280	1040	960	
December	2280	2920	2240	1400	2800	

Complainants' Exhibit 1.

I am persuaded by the testimony of Mr. Risser and his table in Complainants' Exhibit 1 to find that Complainants have established a *prima facie* case by showing that the number of occupants of the household has either remained at five or decreased at times down to one, but that the number has not increased. Further I find credible the unrefuted testimony of Mr. Risser that Complainants made modifications to make their air conditioning system more energy efficient and switched from electric heat to propane heat in the Summer of 2013. There is no evidence that PPL ever attempted to conduct a Customer Billing Analysis at the property. Thus, the potential for energy utilization at the service property decreased after 2013. When comparing the billing history of 2015 and 2016 to prior years, there are anomalies especially in the months of June – December 2015 and again in May – November 2016.

First Meter No. 85252994

The first meter was an AMR meter attached to the service property up until March 28, 2016, when it was replaced with a second AMR meter. I find credible Mr. Risser's testimony that he only found out after he filed the complaint that his meter had changed on March 28, 2016. N.T. 10. Then a third meter, a RF (Radio Frequency) meter replaced the second meter on October 24, 2017. This finding is based upon the customer service representatives' comments in PPL Exhibit 2 as well as the testimony of Ms. Tulay who has been working in AMR Operations Support for the last 15 years. N.T. 51. The meter readings of the first meter are deemed to be actual readings in accordance with 52 Pa. Code §56.2(iii).

It is undisputed that the Company did not bill Complainants for any usage in July or August 2015, then issued a make-up bill for 7,920 kWh usage in September 2015. N.T. 24. Complainants paid the \$969.78 bill in full within thirty days. There is no evidence to suggest the Company offered Complainants two extra months to pay what they should have been billed in the prior two months even though the bill exceeded the normally estimated bill for the September 2015 billing period. This action is in violation of 52 Pa. Code § 56.14.

In its Answer to the Complaint, PPL admitted that on January 19, 2016, it identified a possible malfunction in the customers' first meter. On March 28, 2016, when the meter was removed, PPL discovered the manual meter dials kept account of actual usage accrued by the customer, which was greater than what the meter had been posting. On April 21, 2016, PPL issued a rebill based upon actual meter readings of the first meter. At the hearing, no meter test report was offered by the Company to show the accuracy of the first meter.

A preponderance of the evidence shows the first meter was malfunctioning as admitted by PPL and that during July and August 2015, it was posting a zero-kWh usage at the service property. I find Mr. Risser's testimony to be credible that there was a decrease in household size during certain months and that he switched from electric to propane heat in the summer of 2013. Complainants' Exhibit 1. I find credible the testimony of Ms. Hankerson who testified, "[I]t seems that the meter reading that he – the meter we had there was operating, but

not communicating with us.” N.T. 24. Subsequently, on December 8, 2016, PPL rebilled the customers on an adjusted reading from March 21, 2016 through November 17, 2016, based upon readings taken from the second meter on November 30, 2016. The overall corrected billing added an additional 10,320 kWh and \$3,500 in charges to the account. However, it is noted PPL did not amortize the additional \$3,500 charges to the account or offer Complainants additional time to pay off the make-up charges.

I am not convinced all current charges are accurate given there was no meter test offered into evidence at the September 6, 2017 hearing to show the accuracy or inaccuracy of the first or second meter, and merely an assertion by the company’s witness that rebilling based upon adjusted readings from March 21, 2016 through November 17, 2016 based upon readings taken from the second meter on November 30, 2016 resulted in a corrected additional 10,320 kWh and approximately \$3,500 in charges to the account. The accuracy of the second meter, which apparently was pulled and replaced with an RF meter on October 24, 2017, is also in question. PPL did not offer any meter test report regarding the accuracy of the second AMR meter either. PPL never conducted a high bill investigation or customer billing analysis by walking through the home to verify changes in heating/cooling systems or the household occupancy status. Section 56.2 provides that an AMR reading is deemed an actual reading of the meter. 52 Pa. Code §56.2. I believe the first meter was an AMR meter; thus, the readings of electric usage by the Respondent are deemed to be actual readings and not estimated readings.

