

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Harriette Parris	:	
	:	
v.	:	F-2017-2619329
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

This decision denies a complaint requesting the Public Utility Commission find PPL Electric Utilities Corporation overcharged Harriette Parris for electric service she did not use, and there was a safety or reliability problem with her electric service.

HISTORY OF THE PROCEEDING

On August 4, 2017, Harriette Parris (Complainant or Ms. Parris) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (Respondent or PPL) alleging Respondent threatened to shut off electric service, there were incorrect charges on the billing statements and there was a reliability, safety or quality problem with her electric service. As relief, Complainant asked the Commission to order PPL to remove its existing electric meter at the service address, give her a credit towards the amounts she overpaid, impose a fine on PPL for overcharging her, give her a “better” payment arrangement, and order PPL to make a home visit for the purpose of assessing the consumption levels of the items requiring electricity.

On September 5, 2017, Respondent filed an Answer in which PPL generally denied the allegations. PPL admitted it issued a notice of intent to terminate electric service on March 2, 2017 but denied any current attempt to terminate service. PPL also denied there were incorrect charges on the billing statements. Respondent averred it already provides Complainant with the most advantageous arrangement to which she is entitled, and lastly, denied Complainant experienced any reliability, safety or quality problems.

By Call-In Telephone Hearing Notice dated October 19, 2017, the Office of Administrative Law Judge notified the parties an initial telephonic hearing in this case was scheduled for Monday, December 11, 2017 at 10:00 a.m. On November 1, 2017, the presiding officer issued a Prehearing Order setting forth various procedural matters, including how parties may request a continuance.

On December 11, 2017, the presiding officer convened the initial hearing as scheduled. Complainant, appearing *pro se*, testified on her own behalf and offered the testimony of one witness. Complainant did not offer any exhibits. Respondent was represented by Graig M. Schultz, Esquire. After receiving the direct examination and cross-examination of Ms. Parris and her witness, technological difficulties required the hearing to be recessed and rescheduled to another day. Thereafter, by Call-In Telephone Hearing Notice dated December 13, 2017, the Office of Administrative Law Judge notified the parties a further initial telephonic hearing in this case was scheduled for Thursday, February 8, 2018 at 10:00 a.m.

On February 8, 2018, the presiding officer reconvened a subsequent hearing. Complainant offered testimony but did not offer any exhibits. Attorney Schultz presented the testimony of two witnesses, and offered five exhibits, which were marked PPL Exhibits 1, 4, 5, 9 and 10, and were admitted into evidence. Complainant issued a final statement on the hearing record in lieu of filing briefs. Respondent elected to not issue a final statement on the hearing record.

The transcript of the hearing on December 11, 2017 (Dec. Tr.), containing 95 pages, was received in the presiding officer's office on January 5, 2018. The transcript of the hearing on February 8, 2018 (Feb. Tr.), containing 74 pages, was received in the presiding officer's office on March 8, 2018. On March 9, 2018, the presiding officer issued the Interim Order Closing the Hearing Record.

FINDINGS OF FACT

1. Complainant, Harriette Parris, resides at 2310 Winchester Road, Pocono Summit, Pennsylvania (service address). (Dec. Tr. 11).
2. In 2015, Complainant purchased the service address, which is a 1,600-square foot, three-bedroom, two-bath, single-family residence built in 1918, where she currently resides alone. (Dec. Tr. 11-13).
3. Respondent, PPL Electric Utilities Corporation, has provided electric service at the service address in Complainant's name since December 8, 2015. (Dec. Tr. 11; PPL Exhibits 1 & 4).
4. Complainant did not move into the service address until October 2016 while she had the service address remodeled and converted into a single-family dwelling. (Dec. Tr. 12-18, 25).
5. When Complainant moved into the service address, there were two PPL electric meters installed because the service address had been a two-family unit originally. (Dec. Tr. 17, 18).
6. Before she moved into the service address, Complainant stopped using the kerosene heaters and had baseboard heaters installed. (Dec. Tr. 20, 21, 24).

