

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

June Majewski	:	
	:	
v.	:	C-2018-3005949
	:	
PPL Electric Utilities Corporation	:	

**INITIAL DECISION**

Before  
Benjamin J. Myers  
Administrative Law Judge

**INTRODUCTION**

A customer filed a complaint against her electric utility regarding the utility’s vegetation management policies. The complaint alleges that the utility’s policy to cut certain types of vegetation to the ground within a right of way crossing the customer’s property is unreasonable. This decision denies the complaint as the customer has failed to demonstrate that the vegetation management policy is unreasonable or otherwise violates the Public Utility Code, a Commission order, regulation or Commission-approved tariff.

**HISTORY OF THE PROCEEDING**

On October 31, 2018, June Majewski (Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (Respondent or PPL) at Docket Number C-2018-3005949. In this complaint, Complainant indicated that PPL intended to cut certain vegetation to the ground within a PPL right of way that crosses her property. Complainant further indicated that this vegetation provided certain benefits to her home such as privacy and noise reduction at the back of her

property and that PPL's policy to cut this vegetation down was unreasonable. Complainant requested that the Commission order PPL to allow this vegetation to remain by simply trimming the vegetation to a shorter height rather than cutting it down to the ground.

On December 3, 2018, Respondent filed an answer to the complaint. In its answer, Respondent either admitted or denied the various averments of the complaint. PPL acknowledged that it had investigated the Complainant's concern and made field visits to the property to inspect the vegetation on the Complainant's property within the right of way. PPL however denied that its intended removal of the vegetation was unreasonable or that it could simply be trimmed as the Complainant had requested.

On December 10, 2018, the Commission issued a telephonic hearing notice scheduling this matter for hearing on January 14, 2019. A prehearing order was issued on December 11, 2018, addressing, *inter alia*, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

The hearing was conducted as scheduled on January 14, 2019. The Complainant appeared *pro se* and presented one witness, her husband Stanley Majewski. The Complainant did not sponsor any exhibits at the time of hearing. Attorney Graig Schultz represented the Respondent, which presented one witness who sponsored one exhibit that was admitted into the record. The initial hearing resulted in a transcript of 47 pages.

The record closed on January 14, 2019, at the conclusion of the initial hearing. For the reasons set forth below, the complaint will be denied.

#### FINDINGS OF FACT

1. The Complainant is June Majewski.
2. The Respondent is PPL Electric Utilities Corporation.

3. The Complainant resides at 4013 Redwood Drive, Bethlehem, Pennsylvania. N.T. 4.
4. The Respondent's Farmersville substation is directly behind the Complainant's property. N.T. 28.
5. The Respondent maintains a right of way from that substation across the Complainant's property. N.T. 28.
6. This right of way contains a 69kv transmission line. N.T. 29.
7. This right of way and transmission line enter the rear of the Complainant's property. N.T. 14.
8. Approximately four feet inside of the rear boundary of the Complainant's property is a stand of smooth sumac. N.T. 10, 13.
9. This sumac is within the Respondent's right of way and directly under the 69kv transmission line. N.T. 23-24.
10. This sumac is approximately 15 feet high. N.T. 17.
11. The sumac has grown naturally in that area and was not planted by the Complainant. N.T. 11,15.
12. The Respondent received a report of high brush and on August 3, 2018 one of the Respondent's representatives inspected the vegetation at the rear boundary of the Complainant's property. N.T. 11, 28.

13. This representative informed the Complainant that the stand of sumac at the rear of the Complainant's property would need to be cut down due to its height under the Respondent's transmission wires. N.T. 12.

14. PPL sent the Complainant a letter on September 20, 2018 explaining PPL's vegetation management policies and why the sumac on the Complainant's property needed to be removed. This letter was admitted to the record as PPL Ex. 4.

15. The Complainant was subsequently informed by the Respondent that work to cut the sumac would occur on October 5, 2018. N.T. 12-13.

16. The Complainant requested that the sumac simply be topped off rather than completely cut to the ground. N.T. 12.

17. The Complainant was informed that the sumac could not simply be trimmed because it was not PPL's policy to trim trees of that height and that trimming was not part of PPL's vegetation management plan. N.T. 17; PPL Ex. 4.

18. PPL's policy is to trim trees within the wire zone to the ground so as to avoid outages which result from lines which may sag or sway into contact with vegetation. N.T. 30.

19. PPL's vegetation management plan is designed to comply with federal requirements governing the maintenance and security of transmission lines. N.T. 42; PPL Ex. 4.