PPL knew or should have known by July 2015 that the module had stopped and instead of sending a technician to replace the meter, it billed Complainants based upon inaccurate reads for months. Even if the readings for the first meter are deemed to be proper estimated readings later adjusted with actual readings, the Company violated 52 Pa. Code §§ 56.12 and 56.14 in its handling of the account by: 1) using more than two consecutive estimated monthly readings; 2) failing to explain the situation; and 3) not offering to amortize make-up bills that covered multiple months of incorrect low-billing. 52 Pa. Code § 56.14.

If a public utility bills monthly, it may estimate usage of service every other billing month, so long as the public utility provides a customer with the opportunity to read the

meter and report the quantity of usage in lieu of the estimated bill. PPL claims it used estimated readings for many consecutive months with the first meter as evidenced by PPL Exhibit 2. The Company was not estimating usage every other billing month, and this is in violation of 52 Pa. Code 56.12(3). There is no evidence that the company asked or offered the customers a chance to submit actual reads to the company. Customer service representatives did internally request replacement of the meter; however, no explanation was offered at the hearing as to why it took until March 28, 2016 to replace the AMR meter. PPL Exhibit 2. For example, PPL Exhibit 2 shows that on January 19, 2016, PPL's customer service representative knew there was a possible stopped meter module at the service property and that PPL should investigate and change the meter if necessary. PPL Exhibit 2. There are CSR comments from Donna J. Boos and Brenda J. Snyder requesting an investigation and change of meter if necessary on January 19, 2016, February 11, 2016, and March 22, 2016. PPL Exhibit 2. Complainants' Meter No. 85252994 was not pulled, tested and replaced with a second Meter No. 12-549-942 until March 28, 2016. N.T. 24, PPL Exhibit 2.

The company should have replaced its meter if it believed it was malfunctioning prior to the admitted four estimated meter reads in December 2015 – March 2016. N.T. 25. It is through no fault of Complainants that PPL was using estimated reads and there is no evidence that Complainants barred PPL access to the meter at any time or that exigent circumstances existed such as major storm events in December 2015 – March 2016. No good excuse or exception within the meaning of 52 Pa. Code § 56.14 exists.

Additionally, although the June 2017 BCS Decision stated that Complainants should be given at least nine months to pay for adjusted make-up billing, PPL issued a termination notice for nonpayment on June 30, 2017. PPL did not offer Complainants a payment arrangement until it received service of Complainants' formal complaint. The terms of the company-payment arrangement do not reflect an intent to amortize the outstanding charges over nine months. Rather, the terms of a payment of \$1,305 within sixty days and payments over \$800 thereafter do not indicate that the company was amortizing the bills over a period of nine months. This caused some financial distress to Complainants who drew upon college funds and a business account to make the \$1,305 payment within 60 days. PPL's conduct is in violation of 52 Pa. Code § 56.14.

Second Meter No. 12-549-942

On August 5, 2017, prior to the September 6, 2017 hearing, it appears PPL had discovered the issue with the doubled constant and missing exhibit as this is noted on PPL Exhibit 2. PPL first discussed rebilling with Mr. Risser on September 21, 2017, after the first hearing was held on September 6, 2017. N.T. 46-48, PPL Exhibit 5. There is no evidence PPL tested the accuracy of the second meter. N.T. 65. Rather, PPL's witnesses believed that the meter was accurate, but that there was an error in the revenue calculation equation used to bill the customers. Specifically, at the December 14, 2017 hearing, a PPL witness admitted that regarding the second meter installed on March 28, 2016, "the multiplier was incorrect in the meter which resulted . . . in twice the number of KWH being billed for a period of time." N.T. 6-7, 30-31. PPL denies any current incorrect charges on Complainants' bill as it claims all adjustments have been made for the multiplier as of the September 26, 2017 bill, and that a third meter, a Radio Frequency meter, has been installed at the property as of October 24, 2017. N.T. 26, 36, 41-42, PPL Exhibit 2.

