

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JEROME SINDACO,

Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

COMPLAINT DOCKET

NO. C-2017-2639465

BRIEF OF PPL ELECTRIC UTILITIES CORPORATION

PPL Electric Utilities Corporation (“Respondent”), by and through its counsel, hereby files the following Brief, as directed by the Interim Order of March 29, 2019, and in support thereof avers as follows:

I. **PROPOSED FINDINGS OF FACT:**

1. Complainant, Jerome Sindaco, filed a Complaint with the Commission on or about December 22, 2017 alleging Respondent, PPL Electric Utilities Corporation (hereinafter “PPL Electric”) improperly terminated services to six metered accounts.
2. Respondent, PPL Electric, filed its Answer January 11, 2017, denying any improper termination of electrical service.
3. Following several attempts at settlement, a full hearing was conducted on March 25, 2019. At the hearing, Complainant presented the testimony of one expert witness, Terrance Best, and himself. (Notes of Testimony, hereinafter “N.T.”, at 20-83 and 84-115. PPL Electric presented the testimony of its employee, Michael Perrin. N.T. 116-227.)

4. Service to Complainant's Property was terminated on December 22, 2016. (N.T. at 38).
5. The Property has two external meter bases and four internal meter bases. (N.T. at 80). Service to the entire Property was terminated.
6. The issue leading rise to the termination of service to the Property began on December 16, 2016, when the City of Pittston conducted an inspection and deemed the premises uninhabitable for human occupation.
7. Mr. Sindaco was present at the Property in the morning of December 22, 2016 when the Inspector from Pittston City conducted their inspection, but was then removed from the property by police and taken to see the magistrate. (N.T. at 94, 101). Accordingly, Mr. Sindaco was not at the property when PPL Electric arrived to terminate service. (N.T. 101)
8. As a result of the City's Inspection, a Notice of Violation was prepared by the Inspector. On some date after December 22, 2016, Mr. Sindaco received the Violation Notice from the City of Pittston, Complainant's Exhibit B. (N.T. at 94).
9. The Violation Notice lists multiple electrical violations. (N.T. 96-98).
10. The Violation notice states "Property posted unfit for habitation due to violation and lack of electricity. City Fire inspector and third-party inspector present and will prepare separate reports. No one is to occupy the building until remediation has taken place. Belongings can be removed from the structure during the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday." Such notice was signed by Harry Smith on December 22,

2018 at 12:43 p.m. (N.T. at 99). Complainant testified that Harry Smith placed stickers on the building stating the premises were unfit for human habitation. (N.T. at 100).

11. Complainant offered the testimony of Terrance Best, a licensed master electrician since 1975, a home inspector, a real estate inspector, and a Certified Building Code Official with the Department of Labor and Industry for the Municipality of Pittston Township (not Pittston City). (N.T. at 13.)
12. Terrance Best has been a friend of Complainant for over ten years. (N.T. at 16).
13. Terrance Best examined the property owned by Complainant and located at 14 South Main Street, Pittston, Pennsylvania on March 12, 2018. He noted “the electric service has two 100-amp service cables that were frayed and deteriorated, the neoprene jackets of the cable had been worn off, the wrap conductors were visible. It is a situation that is somewhat serious.” (N.T. at 20, 23.)
14. Based on his inspection of the exterior only of the Complainant’s property, Terrance Best generated an Inspection Report. Complainant’s Exhibit A. The Inspection Report Noted:
 - a. “[T]hat service entrance conductors installed at the property consisted of four 100 amp wattages and one 200 amp service.” (N.T. at 24).

- b. “The pictured 100 amp services, and there were two of them, had damaged service cables and exposed wrap conductors.” (N.T. at 25).
 - c. “The service cables had a neoprene jacket coating over the conductors. And they all had been deteriorated to the point where it was exposing the conductors that they were supposed to be protecting.” . . . “It was throughout the cable. At the weatherhead, at the entry point, to the meter base and at the base near ground level, probably about 18 inches above ground –ground level.” (N.T. at 25-26).
 - d. The power carrying cables did not have insulation on them. (N.T. at 29).
 - e. Even more than one year after termination of electrical service at the Property, Mr. Best found that the service drop, drip loop, splice and attachment, service entrance conductors, and two of the 100 amp services needed repair and replacement by the Customer. (N.T. at 46-47).
15. Mr. Best testified to the potential dangers of the exposed wires stating: “It might be exposed to ground faults, depending what the animal might do, what the person might do to the cable.” (N.T. at 29.)
16. Mr. Best testified the International Property Maintenance Code be applicable to this situation with regard to this property. Mr. Best opined that “Section 107.2-4 requires that a Code Official have a reasonable time

to make repairs and do what's required to bring the dwelling unit into compliance. In this situation, the individual that does the property maintenance inspections for Pittston City would have been acting in the same – using the same Property Maintenance Code, but he's not certified to do anything else but.” (N.T. at 33-34).