7. The meter associated with Account -----34012 (second-floor meter) has recorded zero consumption since Complainant bought the service address. (Dec. Tr. 15; PPL Exhibits 4 & 5).
8. The meter which recorded Complainant's monthly usage was associated with Account -----34098 (main meter). (PPL Exhibit 4).
9. From January 2016 to October 2016, Complainant's electric usage varied monthly from 26 kilowatts per hour (kWh) to 32 kWh and averaged 29.6 kWh monthly. (PPL Exhibit 1).
10. From January 2016 to October 2016, Complainant's billing statements from PPL varied from \$15.71 to \$37.35, and averaged \$22.78 per month. (PPL Exhibit 1).
11. On November 2, 2016, PPL issued a billing statement for \$62.40 for 189 kWh usage. (PPL Exhibit 1).
12. On December 5, 2016, PPL issued a billing statement for \$322.97 for 2,521 kWh usage. (PPL Exhibit 1).
13. On January 2, 2017, Complainant contacted Respondent and complained her latest bill was too high. (Feb. Tr. 56; PPL Exhibit 4).
14. On January 4, 2017, PPL issued a billing statement for \$591.36 for 4,713 kWh usage. (PPL Exhibit 1).
15. On January 28, 2017, Complainant contacted Respondent and complained about the high bills. (Dec. Tr. 15; PPL Exhibit 4).
16. On February 1, 2017, PPL issued a billing statement for \$712.75 for 4,835 kWh usage. (PPL Exhibit 1).

17. On February 9, 2017, Complainant called PPL to complain about the high bills and requested PPL remove the second-floor meter. (Dec. Tr. 15; Feb. Tr. 62, 66; PPL Exhibits 4 & 5).

18. During the telephone call on February 9, 2017, PPL discussed Complainant's usage, and how baseboards and space heaters affect consumption and monthly charges. (PPL Exhibit 4).

19. Starting in the colder months, Complainant would heat the service address using only the baseboard heaters in the bedrooms upstairs and would not use the baseboard heaters on the first floor. (Dec. Tr. 19).

20. On February 10, 2017, PPL "blocked" or disconnected the second-floor meter but did not remove it. (Feb. Tr. 63, 64; PPL Exhibit 5).

21. After Complainant moved into the service address in October 2016, remodeling work continued with most of the work completed by workmen while Complainant was physically present. (Dec. Tr. 11-16, 25, 67).

22. From October 2016 until May 2017, Complainant's daughter and granddaughter resided with Ms. Parris at the service address. (Dec. Tr. 13, 14).

23. Due to remodeling efforts and in order to conserve energy usage, Complainant used only four rooms from October 2016 to May 2017: the kitchen, two bedrooms, and the downstairs bathroom. (Dec. Tr. 66-68).

24. On May 8, 2017, PPL entered the service address and removed the second-floor meter associated with Account -----34012 without notifying Complainant first. (Dec. Tr. 15, 17; Feb. Tr. 59-61; PPL Exhibits 5 & 9).

25. On October 12, 2017, PPL created a meter test report which calculated the main meter was 99.986% accurate. (Feb. Tr. 52, 56, 59; PPL Exhibits 9 & 10).

26. On January 9, 2018, PPL conducted an in-home high bill investigation at the service address and calculated the base use for electricity at the service address was 992 kilowatts over 30 days. (Feb. Tr. 18-24; PPL Exhibit 10).

27. On January 9, 2018, PPL's investigator observed the following items used electricity: four baseboard heaters, refrigerator, stove, aquarium, sump pump, water well pump, water heater, washer, microwave, and two televisions. (Feb. Tr. 23).

28. On January 9, 2018, PPL's investigator did not measure the lengths of the four baseboard heaters at the service address but estimated the heaters were 10 feet, 5 feet, 10 feet and 10 feet, with a calculated potential to use 7,292 billable kWh over 30 days if the baseboards operate continuously. (Feb. Tr. 24-38; PPL Exhibit 10).

29. In November 2017, PPL removed the analog main meter and installed a digital main meter. (Dec. Tr. 16-18).

30. Complainant's account balance totaled \$1,895.66 as of February 8, 2018. (Feb. Tr. 53).

DISCUSSION

Complainant alleged Respondent threatened to shut off electric service, there were incorrect charges on the billing statements, and she had a reliability, safety or quality problem with her electric service. As relief, Complainant requested the Commission order PPL to remove the existing electric meter, give her a credit towards the amounts she overpaid, provide her with a payment arrangement, and impose a fine on PPL for overcharging her. Complainant also requested PPL should make a home visit to the service address and assess the items which require electricity.

