

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Anthony Demarchis	:	
	:	
v.	:	C-2019-3010480
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Benjamin J. Myers
Administrative Law Judge

INTRODUCTION

A customer filed a complaint against his electric utility alleging that utility work in his local area caused damage to two electric space heaters and an outlet in his home. This decision denies and dismisses the complaint because the customer has failed to show that his electric utility caused damage inside his home or otherwise failed to provide reasonable and adequate electric service.

HISTORY OF THE PROCEEDING

On June 3, 2019, Anthony Demarchis (Complainant), filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) alleging that his electric utility, PPL Electric Utilities Corporation (PPL or Respondent), had caused damage to two electric space heaters and an outlet inside his home. By way of remedy, Complainant asked that he be reimbursed by PPL for the damaged heaters.

On July 2, 2019, Respondent filed an answer to the complaint. This answer denied the various averments of the complaint. The Respondent, however, specifically denied that Respondent or its facilities caused any damage inside the Complainant's home. Respondent indicated that Complainant's electric service had been tested and determined there were no issues with PPL's facilities.

A hearing notice was issued on July 9, 2019, scheduling this matter for a telephonic hearing on August 12, 2019, at 10:00 a.m. A prehearing order was issued on July 10, 2019, addressing, *inter alia*, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

The August 12, 2019 hearing was continued at the request of the Complainant due to his work schedule and without objection from PPL. A hearing notice was issued on August 13, 2019, rescheduling this matter for a telephonic hearing on September 26, 2019, at 10:00 a.m.

The hearing was conducted as scheduled on September 26, 2019. The Complainant appeared *pro se* and testified. Attorney Kimberly Krupka represented the Respondent which presented one witness who sponsored one exhibit which was admitted into the record. The initial hearing resulted in a transcript of 36 pages. The record closed on September 26, 2019, at the conclusion of the hearing. For the reasons set forth below, the complaint will be denied and dismissed.

FINDINGS OF FACT

1. The Complainant in this case is Anthony Demarchis.
2. The Respondent in this case is PPL Electric Utilities Corporation.
3. The Complainant's service address is 5 Hunter Lane, Albrightsville, Pennsylvania.

4. On February 16, 2019, PPL performed a one-hour scheduled outage at the Effort Mountain substation. N.T. 24-25.

5. The Complainant's home is served by PPL's Meckesville substation. N.T. 24-25.

6. PPL's work at the Effort Mountain substation would not cause the Complainant an outage or otherwise affect the Complainant's electric service coming from the Meckesville substation. N.T. 25-26.

7. The Complainant utilizes two electric space heaters in his home. N.T. 9.

8. On the morning of February 16, 2019, the Complainant found both of his heaters not working. N.T. 8, 17.

9. On the morning of February 16, 2019, Complainant discovered that an outlet that one of his heaters was plugged into was charred. N.T. 8.

10. The Complainant's wife had seen PPL working in the local area the previous day and the Complainant concluded that this work had caused the damage to his heaters and outlet. N.T. 8.

11. The Complainant disposed of the two heaters because they no longer worked and he felt they were unsafe to use. N.T. 12.

12. The Complainant contacted PPL and reported that his heaters and outlet had been damaged. N.T. 10.

13. PPL conducted testing of the Complainant's electric service and its facilities near the Complainant's home. N.T. 29-33.

14. PPL's tests did not detect any issues with the electric service to Complainant's home. N.T. 29-33.

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.

Here, the Complainant has alleged that as a result of work performed by PPL in his local area on or about February 16, 2019, he sustained damage in his home to two space heaters and an electrical outlet. N.T. 8, 17. The Commission has consistently held that regardless of how earnestly a complainant believes the complaint allegations to be true, personal opinions or perceptions do not constitute substantial evidence sufficient to permit him to sustain his burden of proof. Kirby v. PPL Electric Utilities Corporation, Docket No. C-20066297 (Final Order entered November 16, 2006) (citing Pa. Bureau of Corrections v. City of Pittsburgh, 532 A.2d 12 (1987)).