17. The Inspection Report authored by Mr. Best states “it appears the utility company was ordered by the code official to conduct – I'm sorry, to totally cut electric service in violation of the Property Maintenance Code adopted by Pittston City.” (N.T. at 49). Mr. Best confirmed his understanding that the Code Official of Pittston City ordered the utility company to cut electric service. (N.T. at 50, 51).
18. All criticisms by Mr. Best were of the Pittston City Code Enforcement Officer, Mr. Smith, and he offered no opinions or criticism with regard to whether or not PPL acted properly. Specifically, when questioned “You offered no opinions with regard to whether or not PPL acted properly. Is that correct?” Mr. Best responded “No, I did not.” (N.T. at 54).
19. Mr. Best confirmed that when a property is declared as uninhabitable, it is common practice that the electric service to that property is discontinued. (N.T. at 57).
20. Mr. Best testified that the service drop, which is the responsibility of the customer, was within three feet of windows, which violates Code. (N.T. at 60, 63).

21. PPL Electric offered the testimony of Michael Perrin, the senior engineer within PPL Electric's metering department. Mr. Perrin is a member of PPL Electric's REMSI team, which is the rules for electric metering for utilities. (N.T. at 126-27).
22. Mr. Perrin confirmed that PPL Electric learned of a concern regarding the property when Jerry Smith of the City of Pittston called PPL Electric at 12:40 p.m. and stated that service needed to be cut. (N.T. at 135). The reason documented for termination was "Code inspector wants service cut for five meters due to unsafe conditions." (N.T. at 137).
23. Following the receipt of the call from Mr. Smith, PPL Electric proceeded with termination of the electricity at the Property.
24. PPL Electric's practice is to follow the requests of Township Code Inspectors and terminate electricity if notified of unsafe conditions and a request for disconnect is made. (N.T. at 141).
25. PPL Electric relies upon township enforcement officers for notification of unsafe or uninhabitable conditions. (N.T. at 142).
26. Following the termination of electricity, PPL Electric spoke with Mr. Sindaco on December 22, 2016 and informed him that a total of five meters were turned off at the property due to unsafe conditions. (N.T. 143).
27. PPL Electric advised Mr. Sindaco on December 22, 2016 that after the required repair work was completed, a work order needed to be created and an inspection received in order to restore power. (N.T. at 143).

28. PPL Electric requested access to the interior of the Property where some meters are located, and Mr. Sindaco denied access. (N.T. at 143).

II. **PROPOSED CONCLUSIONS OF LAW:**

1. PPL Electric may terminate electric service to a customer without written notice if based on an occurrence which endangers the safety of any person, so long as the utility reasonably believes such grounds exist. 52 Pa. Code §56.338.
2. Pursuant to PPL Electric's Tariff, RULE 10 - DISCONNECTION AND RECONNECTION OF SERVICE B. TERMINATION "The Company may terminate the supply or electric service and remove Company's equipment from customers' premises, upon notice to customer when appropriate, under any of the following conditions: . . . (b) The customer's installation, in Company's judgment, has become dangerous or defective or Company has received notice of such a condition, or the customer's equipment or use thereof may impair the equipment of Company or the service to the other customers." See Americus Ctr., Inc., No. C-20077427, 2007 WL 1484284, at *9 (May 15, 2007).
3. On December 22, 2016, the Pittston City Code Enforcement Office inspected Complainant's Property, determined multiple electrical violations existed, authored a Violation Notice, and contacted PPL Electric to report the violations and request discontinuation of service.
4. Complainant challenges whether the Township should have provided Complainant with thirty (30) days opportunity to cure the electrical

violation rather than immediately determine the premises unsafe for habitation. Complainant's expert confirms his only criticism is of the actions taken by the City of Pittston and not PPL Electric.

5. PPL Electric does not make determinations as to whether the electrical installations meet Code requirements, and PPL Electric does not deem premises safe/unsafe for habitation.
6. PPL Electric reasonably relied upon the telephone call from the Code Enforcement Office of the City of Pittston as notification of an unsafe condition and request to terminate electric service.
7. In light of the notification that the premises contained electrical violations and was marked as unsafe for habitation, PPL Electric was not required to provide advance notification of termination.
8. PPL Electric spoke with Mr. Sindaco on December 22, 2016 and discussed the termination.
9. PPL Electric did not violate any Rule, Regulation or Statute in terminating Complainant's electric service on December 16, 2016.