Contrarily, Complainants argue that PPL Exhibit 5 only shows adjustments made to bills from April 2016 through July 24, 2017, and there is no evidence corrected billing occurred for usage in the months of August, September and October 2017, until the third meter was installed. N.T. 40-43. FOF 40. Ms. Hankerson testified that prior to the issuance of the September bill the multiplier issue was identified incorrectly. N.T. 29. Ms. Hankerson testified that the account balance on PPL Exhibit No. 5 indicated a total billing credit of \$3,078.52 was applied to the account; however, this is not a single line item on PPL Exhibit No. 2. Rather, there are several adjustments on the last page of PPL Exhibit No. 2 showing cancelled bills, but not identifying the months. N.T. 35. Ms. Hankerson testified Complainants have been rebilled based upon now corrected reads and the balance on their account was a \$963.02 credit. N.T. 36. She testified there was no bill issued in August of 2017; however, there were bills issued on July 24, 2017 and September 26, 2017. N.T. 43. Ms. Hankerson testified the September 26, 2017 bill was issued relying upon the new multiplier of 40 instead of the old incorrect multiplier of 80. Therefore, there would be no reason to cut the September bill in half. N.T. 43-44.

Ms. Hankerson may have mischaracterized the term “constant” as a “multiplier.” Regardless, the testimony of Ms. Hankerson does not appear to correspond with the bills Complainants received on September 26, October 5, Oct. 9, Oct. 5, and Oct. 9, 2017. N.T. 45. When asked by Mr. Risser why he never received any explanation regarding his account activity until the hearing, Ms. Hankerson replied, “I spoke with you on September 21st and at that point I informed you that the rebilling was done, and it was corrected . . . [T]he rebilling you would have just received recently.” N.T. 38, 46-48. Three months passed from when Ms. Hankerson spoke with Mr. Risser on September 21, 2017 until he received PPL’s pre-marked Exhibits, although he did receive a few bills within a 14-day time period at the end of September and in October 2017. N.T. 38, 46-47, Complainants’ Exhibit 1. Even accepting Ms. Hankerson’s testimony that she spoke with Mr. Risser on September 21, 2017 and informed him corrected rebilling had been done, this is not sufficient to meet the “explanation” standard in 52 Pa. Code § 56.14(1), and I find Mr. Risser to be credible that he did not understand the rebilling situation until the week of the hearing and that he still does not understand if there will be any corrected billing for usage in the months of August, September, and October 2017. FOF 40. Mr. Risser is not unreasonable in his lack of understanding as the explanations offered by PPL are insufficient.

Although PPL argued the second meter was accurate, there is no meter test report to corroborate this assertion. I believe the testimony to be credible that a multiplier in the calculation equation was inaccurate causing 25 customer accounts to be billed twice their kilowatt hour usage. N.T. 26, PPL Exhibit 5. PPL never had a process in place to look for a missing exhibit during its quality review process for checking transformer rated metering to ensure correct billing. N.T. 51. This missing exhibit doubled the meter multiplier and Complainants’ account as well as 24 other accounts that were negatively affected. N.T. 52-53. Ms. Tulay testified all 25 accounts have been rectified. N.T. 53. However, there is no physical evidence to show the 25 accounts have been rectified or that the second meter tested as accurate. The assertion of PPL witness Joe Chunko is a bald assertion, which does not constitute evidence. *Pennsylvania Bureau of Corrections v. City of Pittsburgh*, 532 A.2d. 12 (Pa. 1987).

I am concerned that such a billing situation could recur as Complainants were allegedly slammed by suppliers in December 2016 and they switched their supplier on June 26,

2017, to TriEagle Energy LP. PPL Exhibit 2. Ms. Tuly testified, “And what happened was if the customer was shopping with a supplier and then they switched that supplier, and after that point had a meter change, in one of our systems there was a date fail that was missed when we completed that supplier switch. So, after the meter got changed it caused that exhibit to drop.” N.T. 53. She further testified, “We now included that in our weekly checks that we’re running. And if we do have any, they’re identified and fixed before any billing occurs on the account.” N.T. 53-54. Complainants switched suppliers in June 2017, then the meter was replaced in October 2017. Whether the exhibit has dropped again in the instant case after October 24, 2017, is a question never addressed, and whether the weekly monitoring of the 25 accounts and adjustment of bills every week is a sufficient system change to protect the consumers from high bills is unknown. I am concerned that weekly monitoring is subject to human error. However, it is something hopefully temporarily in place until a better more permanent quality control alternative using computer software can be created and implemented.