Likewise, the mere fact that the Complainant suffered damage to two space heaters and an outlet in his home does not in and of itself demonstrate that PPL has failed to provide reasonable and adequate service to his residence. 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).

The Complainant's belief that work performed by PPL in his area at, or just prior to, the time he discovered damage to his space heaters and outlet does not constitute substantial evidence sufficient to sustain his burden of proof. The Complainant has failed to show that the damage he sustained was the result of a violation of the Public Utility Code, a Commission Order or regulation or a Commission-approved tariff by PPL or that PPL otherwise failed to provide reasonable and adequate service to the Complainant's residence.

The Respondent, on the other hand, has provided testimony and evidence to show that the work which it performed on February 16, 2019 was a one-hour scheduled outage at the Effort Mountain substation. N.T. 24-25. The Complainant's home, however, is served by PPL's Meckesville substation. N.T. 24-25. PPL's witness credibly testified that outage work at the Effort Mountain substation would not cause the Complainant to experience an outage at his home or otherwise affect the Complainant's electric service coming from the Meckesville substation. N.T. 25-26. In addition, PPL's witness testified that testing of the Complainant's electric service and its facilities near the Complainant's home was conducted in response to the Complainant's allegations that he had suffered property damage. N.T. 29-33. These tests did not detect any issues with the electric service to Complainant's home. N.T. 29-33.

Based on the testimony and evidence presented, the Complainant has failed to demonstrate that the Respondent has violated the Public Utility Code, Commission order, regulation or a Commission-approved tariff. The Complainant's allegation that his space heaters and outlet were damaged as a result of PPL performing work in his local area consists of mere belief and assertion and do not constitute substantial evidence sufficient to meet his burden of proof. The fact that the Complainant experienced this damage does not in and of itself evidence

a failure by PPL to provide adequate and reasonable service to the Complainant. Therefore, the complaint will be denied and dismissed.¹

CONCLUSIONS OF LAW

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

2. 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).

3. The burden of proof in this proceeding is on the Complainant. 66 Pa.C.S. § 332(a).

4. "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, 364 Pa. 54, 70 A.2d 854 (1950).

5. Personal opinions or perceptions do not constitute substantial evidence sufficient to permit a complainant to sustain their burden of proof. Kirby v. PPL Electric Utilities Corporation, Docket No. C-20066297 (Final Order entered November 16, 2006) (citing, Pa. Bureau of Corrections v. City of Pittsburgh, 532 A.2d 12 (1987)).

6. The Public Utility Code 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.

¹ The Complainant also requested that he be compensated for the damage to his space heaters. N.T. 21. This issue does not need to be addressed as the Complainant has failed to meet his burden as described above. However, even if the Complainant had sustained his burden, the Commission has no authority to award monetary damages. Terminato v. Pa. National Insurance Co., 645 A.2d 1287 (Pa. 1994); Elkin v. Bell Tel. Co. of Pa., 420 A.2d 371 (Pa. 1980); Feingold v. Bell Tel. Co. of Pa., 383 A.2d 791 (Pa. 1977); Ostrov v. I.F.T., Inc., 586 A.2d 409 (Pa. Super. 1991); Poorbaugh v. Pa. Pub. Util. Comm'n., 666 A.2d 744 (Pa. Cmwlth. 1995).

C-00015494 (Order entered June 14, 2002); Re: Metropolitan Edison Co., 80 Pa. PUC 662 (1993).

7. The Complainant has failed to show that the Respondent has violated any provision of the Public Utility Code, a Commission Order or regulation or a Commission-approved tariff. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal complaint filed by Anthony Demarchis against PPL Electric Utilities Corporation at Docket No. C-2019-3010480 is hereby denied and dismissed.
2. That the docket at Docket No. C-2019-3010480 is marked closed.

Date: December 16, 2019

/s/
Benjamin J. Myers
Administrative Law Judge