Subsequent to her original filing, PPL made a home visit on January 9, 2018 and Complainant did receive a payment arrangement from PPL.¹ Accordingly, the only issues remaining for discussion at the time of the second hearing were whether Complainant's high bill dispute should be sustained, and whether incorrect charges – arising from the high bill dispute – remain on Complainant's service account. The issue concerning the payment arrangement was resolved prior to the subsequent hearing on February 8, 2018.

Burden of Proof

As the party seeking affirmative relief from the Commission, Complainant bears the burden of proving by substantial evidence she is entitled to the requested relief. 66 Pa.C.S.A. § 332(a). To satisfy this burden, Complainant must show Respondent is responsible or accountable for the problem described.² Complainant must show these alleged facts to be true by a preponderance of the evidence, that is, by presenting evidence more convincing, by even the smallest amount, than that evidence presented by the other party.³ Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence.⁴ Furthermore, more evidence is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.⁵ Pursuant to the Pennsylvania Code, all relevant and material evidence may be admitted but will be excluded if repetitious or cumulative,

¹ On January 2, 2018, Complainant contacted PPL's automated system and initiated a payment arrangement that provided for no money to be paid as a catch up for past arrears and she agreed to pay \$100 per month plus her budget bill amount. See Feb. Tr. 8-11, 50, 51 and PPL Exhibit 4.

² Patterson v. Bell Telephone Co. of Pa., 72 Pa. PUC 196 (1990); Feinstein v. Philadelphia Suburban Water Co., 50 Pa. PUC 300 (1976).

³ 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); Se-Ling Hosiery v. Margulies, 70 A.2d 854 (Pa. 1950).

⁴ Mill v. 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.A. § 704.

⁵ 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. Dep't. of Public Welfare, White Haven Center, 480 A.2d 382 (Pa.Cmwlth. 1984).

or if its probative value is outweighed by a “danger of unfair prejudice, confusion of the issues, or considerations of undue delay or waste of time.”⁶

Complaint concerning the high bill dispute

In Waldron v. Philadelphia Electric Company, 54 Pa. PUC 98 (1980), the Commission outlined the general dynamics for the burden of proof in a case involving a high bill dispute. The Commission held certain factors must be considered in order for a ratepayer to establish a *prima facie* case whenever claiming unusually high bills. The accuracy of a meter is an important factor to resolve a billing dispute but it is not the sole criterion. The Commission stated a complainant may establish a *prima facie* case by showing:

- (1) the disputed bill was abnormally high when compared to prior usage patterns; and
- (2) the ratepayer’s pattern of usage had not changed.

When looking at these criteria, important considerations include the billing history of the account, any change in the number of occupants residing in the household, the potential for energy utilization, and any other relevant facts or circumstances that come to light during the proceeding.⁷ In this way, a complainant may prove entitlement to relief by wholly circumstantial evidence, rather than direct evidence of some utility misfeasance.⁸

The Commission restated its position for the purpose of clarifying the Waldron test in Bennett v. Peoples Natural Gas Company, LLC, Docket No. C-2009-2122979 (Opinion and Order entered October 13, 2010). In Bennett, the Commission stated:

While a comparison of the disputed monthly bill to the Complainant’s billing history and the consistency of her usage pattern are important criteria to consider, they alone do not resolve

⁶ See “Admissibility of Evidence”, 52 Pa.Code § 5.401.

⁷ Replogle v. Pennsylvania Electric Company, 54 Pa. PUC 528 (1980).

⁸ Milkie v. Pa. Pub. Util. Comm’n, 768 A.2d 1217 (Pa.Cmwlth. 2001).

the issue of the Complainant's disputed high bill.... Also, this interpretation does not allow for other relevant facts or circumstances with probative value to be considered as evidence supportive of a high bill complaint. Waldron does not limit the establishment of a *prima facie* case to the above two elements alone. Rather, the Commission may consider the billing history of the account, any change in usage patterns (such as a change in the number of occupants residing in the household or potential energy utilization), *and* any other relevant facts or circumstances that come to light during the proceeding.

