

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Anna Ringgold

v.

Duquesne Light Company and
Reliant Energy Northeast, LLC t/a
NRG Residential Solutions

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C-2018-3004436

INITIAL DECISION

Before
Benjamin J. Myers
Administrative Law Judge

INTRODUCTION

A customer filed a complaint against her electric utility and electric supplier alleging that the electric utility had improperly enrolled her as a customer with the supplier. This decision denies the complaint because the customer has failed to show that the utility violated the Public Utility Code, a Commission order or regulation or a Commission-approved tariff.

HISTORY OF THE PROCEEDING

On August 13, 2018, Anna Ringgold (Complainant) filed a formal complaint with the Commission against Duquesne Light Company (Duquesne) and Reliant Energy Northeast, LLC t/a NRG Residential Solutions (NRG), alleging that Duquesne had switched her electric supplier to NRG without her consent. Complainant requested that any monies paid to Duquesne and then forwarded to NRG for her electric supply be refunded to her.

On September 24, 2018, Duquesne filed an answer to the complaint. This answer admitted or denied the various averments of the complaint. Duquesne admitted that Complainant had been switched to NRG as her electric supplier. Duquesne further indicated that this switch had been done pursuant to a change request forwarded by NRG and therefore denied that this switch had been done improperly.

On October 5, 2018, NRG filed an answer to the complaint. NRG likewise admitted or denied the various allegations made in the complaint.

By hearing notice dated October 18, 2018, the Commission scheduled a telephonic hearing for this matter on December 4, 2018, at 10:00 a.m. and assigned the case to me. A prehearing order was issued on October 19, 2018, addressing, *inter alia*, requests for continuances, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

On December 3, 2018, counsel for NRG communicated by email that a settlement had been reached with the Complainant and a certificate of satisfaction would be filed with the Commission.

The initial hearing was conducted as scheduled on December 4, 2018. The Complainant appeared *pro se* with one witness and testified. Paul Shane Miller, Esquire, represented Duquesne which presented two witnesses who sponsored nine exhibits which were admitted into the record.

Karen Moury, Esquire, represented NRG and had telephone contact with me at the time the parties were being connected to the telephonic hearing. There was difficulty in conferencing all of the parties into the conference call as a result of the number of participants. Ms. Moury agreed that since NRG had reached a settlement with the Complainant and would be filing a certificate of satisfaction, NRG's participation in the hearing would not be necessary. The hearing therefore proceeded without the participation of NRG. During the hearing, the Complainant confirmed that a settlement had been reached with NRG in this matter. It is noted

that on December 11, 2018, NRG filed a certificate of satisfaction with the Commission memorializing the settlement reached with the Complainant and resolving the complaint as it relates to NRG.

The initial hearing resulted in a transcript of 121 pages. The record closed on December 4, 2018 at the conclusion of the initial hearing. For the reasons set forth below, the complaint will be denied.

FINDINGS OF FACT

1. The Complainant in this case is Anna Ringgold.
2. The Complainant's service address is 7113 Race Street, Pittsburgh, 15208.
3. The Respondents in this case are Duquesne Light Company and Reliant Energy Northeast, LLC t/a NRG Residential Solutions.
4. On January 28, 2018, a Residential Electricity Enrollment Form was submitted to NRG by Robert Waters for 7113 Race Street, Pittsburgh, 15208. Duquesne Ex. C.
5. The Complainant has a grandson named Robert Waters. N.T. 26.
6. This Enrollment Form certified that Mr. Waters was an authorized representative of the electric account for the Complainant's service address and that he authorized NRG to enroll the account and begin service with NRG. Duquesne Ex. C.
7. On February 5, 2018, Duquesne received a supplier enrollment request for the Complainant's account from NRG. N.T. 38.
8. Upon receiving this request, Duquesne utilized the EDI system to verify that it was a valid request. N.T. 39.

9. On February 5, 2018, Duquesne sent an enrollment confirmation letter to the Complainant at the service address. N.T. 42-43.

10. This letter informed the Complainant that effective February 8, 2018, her electric supplier would be switched from Duquesne to NRG. N.T. 43. Duquesne Ex. F.

11. The letter instructed the Complainant to contact Duquesne if the information provided in the letter regarding this supplier switch was incorrect. N.T. 44. Duquesne Ex. F.

