

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Edward Payne	:	
	:	
v.	:	C-2019-3011279
	:	
Duquesne Light Company	:	

INITIAL DECISION

Before
Mark A. Hoyer
Deputy Chief Administrative Law Judge

INTRODUCTION

The Formal Complaint of Edward Payne is dismissed because he failed to satisfy his burden of proof regarding his claim that he is being incorrectly billed for electric utility service provided by Duquesne Light Company to 818 Blossom Way, Pittsburgh, Pennsylvania.

HISTORY OF PROCEEDING

On June 26, 2019, Edward Payne (Complainant) filed a Formal Complaint with the Public Utility Commission (Commission) against Duquesne Light Company (Duquesne Light or Respondent), alleging that he was being billed for electric utility service provided to an address where he never resided. As relief, Complainant requested that Duquesne Light be held responsible for the amount he was overcharged.

On July 17, 2019, Duquesne Light filed an Answer and New Matter in response to the Complaint denying the material allegations contained in the Complaint. Duquesne Light averred in New Matter, among other things, that Complainant was the ratepayer of record and

received electric service at 818 Blossom Way, Pittsburgh, from July 11, 2011 through December 24, 2012 and that he was responsible for the charges for electric service. Duquesne Light further averred that the charges for electric service to 818 Blossom Way accrued more than six years before the filing of the instant Complaint. Duquesne Light requested that the relief sought by Complainant be denied and that the Complaint be dismissed with prejudice.

Complainant did not respond to Duquesne Light's Answer and New Matter.

On August 7, 2019, a Call-In Telephone Hearing Notice was issued scheduling an initial telephone hearing for Monday, September 16, 2019. On August 8, 2019, a Prehearing Order was issued advising the Parties of the date and time of the scheduled hearing, and of the applicable procedural rules.

On August 13, 2019, Duquesne Light filed a Motion for Judgment on the Pleadings. On September 6, 2019, a First Interim Order was issued denying Duquesne Light's Motion.

The initial call-in telephone hearing convened as scheduled on Monday, September 16, 2019. Mr. Payne appeared *pro se* and testified on his own behalf. He did not offer any exhibits. Emily M. Farah, Esquire, appeared on behalf of Duquesne Light and presented the testimony of one witness, Roxanne Morris. Counsel for Duquesne Light offered redacted, pre-marked Exhibits A, D, E, F, G, and H. The exhibits offered by Duquesne Light were admitted into evidence. The record consists of the transcript of the hearing and the exhibits. The record closed by Interim Order on November 1, 2019.

FINDINGS OF FACT

1. Complainant, Edward Payne, resides at 829 Blossom Way, Pittsburgh, Pennsylvania, 15212 (Tr. 9-10).

2. Respondent, Duquesne Light, currently provides electric utility service to Complainant at 829 Blossom Way (Tr. 10, 15; Exhibit A).

3. Duquesne Light provided electric utility service to Complainant at a previous address, 818 Blossom Way, Pittsburgh, Pennsylvania, from July 11, 2011 through December 24, 2012 (Tr. 19, 24, 28, 31; Exhibits E, F, G, and H).

4. Complainant's current account balance for service provided to 829 Blossom Way does not include any arrearages for service provided to 818 Blossom Way between July 11, 2011 and December 24, 2012 (Tr. 15, 18; Exhibit A).

DISCUSSION

As the party seeking affirmative relief from this Commission, Complainant bears the burden of proof. 66 Pa.C.S. § 332(a). Complainant bears the burden of proving by a preponderance of the evidence that Respondent has violated the Public Utility Code or a regulation or order of the Commission. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Complainant must show that the utility is responsible or accountable for the problem described in the complaint. *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. PUC 300 (1976).

In addition to determining whether Complainant has satisfied his burden of proof, care must be exercised to ensure that the Commission's decision is supported by substantial evidence. 2 Pa.C.S. § 704. Various Pennsylvania courts have defined the term "substantial evidence" as such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Substantial evidence is more than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n*, 489 Pa.109, 413 A. 2d 1037 (1980); *Murphy v. Dept. of Public Welfare*, 85 Pa. Cmwlth. 23, 480 A.2d 382 (1984).

In the instant case, Mr. Payne testified that he never resided at 818 Blossom Way, Pittsburgh, Pennsylvania and that he did not receive electric utility service from Duquesne Light at that address. He did not offer any exhibits or call any witnesses to corroborate or bolster his testimony. In contrast, Duquesne Light presented witness testimony and business records that established that Duquesne Light provided electric utility service to Mr. Payne at 818 Blossom Way from July 11, 2011 through December 24, 2012.

Section 1312(a) of the Public Utility Code, 66 Pa.C.S. § 1312(a) provides that the Commission has the power and authority “to make an order requiring the public utility to refund the amount of any excess paid by any patron, in consequence of such unlawful collection, within four years prior to the date of the filing of the complaint.”

Mr. Payne’s claim involves a bill that accrued more than six years prior to the filing of the instant Complaint and is thus barred by Section 1312 quoted above.

Mr. Payne failed to prove that Duquesne Light violated the Public Utility Code, Commission regulations or any Commission orders in this proceeding. His claim for relief is barred by 66 Pa.C.S. § 1312(a) because it arose more than four years prior to the filing of this Complaint. Accordingly, the Complaint is denied in the ordering paragraphs to follow.

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 Complainant.
3. Complainant has not met his burden of proving that he is entitled to relief. 66 Pa.C.S. §§ 332(a).

4. The Commission has the power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron, in consequence of such unlawful collection, within four years prior to the date of the filing of the complaint. 66 Pa.C.S. § 1312(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Edward Payne against Duquesne Light Company at Docket No. C-2019-3011279 is dismissed.

2. That the record at Docket No. C-2019-3011279 be marked closed.

Date: January 22, 2020

_____/s/
Mark A. Hoyer
Deputy Chief Administrative Law Judge