When the company discovered it had overbilled almost double usage from March 28, 2016 to September 2017, instead of giving a letter explanation or offering a lump-sum refund check, the company merely deducted current bills from a large negative balance each month. These actions constitute at least a negligent violation of Section 56.14, 52 Pa. Code § 56.14.

I find credible the testimony of Mr. Risser that he was a good customer of PPL since 1968, for 49 years, and was under stress to pay an additional \$3,500 in make-up charges related to an under-posting meter that had been removed on March 16, 2016, appearing on his bill in December 2016. Mr. Risser believed all meter adjustments had been made and paid for as of mid-October, when he paid \$960, for an abnormally high bill. He was not given a reasonably sufficient explanation with his bills as to the cause for the under-billings, make-up bills and then over-billings, and re-bills regarding his account. Additionally, there is no evidence of an upfront offer from PPL to amortize his make-up bills other than possibly some of the billing occurring in October, and then much of the make-up bill occurring on or about December 16, 2016. There is no evidence of PPL having offered to amortize the make up bills over a period of nine months per the BCS Decision.

The Interim Order dated September 6, 2017 directed PPL to conduct a meter test/high bill investigation at 938 Log Cabin Rd., Leola, PA and to share the results of the test/investigation with Complainants. Mr. Risser made a verbal follow-up request to PPL on September 11, 2017, and initially a change meter only (CMO) was maintained. PPL Exhibit 1. However, on September 21, 2017 a notation cancelling the CMO appears with a notation, “[The account was incorrectly billed due to missing display, no change meter only needed, will rebill on existing meter is entered in the Account history.” PPL Exhibit 1. After numerous adjustments made to the account on September 22, 2017, a RF Meter was installed on October 24, 2017. However, the Company did not offer a meter test/high bill investigation report to show the accuracy of either the meter removed on March 28, 2016 or the second meter removed on October 24, 2017. Company representatives have testified that both meters were accurately reading the kilowatt hour usage, but that they were not posting correctly. Because the service was from a transformer current, and because the customer had changed suppliers prior to the changing of the second meter, this caused an exhibit constant to drop from 2 to 0 in a calculation equation. Thus, the multiplier was double what it should have been (80 instead of 40) and the customer was nearly double-billed for usage from March 28, 2016 to October 2017.

There are multiple problems with service in this case. Complainants relied upon the bills generated with the first meter until July and August 2015. Then because July and August showed zero usage on the bills, there was a make-up bill in September 2015 which they paid. If the first meter was an AMR meter, the customer should be able to rely upon the reads as being actual readings instead of estimated readings. Complainants should not have been surprised with \$3,500 in charges as make-up bills in October – December 2016. Then, the new AMR meter installed on March 28, 2016 may have been accurate, but the software calculating usage was inaccurately doubling the multiplier in the calculation equation and the kWh usage monthly, so the customers were being overbilled each month from April 2016 through September 22, 2017, when the error was discovered. So, not only did Complainants have to pay an unexpected make up bill in December 2016, but they had incorrect high bills in March 2016 – September 2017.

Concurrently, Complainants filed an informal complaint on December 28, 2016, one week before a payment of \$2,064.30 was due, and made some good faith payments of \$500 on February 21, 2017, \$250 on March 28, and \$250 payment on April 24, 2017, N.T. 48-49, PPL Exhibit 2. On May 16, 2017, BCS Decision No. 3497885 was issued holding all bills were correct as rendered, however the customer should be given at least nine months to pay off the outstanding balance of \$1,740.75. PPL Exhibit 2. Even though Complainants paid PPL \$155 on May 26, 2017, PPL sent Complainants a termination notice on June 30, 2017. N.T. 48, PPL Exhibit 2.

There is no erroneous termination notice because although the Complainants filed a Formal Complaint at the Commission's Secretary's Bureau on June 21, 2017, prior to the termination notice being sent on June 30, 2017, the Formal Complaint was not actually e-served to PPL until July 3, 2017. PPL Exhibit 2, Complaint. Thus, PPL cannot be held responsible for issuing an erroneous termination notice as it was not yet aware a Formal Complaint was pending. 66 Pa. C.S. § 1406.