12. On February 13, 2018, the Complainant contacted Duquesne's call center about the supplier switch. N.T. 46, 69.

13. The Complainant told Duquesne that her supplier had been switched to NRG without her authorization and she wished to be switched back to Duquesne. N.T. 69. Duquesne Ex. G.

14. Duquesne sent a manual drop request to NRG to indicate the Complainant wished to be switched back to Duquesne as her supplier. N.T. 46.

15. On February 13, 2018, Duquesne also sent the Complainant a supplier drop confirmation letter which indicated that beginning with her next bill Duquesne would be her electric supplier. N.T. 48-49, 71.

16. NRG was the Complainant's electric supplier from February 8 through February 16, 2018 and Complainant paid total supplier charges to NRG in the amount of \$15.99 during these dates. N.T. 73-75.

17. Duquesne was returned as the Complainant's electric supplier on February 16, 2018. N.T. 75.

18. If Duquesne had been the Complainant's electric supplier between February 8 and February 16, 2018, she would have paid supplier charges in the amount of \$15.83 during these dates. N.T. 76.

19. The Complainant's complaint against Reliant Energy Northeast, LLC t/a NRG Residential Solutions was settled through a certificate of satisfaction filed with the Commission on December 11, 2018.

DISCUSSION

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. Patterson v. Bell Tel. Co. of Pa., 72 Pa. PUC 196 (1990). "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. Se-Ling Hosiery v. Margulies, 70 A.2d 854 (Pa. 1950). The offense must be a violation of the Public Utility Code, the Commission's regulations or an outstanding order of the Commission. 66 Pa.C.S. § 701.

In this proceeding, the Complainant has alleged that her electric supplier was switched from Duquesne to NRG without her knowledge and consent. While her complaint related to both Duquesne and NRG, the Complainant entered into a settlement with NRG prior to the date of the hearing in this matter. The parties filed a certificate of satisfaction to confirm and memorialize that settlement. As such, the complaint against NRG has been resolved. Only the allegations raised by the Complainant which relate to Duquesne remain to be addressed at this time.

As stated above, the burden of proof in this matter rests upon the Complainant. She must not only show that she was improperly enrolled with NRG as her electric supplier, but that Duquesne was responsible or accountable for her improper enrollment.

The Commission's regulations at 52 Pa.Code § 57.173 *et. seq.* outline the procedures by which a customer is enrolled with an electric supplier. Section 57.173 provides:

When a customer contacts an EGS to request a change from the current EGS or default service provider to a new selected EGS, the following actions shall be taken by the selected EGS and the customer's EDC:

(1) The selected EGS shall notify the EDC of the customer's EGS selection at the end of the 3-business day rescission period under § 54.5(d) (relating to disclosure statement for residential and small business customers) or a future date specified by the customer. The selected EGS may notify the EDC by the end of the next business day following the customer contact upon customer consent.

(2) Upon receipt of this notification, or notification that the customer has authorized a switch to default service, the EDC shall send the customer a confirmation letter noting the proposed change of EGS or change to default service. The notice must include the date service with the new selected EGS or default service provider will begin. The letter shall be mailed by the end of the next business day following the receipt of the notification of the customer's selection of an EGS or default service provider.

52 Pa.Code § 57.173

Both the Complainant and her witness testified that representatives of NRG had solicited the Complainant regarding a switch of her electric supplier and that these representatives were told the Complainant did not wish to switch suppliers. N.T. 23, 106. In light of this testimony, I find the Complainant's assertion that a switch in her electric supplier was done without her knowledge or consent to be credible. However, the burden remains on the Complainant to show that Duquesne violated the Public Utility Code, a Commission regulation or an outstanding order of the Commission by completing this switch.