20. If PPL fails to comply with these standards, it could incur significant penalties and fines and the reliability of the national electric transmission system could be compromised for thousands of customers. N.T. 29, 35-36; PPL Ex. 4.

21. Vegetation coming into contact with transmission wires poses a safety issue as electricity could be transferred into the ground and cause harm to people and animals in the surrounding area. N.T. 36.

## DISCUSSION

The Complainant in this proceeding has the burden of proof to show that the Respondent is responsible or accountable for the problem described in the complaint. Patterson v. Bell Telephone Co. of Pennsylvania, 72 Pa. PUC 196 (1990), Feinstein v. Philadelphia Suburban Water Co., 50 Pa. PUC 300 (1976). The Complainant must establish her case by a preponderance of the evidence. Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n, 578 A.2d 600 (Pa. Cmwlth. 1990), alloc. den., 602 A.2d 863 (Pa. 1992). To meet her burden of proof, the Complainant must present evidence more convincing, by even the smallest amount, than that presented by the Respondent. Se-Ling Hosiery v. Margulies, 364 Pa. 45, 70 A.2d 854 (1950).

The Complainant has argued that PPL's intention to cut sumac trees within its right of way to the ground is unreasonable. Complainant asks that the Commission direct PPL to simply trim the trees to a shorter height so that the Complainant's property may continue to benefit from the screening and privacy the trees have provided. The sole issue to be decided in this case is whether PPL's policy with respect to the removal of vegetation within a transmission wire zone is unreasonable.

The statute at 66 Pa. C.S. § 1501 governs any allegations of unreasonable or inadequate service and requires that every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities. Pursuant to 66 Pa. C.S. § 1501, the Commission has original jurisdiction over the reasonableness and adequacy of public utility service. Elkin v. Bell Telephone Co., 372 A.2d 1203 (Pa. Super. 1977) aff'd 420 A.2d 371 (Pa. 1977); Behrend v. Bell Telephone Co., 243 A.2d 346 (Pa. 1968). As a general proposition, neither the Public Utility Code nor the Commission's regulations require public utilities to provide constantly flawless service. The Public Utility Code at 66 Pa. C.S. § 1501 does not require perfect service or the best possible service but does require public utilities to provide

reasonable and adequate service. Analytical Laboratory Services, Inc. v. Metropolitan Edison Co., Docket No. C-2006608 (Order entered December 21, 2007); Emerald Art Glass v. Duquesne Light Co., Docket No. C-00015494 (Order entered June 14, 2002); Re: Metropolitan Edison Co., 80 Pa. PUC 662 (1993).

In the Electricity Generation Customer Choice and Competition Act, the General Assembly declared it to be the policy of the Commonwealth that “reliable electric service is of the utmost importance to the health, safety and welfare of the citizens of the Commonwealth.” 66 Pa.C.S. § 2802(12). Additionally, Section 2802(20) of the Public Utility Code provides that:

(20) Since continuing and ensuring the reliability of electric service depends on adequate generation and on conscientious inspection and maintenance of transmission and distribution systems, the independent system operator or its functional equivalent should set, and the commission shall set through regulations, inspection, maintenance, repair and replacement standards and enforce those standards.

66 Pa.C.S. § 2802(20). In addition, the Commission has adopted various regulations in response to these legislative mandates. Section 57.193 of the Commission’s regulations provides:

**§ 57.193      Transmission system reliability.**

- (a) An electric distribution company shall install and maintain its transmission facilities, and ensure that its transmission facilities are operated, in conformity with the applicable requirements of the National Electrical Safety Code. An electric distribution company shall operate its transmission facilities in conformance with the operating policies, criteria, requirements and standards of [the North American Energy Reliability Corporation] and the appropriate regional reliability council, or successor organizations, and other applicable requirements.

52 Pa.Code § 57.193(a).

Pennsylvania courts have also addressed vegetation management policies. PECO Energy Company v. Township of Upper Dublin, 922 A.2d 996 (Pa. Cmwlth 2007)(Commission possesses the sole authority to regulate a public utility's vegetation management practices in its service territory) and Popowsky v. Pa. P.U.C., 653 A.2d 1385 (Pa. Cmwlth 1985)(vegetation maintenance constitutes a utility service and must be performed in a safe, adequate, reasonable and efficient manner).