As the BCS Decision stated, the amount due of over \$2,000 could have been amortized by PPL but instead a payment arrangement was initiated on or about July 3, 2017, wherein Complainants agreed to pay \$1,305 on July 10, 2017 plus monthly installments of \$805. N.T. 48-49, PPL Exhibit 2. On July 5, 7 and 10, 2017, Complainants paid \$500, \$300 and \$505 respectively for a total of \$1,305 through the PPL website. PPL Exhibits 1 and 2. Complainants were financially stressed by PPL's July termination notices and they withdrew a total of \$1,300 from their children's college funds and their business account to pay the amount owed by July 10, 2017 to PPL pursuant to the company-payment arrangement. N.T. 14, 48-49. PPL Exhibits 1 and 2.

Whether Complainants are entitled to a refund/credit on their account

I find credible Mr. Risser's assertion that he is at least entitled to a \$350 credit on the account and PPL shall be directed to credit the account \$350 for incorrect charges. N.T. 15-16, 60-61. In addition, Complainants are entitled to any lump-sum refund due and owing to

them, which as of the date of hearing was \$963.02. Additionally, the billing inaccuracies occurred through no fault of Complainants; therefore, any late payment charge of \$2.30 should be credited towards the customers' account. PPL is crediting the late payment charge. *See Jesus Campos v. Philadelphia Gas Works*, C-2012-2328020 (Tentative Opinion and Order entered March 10, 2016) citing *Angie's Bar v. Duquesne Light Company*, 72 Pa. P.U.C. 213 (1990); and *Anne Te v. Philadelphia Gas Works*, F-2012-2300790 (Order entered February 6, 2014).

Whether Complainants are Entitled to Compensatory Damages

To the extent that Complainants seek compensatory damages because they incurred expenses from an electrician or for pain and suffering because they were told a problem may be on their end, this Commission lacks jurisdiction to award compensatory damages. *See Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977). 52 Pa. Code §5.101(a)(4).

Although this Commission has general jurisdiction over the rates and services of public utilities operating in Pennsylvania, the Commission has only the powers and authority granted to it by the General Assembly in the Public Utility Code which does not grant the Commission authority to award damages. *See In Re: Melograne*, 812 A.2d 1164 (Pa. 2002); *Terminato v. Pa. National Insurance Company*, 645 A. 2d 1287 (Pa. 1994). Thus, I find in favor of PPL on the issue of compensatory damages.

Whether PPL's service was unreasonable and in violation of the Public Utility Code, Commission's Regulations and/or Orders

Although the claim for damages must fail, Complainants have sustained their burden of proving PPL did not provide them with reasonable service in violation of 66 Pa. C.S. § 1501, which provides as follows.

§ 1501. Character of service and facilities

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, employees, 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.

66 Pa.C.S. § 1501.

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. Pub. Util. Comm'n*, 478 A.2d 947 at 949 (Pa. Cmwlth. 1984). The statutory definition of "service" is to be broadly construed. *Country Place Waste Treatment Co., Inc. v. Pa. Publ. Util. Comm'n*, 654 A.2d 72 (Pa. Cmwlth. 1995).

“Service” can include many factors.

"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, or contract carriers by motor vehicle, in the performance of their duties under this part to their patrons, employees, other public utilities, and the public, as well as the interchange of facilities between two or more of them .

..

66 Pa. C.S.A. 102.

I find that by violating the Commission’s regulations at Sections 56.12 and 56.14, PPL provided inadequate service to Complainants in violation of 66 Pa. C.S. § 1501. 52 Pa. Code §§ 56.12 and 56.14. PPL should monitor Complainants account as well as other transformer rated accounts at least weekly to ensure incorrect billing does not recur. As Complainants switched their electric generation supplier on June 26, 2017, to TriEagle Energy LP, a few months before the RF meter was installed on October 24, 2017, if this has caused another drop in Exhibit No. 2, PPL should be examining the account to make sure Complainants are currently being billed properly. PPL Exhibit 2. In the event the customers believe they are being misbilled going forward, they should file another complaint.

Civil Penalty

Having found violations of 66 Pa. C.S. § 1501, 52 Pa. Code §§ 56.12 and 56.14, I turn to whether a civil penalty is warranted. The Commission has promulgated a Policy Statement at 52 Pa. Code § 69.1201 that sets forth ten factors (Rosi Factors) that the Commission will consider in evaluating, *inter alia*, litigated proceedings and determining whether a fine for violating a Commission order, regulation or statute is appropriate. The factors and standards that will be considered by the Commission include the following:

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

(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.