Bennett, Opinion and Order entered October 13, 2010, p. 6 (emphasis in the original).⁹

Analysis of High Bill Complaint

Complainant does not meet the requirements of the Waldron test. Under the Waldron test, she must show that the disputed bills are abnormally or unreasonably high, especially when compared to prior billing statements. Ms. Parris easily can show a precipitous rise in consumption on her billings statements. Almost immediately after she moved into the service address and had baseboard heaters installed, Ms. Parris' billing statements rose sharply and to an astounding amount.

However, this precipitous rise happened after (1) Complainant moved into the service address and resided there full time; (2) her daughter and granddaughter resided there full time; (3) workmen were present make extensive remodeling changes and (4) Complainant had baseboard heaters installed. The prior usage patterns of the Complainant cannot be analyzed because the Complainant had no prior billing statements for comparison due to the fact the house stood vacant until October 2016. In the most recent winter heating season (2017/2018), there was insufficient data to show if the billing statements dropped after the new meter was installed. Neither Complainant nor PPL provided the presiding officer with any evidence about consumption levels from March 2017 through January 2018.

⁹ See Thomas v. PECO Energy Company, Docket No. C-2010-2187197 (Opinion and Order entered November 15, 2011), where the Commission reaffirmed its position in Bennett.

The evidence Complainant provided was sufficient to show that she might have been overcharged in December 2016 through February 2017. However, the possibility she might have been overcharged is insufficient evidence to shift the burden of production¹⁰ over to Respondent to show what fact or facts would explain why consumption spiked in those three months. In light of the remodeling work being done at the same time, Complainant has been unsuccessful in showing, by substantial evidence, that PPL overcharged her. Accordingly, Complainant's complaint that she was overcharged for electric service will be denied in the ordering paragraphs that follow.

Complaint concerning a safety problem

Pursuant to 66 Pa.C.S.A. § 1501, Respondent, as a public utility, must “furnish and maintain adequate, efficient, safe, and reasonable service and facilities, ...”¹¹ Complainant's contention in the formal complaint that PPL failed to provide adequate, efficient, safe and reasonable service and facilities was not proved by substantial evidence.

Complainant alleged she had a reliability, safety or quality problem with her electric service, however, she presented no evidence to support this allegation at the hearing. In addition, at both hearings Complainant was asked to state what her complaint allegations were and she did not mention a reliability, safety or quality problem. As Complainant presented no evidence in support of her allegations that there existed a reliability, safety or quality problem caused by Respondent, Ms. Parris did not carry the burden of proving that Respondent failed to provide her with adequate and safe service. Accordingly, Complainant's allegation she was experiencing a reliability, safety or quality problem with her electric service in 2017 is denied in the ordering paragraphs that follow.

¹⁰ Se-Ling Hosiery, Inc. v. Margulies, 364 Pa. 45, 70 A.2d 854 (1950). If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, a complainant will prevail. If the utility rebuts complainant's evidence, the burden of going forward with the evidence shifts back to a complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. Replogle v. Pennsylvania Electric Company, 54 Pa. PUC 528 (1980).

¹¹ 66 Pa.C.S.A. § 1501.

CONCLUSIONS OF LAW

1. This Commission has jurisdiction over the parties to and subject matter of this case. 66 Pa.C.S.A. § 701.

2. Complainant carries the burden of proof to show Respondent overcharged her for electric service in December 2016 to February 2017 or in some way failed to provide reasonable and appropriate customer service. Waldron v. Philadelphia Electric Company, 54 Pa. PUC 98 (1980); 66 Pa.C.S.A. § 332(a) and § 1501.

3. Complainant did not prove Respondent overcharged her for electric service in December 2016 to February 2017. 66 Pa.C.S.A. § 332(a).

4. Complainant did not prove Respondent failed to provide reasonable and appropriate customer service when Respondent offered a payment arrangement to Complainant. 66 Pa.C.S.A. § 1501.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal complaint filed by Harriette Parris against PPL Electric Utilities Corporation at Docket No. F-2017-2619329 is denied.

2. That the Secretary mark this docket closed.

Date: May 21, 2018

/s/
Katrina L. Dunderdale
Administrative Law Judge