Here, the undisputed facts indicate that PPL operates the Farmersville substation which is directly behind the Complainant's property. N.T. 28. PPL also maintains a right of way from that substation across the Complainant's property which contains a 69kv transmission line. N.T. 28-29. This right of way and transmission line enter the rear of the Complainant's property. N.T. 14. Approximately four feet inside the rear boundary of the Complainant's property is a stand of smooth sumac which is within the Respondent's right of way and directly under the 69kv transmission line. N.T. 10, 13, 23-24. This sumac is approximately 15 feet high and has grown naturally in that area and was not planted by the Complainant. N.T. 11, 15, 17.

The Complainant has argued that this vegetation affords certain benefits to her and her property. Chief among those are a level of privacy screening from neighbors and the surrounding neighborhood as well as some noise reduction benefits from a nearby roadway. While the Complainant acknowledged that PPL may have an interest in managing the vegetation within its right of way and within the transmission wire zone, she has argued that PPL's policy to cut such vegetation to the ground is unreasonable. The Complainant has suggested that the interests of both parties could be maintained by simply trimming the stand of sumac to a lower height – thereby managing the vegetation for PPL while at the same time affording her property some continued benefits in terms of screening and noise reduction.

PPL has argued that its vegetation management policies – and the requirement that such trees be cut to the ground – are reasonable as they are designed to ensure safety of the surrounding area from electrocution and maintain the reliability of the national electric transmission system.

In order to prevail, the Complainant must demonstrate that PPL's vegetation management practices and policies are unreasonable. While it is agreed that the sumac stand in question provides the Complainant and her property certain aesthetic benefits and noise reduction, the Complainant has failed to show how such factors lead to the conclusion that PPL's vegetation management is somehow unreasonable.

PPL's witnesses credibly testified that the vegetation management program and policies are designed to not only protect public safety near its transmission lines, but to comply with federal regulation that help to ensure the reliability of the national transmission system. N.T. 42; PPL Ex. 4. Transmission lines such as those which cross the Complainant's property provide electricity to thousands of customers in Pennsylvania as well as surrounding states. N.T. 29. Such lines are susceptible to numerous variables including changing weather conditions which may cause them to sag or sway substantially. N.T. 32. During those times, contact with surrounding vegetation could lead to the conduct of electricity into the surrounding area and pose a risk of death or injury to people and animals. N.T. 36. PPL has demonstrated that removing trees such as the sumac located on the Complainant's property helps to mitigate those risks. In addition to threatening the safety of individuals in the area of the transmission wires, contact with vegetation could cause a failure of large portions of the national transmission system. Such a circumstance could create a public emergency and PPL may be subject to hefty penalties and fines in such an event. N.T. 29, 35-36; PPL Ex. 4.

In light of the evidence presented, the Complainant has failed to demonstrate that PPL's vegetation management policies are unreasonable. PPL has established that such policies – which require the cutting of the sumac on the Complainant's property to the ground – help to protect the safety of individuals near its transmission lines and the reliability of the national electric transmission system for the benefit of the Complainant as well as her neighbors and thousands of other citizens. The Complainant's request that PPL be directed to trim rather than remove the vegetation on her property is denied and the complaint will be dismissed.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa. C.S. § 701.
2. Pursuant to 66 Pa. C.S. § 332(a), the burden of proof in this proceeding is on the Complainant.
3. Pursuant to 66 Pa. C.S. § 1501, public utilities must provide reasonable and adequate service.
4. Vegetation maintenance constitutes a utility service and must be performed in a safe, adequate, reasonable and efficient manner. Popowsky v. Pa. P.U.C., 653 A.2d 1385 (Pa. Cmwlth 1985).
5. Reliable electric service is of the utmost importance to the health, safety and welfare of the citizens of the Commonwealth. 66 Pa.C.S. § 2802(12).
6. An electric distribution company shall operate its transmission facilities in conformance with the operating policies, criteria, requirements and standards of the North American Energy Reliability Corporation and the appropriate regional reliability council, or successor organizations, and other applicable requirements. 52 Pa.Code § 57.193(a).
7. The Respondent's vegetation management policies all the Respondent to operate its transmission facilities in conformance with the operating policies, criteria, requirements and standards of the North American Energy Reliability Corporation and the appropriate regional reliability council, or successor organizations, and other applicable requirements. 52 Pa.Code § 57.193(a).
8. The Respondent's vegetation management policies do not evidence instances of unreasonable or inadequate service by the Respondent under 66 Pa. C.S. § 1501.