(9) Past Commission decisions in similar situations.

(10) Other relevant factors.

See 52 Pa.Code § 69.1201(b).

Record evidence demonstrates that the overbilling was not intentional; however, it appears to be a negligent oversight and a misunderstanding of the effect of supplier switching upon the meter reads of those customers with transformer rated service who switch suppliers prior to a meter read. I am persuaded to find a small number of customers have been affected (approximately 25) by this conduct. I am not convinced all corrected rebilling has occurred as PPL Exhibit 5 did not cover usage in the months of August, September, and October 2017. Additionally, I am not convinced the proper equation was used as the terms “constant” and “multiplier” were used interchangeably in the PPL exhibits and the testimony of Ms. Hankerson. Further, I am persuaded by the testimony of Mr. Risser and Complainants’ Exhibit 1 to find that Complainants are entitled to a refund of \$350 for incorrect charges.

The amount of a civil penalty necessary to deter future conduct is \$2,000, as ten monthly violations of Sections 56.12 and 56.14 occurred from August 2015 through October 24, 2017. The \$2,000 civil penalty may be viewed as a \$100 civil penalty multiplied by 10 violations of Section 56.12 and a \$100 civil penalty multiplied by 10 violations of Section 56.14. This is in accordance with other Commission decisions regarding incorrect charges, *See Bracken v. Champion Energy*, C-2011-2256514 (Opinion and Order entered June 12, 2012). In *Bracken*, the Commission assessed a \$400 civil penalty for violating Section 56.14 by not giving a 4-months amortized bill when the EGS estimated bills for four consecutive months. See also, *Harris v. PECO Energy Company*, F-2016-2537039 (Opinion and Order entered March 5, 2018) (*Harris*). In the *Harris* case, the Commission found Ms. Harris had an AMR meter at her residence, which if working properly should have been transmitting readings to PECO showing actual usage. However, since the meter was malfunctioning, this resulted in estimated bills from

May 2014 through February 2015 in violation of 52 Pa. Code § 56.12. The Commission found that PECO should have addressed the issue and taken actual meter readings. Because it did not, PECO provided unreasonable service regarding billing concerns. The Commission held a total civil penalty of \$500 for having violated of Section 56.12 should be imposed against PECO.

Specifically, the Commission held:

Additionally, Ms. Harris had an AMR meter at her home, which if working properly, should have been transmitting readings to PECO which would have resulted in the issuance of bills to Ms. Harris based on her actual usage. However, the AMR meter was not functioning properly, resulting in the issuance of estimated bills for Ms. Harris from May 2014 through February 2015, in violation of Section 56.12 of our Regulations, 52 Pa Code § 56.12. Tr. at 23-24, 30, 53-55; PECO Exh. 1. When the AMR was consistently not reporting data, PECO should have addressed the issue and taken actual meter readings. Unfortunately, in this instance, the Company did not perform the necessary follow-up, which also violated our Regulations. Therefore, while we agree with the ALJ that the Complainant has not met her burden of proof regarding the Complaint in its entirety, we find that the record in this proceeding demonstrates that PECO provided unreasonable service regarding the Complainant's billing concerns due to the repeated meter mix-up issue and actual billing in violation of our Regulations.

Accordingly, we conclude that a civil penalty is warranted in this case based on our review of our Policy Statement at 52 Pa. Code § 69.1201 that sets forth ten factors that we may consider in evaluating whether a civil penalty for violating a Commission Order, Regulation, or a statute is appropriate. In reviewing the appropriateness of a civil penalty under the Policy Statement, we consider many factors, including the nature of the alleged violations, whether the conduct at issue was intentional or negligent, whether the Company has taken remedial actions to address the conduct at issue and prevent similar future conduct, the number of customers affected and the duration of the violation, and the amount of the civil penalty necessary to deter future violations. 52 Pa Code § 69.1201(c). We believe PECO's actions in this case were unintentional, not widespread and were mitigated by the swift manner in which the Company adjusted and appropriately rebilled Ms. Harris. Therefore, consistent with the standards set forth in the Policy Statement, we determine that a civil penalty of \$500 is appropriate in this case.

Id. at 16-17.