III. **DISCUSSION:**

On December 22, 2016, the Code Enforcement Officer (hereinafter "CEO") of the City of Pittston performed an inspection of the premises owned by Complainant, Jerome Sindaco. As a result of the inspection, for which Mr. Sindaco was present, the CEO prepared a Violation Notice which included multiple electrical violations and placed stickers on the premises noting the building as uninhabitable. The CEO likewise contacted PPL Electric, advised of the electrical violations and requested the electric be disconnected

for safety reasons. PPL Electric relied upon the statements of the CEO and disconnected service. Unfortunately, Mr. Sindaco was not present at the time the service was disconnected, as the Township Representatives had the police remove him from the premises. Nonetheless, PPL Electric spoke with Mr. Sindaco the same date and advised him of the requirements for restoration of service.

The actions of PPL Electric in discontinuation of service were in full compliance with 52 Pa. Code §56.338. As the termination was based on an occurrence which PPL Electric reasonably believed endangered the safety of people, PPL Electric acted properly in immediately terminating service and then speaking with Mr. Sindaco later that day. PPL Electric does not employ home inspectors and does not make decisions as to whether wiring meets Code. This is, in part, the responsibilities of Code Enforcement Officers. When a CEO contacts PPL Electric to notify them of hazardous situations, it is in the public interest that PPL Electric act. Failure to act could in fact jeopardize safety. It should not be the obligation of PPL Electric to second guess the decisions made by CEOs of Townships who are tasked with the very task of declaring premises uninhabitable.

Alternatively, should the Court find any violation occurred, the Rosi factors favor no imposition of any fine. The Commission has promulgated a Policy Statement that has adopted the ten Rosi factors. *See* 52 Pa. Code § 69.1201. The Commission may consider these factors in evaluating whether a civil penalty should be imposed for violating a Commission order, regulation, or statute. These factors are: (i) whether the conduct at issue was of a serious nature; (ii) whether the resulting consequences of the conduct at issue were of a serious nature; (iii) whether the conduct at issue was deemed intentional or negligent; (iv) whether the regulated entity made efforts to modify internal policies and

procedures to address the conduct at issue and prevent similar conduct in the future; (v) the number of customers affected and the duration of the violation; (vi) the compliance history of the regulated entity that committed the violation; (vii) whether the regulated entity cooperated with the Commission's investigation; (viii) the amount of the civil penalty or fine necessary to deter future violations; (ix) past Commission decisions in similar situations; and (x) other relevant factors. 52 Pa. Code § 69.1201(c).

This is a case in which PPL Electric terminated service to one customer as a result of a contact from the CEO of a Township advising of safety issues that necessitated termination of service. Complainant does not deny electrical violations, but rather states he should have been provided with 30 days to rectify the situation, rather than immediate termination. At best, this is a gray area open for judgment among professionals. However, the professional in this case, the CEO of Pittston Township, made such decision. Of interest, despite PPL Electric speaking with Mr. Sindaco on December 22, 2016 to advise of the process for restoration of power, Mr. Sindaco still has not requested a work order for such. The practice of PPL Electric to rely upon the advice of Township Officials should not result in any fine.

IV. CONCLUSION

Wherefore, PPL electric respectfully requests Complainant's Complaint be dismissed.

GROSS McGINLEY, LLP



BY: _____

Kimberly G. Krupka, Esquire
I.D. 83071
33 S. 7th Street, P.O. Box 4060
Allentown, PA 18105-4060
Phone: 610-820-5450
Fax: 610-820-6006
*Attorneys for Respondent, PPL
Electric Utilities Corporation*

Date: June 10, 2019

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JEROME SINDACO,

Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

COMPLAINT DOCKET

NO. C-2017-2639465

CERTIFICATE OF SERVICE

This is to certify that the BRIEF OF PPL ELECTRIC UTILITIES CORPORATION on behalf of PPL ELECTRIC UTILITIES CORPORATION was mailed to counsel/complainant of record on behalf of Respondent by first class United States mail, on this the 10th day of June, 2019.

JEROME SINDACO
933 WYOMING AVE
WEST PITTSBURGH PA 15122

GROSS MCGINLEY, LLP



BY: _____

Kimberly G. Krupka, Esquire
I.D. 83071
33 S. 7th Street, P.O. Box 4060
Allentown, PA 18105-4060
Phone: 610-820-5450
Fax: 610-820-6006
*Attorneys for Respondent, PPL
Electric Utilities Corporation*

Date: June 10, 2019