On January 28, 2018, a Residential Electricity Enrollment Form was submitted to NRG by Robert Waters for 7113 Race Street, Pittsburgh, the Complainant's service address. Duquesne Ex. C. This Enrollment Form certified that Mr. Waters was an authorized

representative of the electric account for the service address and that he authorized NRG to enroll the account and begin service with NRG. Duquesne Ex. C. On February 5, 2018, Duquesne received a supplier enrollment request for the Complainant's account from NRG. N.T. 38. Upon receiving this request, Duquesne utilized the EDI system to verify that it was a valid request. N.T. 39. On February 5, 2018, Duquesne sent an enrollment confirmation letter to the Complainant at the service address. N.T. 42-43. This letter informed the Complainant that effective February 8, 2018, her electric supplier would be switched from Duquesne to NRG. N.T. 43. Duquesne Ex. F. The letter instructed the Complainant to contact Duquesne if the information provided in the letter regarding this supplier switch was incorrect. N.T. 44. Duquesne Ex. F. On February 13, 2018, the Complainant contacted Duquesne's call center about the supplier switch. N.T. 46, 69. At that time, Complainant informed Duquesne that a switch in her electric supplier had been done without her consent and requested that her supplier be switched back to Duquesne. N.T. 69. Duquesne immediately complied with this request. N.T. 81.

The mere fact that Complainant was switched from her electric supplier without her knowledge does not, in and of itself, prove that Duquesne violated the Public Utility Code, a Commission regulation or an outstanding order of the Commission by completing this switch. Duquesne followed the enrollment procedures set forth above after receiving a supplier enrollment request from NRG. Duquesne verified that the Complainant's service was listed as an eligible customer prior to making this requested switch. N.T. 39, 78.

It is important to note that in line with Duquesne's duties in completing this switch, Duquesne sent an enrollment confirmation letter to the Complainant at the service address. The Complainant received the enrollment confirmation letter.¹ N.T. 53. This notified the Complainant that her supplier had been switched and prompted her to call Duquesne to indicate that the switch had been done without her authorization. Duquesne immediately complied with

¹ While the Complainant testified that she received the enrollment confirmation letter, she indicated that she believed it was received on February 14, 2018. Record evidence indicates that the Complainant contacted Duquesne to complain about her supplier being switched on February 13, 2018. While there is a discrepancy in these two dates, the evidence supports the conclusion that the Complainant became aware of this switch via the enrollment confirmation letter and then contacted Duquesne to complain and have her supplier switched back.

her request and switched the Complainant's supplier back to Duquesne. The process that Duquesne followed was in accordance with the regulations governing such a switch and it was a step in this process - the enrollment confirmation letter – which served as a safeguard for the Complainant in the event she had not authorized this switch. This safeguard worked and the Complainant's supplier was restored to Duquesne. The Complainant has failed to show that Duquesne violated the Public Utility Code, a Commission regulation or an outstanding order of the Commission.

Last, it should be noted that the evidence in this matter indicates that the switch of the Complainant's electric supplier from Duquesne to NRG was initiated and authorized by Robert Waters. The Complainant and her witness admitted that this individual was the Complainant's grandson but refused to provide any additional information regarding his circumstance, or even where Mr. Waters resides. N.T. 113. While the Complainant's frustration regarding the switch in her electric supplier is understandable - and certainly unfortunate that it was apparently initiated by her grandson – Duquesne simply followed the required procedures once it received the supplier enrollment request from NRG. These same procedures alerted the Complainant that her grandson had switched her electric supplier without her knowledge and consent and prompted her to contact Duquesne to correct the issue. Duquesne did so immediately. The complaint in this matter against Duquesne is therefore denied.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. § 701.
2. The complaint against Reliant Energy Northeast, LLC t/a NRG Residential Solutions was settled through a certificate of satisfaction filed with the Commission on December 11, 2018. 52 Pa. Code § 5.24.
3. The burden of proof in this proceeding is on the Complainant. 66 Pa.C.S. § 332(a).

4. The Complainant was enrolled as a customer with NRG as her electric supplier in February 2018 without her knowledge or consent. 52 Pa. Code § 57.173 *et. seq.*

5. The Complainant has however failed to establish that Duquesne violated the Public Utility Code, a Commission regulation or an outstanding order of the Commission by completing this enrollment. 52 Pa.Code § 57.173 *et. seq.*; 66 Pa.C.S. § 701.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal complaint filed by Anna Ringgold against Duquesne Light Company at Docket No. C-2018-3004436 is denied.

2. That the docket at Docket No. C-2018-3004436 is marked closed.

Date: February 4, 2019

/s/
Benjamin J. Myers
Administrative Law Judge