In comparison to *Harris*, the AMR meter was malfunctioning for approximately ten months in both cases. Additionally, in the instant case, the outcomes of a negligent act or omission to act did not cause serious bodily injury or damage to property; however, Mr. and Mrs. Risser did endure some frustration and aggravation in getting a sufficient explanation and full account activity explanation in a timely manner. Further, they experienced financial distress and were led to believe the problem was on their end, causing them to hire an electrician, and in having to take monies from their college funds and a business account in order to pay over \$2,000 in charges stemming from incorrect billing attributable to the first meter in an unamortized manner. PPL could have mitigated the distress to Complainants by conducting a customer billing analysis and testing the meters earlier. Instead of telling Complainants that there was a problem on their end, PPL could have visited the property and looked at the second meter or could have caught the dropped exhibit earlier.

The record is clear that the make-up bill is disputed. The make-up bill is akin to an estimated reading as it is not actually recorded usage by the incorrectly posting AMR meter or the first meter (if it was manual). Pursuant to 52 Pa. Code § 56.22(c) late payment charges cannot be imposed on the disputed make-up bill. The late payment charge of \$2.30 never should have been assessed to Complainants' account because it pertains to make up bills. It is noted that PPL was willing at the hearing to remove the late payment charge. PPL Exhibit 5. For all of these above reasons, I find in favor of Complainants as far as they are entitled to a \$350 credit to their account for incorrect charges and a \$2.30 credit for a late payment charge as well as a refund for any amounts overbilled for the months of August, September, and October 2017. I find in favor of PPL regarding the issue of compensatory damages. Additionally, in order to deter future misconduct, a civil penalty of \$2,000 is being assessed against PPL for continuing monthly violations of the Commission's billing regulations at 52 Pa. Code §§ 56.12 and 56.14 and one violation of a Public Utility Code statute, 66 Pa. C.S. §1501.

CONCLUSIONS OF LAW

1. The party filing the Complaint bears the burden of proving that he or she is entitled to relief from the Commission. 66 Pa.C.S. § 332(a).

2. “Burden of proof” means a duty to establish one’s case by a preponderance of the evidence, which requires that the evidence be more convincing by even the smallest degree, than the evidence presented by the other side. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

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

4. Complainants sustained their burden of proof showing \$350 in incorrect charges were on their make-up bill.

5. PPL violated 52 Pa.Code § 56.12 by failing to bill Complainants using actual reads or by permissible estimated reads.

6. PPL violated 52 Pa.Code § 56.14 by not explaining the October or December 2017 bills to Tom and Janice Risser and by not making a reasonable attempt to amortize the make up bills..

7. PPL violated 66 Pa. C.S. § 1501 by providing unreasonable billing service.

8. A civil penalty of \$2,000 will deter PPL from overbilling and not amortizing Complainants’ account and other similarly situated accounts in the future.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal Complaint filed by Tom and Janice Risser against PPL Electric Utilities Corporation at Docket No. F-2017-2612481 is sustained in part and denied in part.
2. That Complainants' request for compensatory damages is denied.
3. That PPL Electric Utilities Corporation shall provide a billing adjustment in the form of a refund to Tom and Janice Risser within thirty (30) days from the date of entry of a Final Order, in the amount of \$350 pertaining to their account ending in No. 5008.
4. That PPL Electric Utilities Corporation is directed to pay a \$963.02 lump sum refund due and owing Tom and Janice Risser as of December 14, 2017.
5. That Respondent is directed to adjust Complainants' account crediting the late-fee on make-up charges in the amount of \$2.30.
6. That within thirty (30) days of the date of entry of a Final Order, PPL Electric Utilities Corporation shall pay a civil penalty in the amount of \$2,000 by certified check or money order made payable to "Commonwealth of Pennsylvania" and sent addressed as follows:

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

7. That PPL Electric Utilities Corporation shall cease and desist from further violations of the Public Utility Commission's Regulations.

8. That a copy of this decision shall be served upon the Financial and Assessment Chief, Office of Administrative Services.

9. That the Secretary's Bureau shall mark the matter at Docket No. F-2017-2612481 closed upon payment of the civil penalty in Ordering Paragraph No. 6.

Date: March 5, 2018

/s/
Elizabeth H. Barnes
Administrative Law Judge