

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael Adorante	:	
	:	
v.	:	C-2019-3013845
	:	
PPL Electric Utilities Corporation	:	

**INITIAL DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the formal Complaint of Michael Adorante because he failed to sustain his burden of proof to establish that PPL Electric Utilities Corporation improperly terminated his electric service for failure to grant access to exchange his meter.

**HISTORY OF THE PROCEEDING**

On October 15, 2019, Michael Adorante (Complainant or Mr. Adorante) filed a formal Complaint (Complaint) against PPL Electric Utilities Corporation (PPL or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant alleged he sustained damages to the Service Address as a result of PPL wrongfully terminating his electric service.

On November 18, 2019, PPL filed an Answer to the Complaint. In its Answer, PPL admitted that it terminated service to the Service Address on February 22, 2019, for refusal of a new

meter exchange. PPL denied that it violated any rules, regulations, or Orders of the Commission in terminating the Complainant's service and requested that the Complaint be dismissed.

By Hearing Notice dated November 22, 2019, an Initial In-Person Hearing was scheduled for Wednesday, January 15, 2020, at 10:00 a.m. and the matter was assigned to me.

On December 5, 2019, a Prehearing Order was issued advising the parties of the date and time of the scheduled hearing and informing them of the procedures applicable to this proceeding.

The hearing convened as scheduled on January 15, 2020. The Complainant appeared *pro se* and testified on his own behalf. The Complainant offered three exhibits, all of which were entered into the record.

The Respondent appeared and was represented by Kimberly Krupka, Esquire, who presented the testimony of the following PPL employees: Kevin Durkin, a Project Manager for the Meter Replacement Project; and Sherry Shaffer, a Customer Service Representative. During the hearing, the Respondent offered three exhibits, all of which were entered into the record.

The record closed on February 3, 2020, upon my receipt of the transcript.

#### FINDINGS OF FACT

1. The Complainant is Michael Adorante.
2. The Respondent is PPL Electric Utilities Corporation.
3. The Complainant's primary residence and mailing address is 430 Thornton Road, Cheyney, PA 19319. Tr. 6, 19.

4. The Complainant owns a property at 136 Tomhickon Court, Pocono Lake, PA 18347 (Service Address). Tr. 7.

5. The Service Address is a vacation home that the Complainant visits a couple times a year. Tr. 7.

6. PPL is engaged in a Meter Replacement Project to replace 1.4 million electric meters with smart meters in accordance with Pennsylvania State Legislation Act 129. Tr. 34.

7. On August 31, 2018, PPL sent a letter to the Complainant at 430 Thornton Road notifying him about the Meter Replacement Project for the Service Address. Tr. 35, 45; PPL 2.

8. On September 24, 2018, PPL sent a second letter to the Complainant at 430 Thornton Road notifying him about the meter exchange. Tr. 35, 45; PPL 2.

9. In order to replace the Complainant's meter at the Service Address, PPL needed access to inside the property. Tr. 34-35.

10. On November 14, 2018, PPL, through its vendor, Grid One Solutions, visited the Service Address and attempted to perform the meter exchange but was unable to do so because it lacked access to the inside. Tr. 35, 46; PPL 2.

11. On November 26, 2018, PPL sent a "final letter" to the Complainant at 430 Thornton Road notifying him that PPL was unable to reach him regarding replacing his electric meter and warning him in bold: **"Failure to have the meter on your property replaced will result in the shutoff of your electric service."** Tr. 10-11, 35, 46; Complainant 1, PPL 2.

12. On November 29, 2018, Grid One Solutions visited the Service Address again and attempted to perform the meter exchange but was unable to do so because it lacked access to the inside. Tr. 35, 47; PPL 2.

13. On December 3, 2018, the Complainant called PPL and informed them that he would have to talk with his neighbor and would call back about scheduling an appointment. Tr. 48; PPL 2.

14. During the December 3, 2018 phone call, the Complainant was given a phone number and told to contact Grid One Solutions directly to schedule a day he would be present at the Service Address. Tr. 11.

15. On December 26, 2018, the Complainant called Grid One Solutions to try and schedule an appointment for that day or the next three days through December 29, 2018. Tr. 12, 21-22.

16. Grid One Solutions was unable to come out during that four-day period. Tr. 11.

17. The Complainant agreed to follow up with Grid One Solutions and make another appointment. Tr. 12.

18. The Complainant did not call PPL or Grid One Solutions to make another appointment until May 17, 2019. Tr. 24-25.

19. On January 4, 2019, Grid One Solutions visited the Service Address and was unable to gain access to exchange the meter. Tr. 48-49; PPL 2.

20. On January 17, 2019, PPL sent a termination letter to the Complainant at 430 Thornton Road notifying him that his service would be terminated on or after January 31, 2019 for failure to grant access to exchange the meter. Tr. 35; PPL 3.

21. On February 4, 2019, a notice was posted at the Service Address that service would be terminated for refusal of meter exchange. PPL 2.

22. On February 21, 2019, a notice was hung on the door at the Service Address notifying the Complainant that his electric service was shut off because he did not give PPL access to the meter. Complainant 3.

23. On February 22, 2019, the Complainant's service was shut off. PPL 2.

24. On April 30, 2019, PPL sent a letter to the Complainant for an overdue balance on the closed account. Tr. 13; Complainant 2.

25. As a result of receiving the April 30, 2019 letter, the Complainant called PPL on May 17, 2019, and was informed that his electricity service was terminated on February 21, 2019. Tr. 13, 23.

26. The Complainant did not return to the Service Address until June 12, 2019, where upon he found the February 21, 2019 notice on the door. Tr. 14-15; Complainant 3.

27. The Complainant ignored letters from PPL sent during the month of January 2019 about terminating his service because he assumed they were waiting to reschedule an appointment. Tr. 16.

28. The Complainant does not pay attention to monthly bills; therefore, he did not notice the bill he received in February was a "Final Bill." Tr. 26-27.

29. The Complainant's telephone number on file with PPL does not accept voicemail. Tr. 19.

## DISCUSSION

As the party seeking affirmative relief from the Commission, the Complainant bears the burden of proving that he is entitled to the requested relief. 66 Pa.C.S. § 332(a). This must be shown by a preponderance of the evidence, that is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *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); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Dep't. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the Complainant shifts to the Respondent. If the evidence presented by the Respondent is of co-equal weight, the Complainant has not satisfied his burden of proof. The Complainant would be required to provide additional evidence to rebut the evidence of the Respondent. *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 501 Pa. 433, 461 A.2d 1234 (1983).

While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

In this case, PPL is engaged in a Meter Replacement Project to replace 1.4 million electric meters with smart meters in accordance with Pennsylvania State Legislation Act 129. See, 66 Pa.C.S. § 2807(f). The Complainant owns a property with an electric meter that needed to be replaced as part of this project. However, PPL needed access to inside the Complainant's property to exchange the meter, which it was never able to obtain from the Complainant. As a result, PPL terminated the Complainant's service. The Complainant does not contest that PPL sent him multiple notifications regarding the termination of his service. The Complainant's sole argument is that termination was improper because PPL did not send him a certified letter regarding the termination. Tr. 29-30. I do not agree.

The Public Utility Code states in relevant part:

1406. Termination of utility service.

(a) Authorized termination. – A public utility may notify a customer and terminate service provided to a customer after notice as provided in subsection (b) for any of the following actions by the customer:

\*\*\*

(4) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(b) Notice of termination of service. –

(1) Prior to terminating service under subsection (a), a public utility:

(i) Shall provide written notice of the termination to the customer at least ten days prior to the date of the proposed termination. . .

66 Pa. C.S. § 1406. In addition, personal contact is required pursuant to 52 Pa. Code § 56.93:

§ 56.93. Personal contact.

- (a) Except when authorized under § 56.71, § 56.72 or § 56.98 (relating to interruption of service; discontinuance of service; and immediate termination for unauthorized use, fraud, tampering or tariff violations), a public utility may not interrupt, discontinue or terminate service without attempting to contact the customer or responsible adult occupant, either in person, by telephone or electronically with the customer's consent, to provide notice of the proposed termination at least 3 days prior to the scheduled termination using one of the methods in this section. If personal contact by one method is not possible, the public utility is obligated to attempt another method.
- (1) Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between the hours of 8 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m. and at least 2 hours apart. Calls made to contact telephone numbers provided by the customer shall be deemed to be calls to the residence.
- (2) If contact is attempted in person by a home visit, only one attempt is required. The public utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant during the home visit.

52 Pa. Code § 56.93(a)(1)-(2).

The Public Utility Code does not require any notifications be sent by certified mail. Here, PPL sent multiple notifications by mail, as well as, attempted in-person contact on several different occasions. PPL sent written notifications on August 31, 2018, September 24, 2018, November 26, 2018 and January 17, 2019. In addition, PPL made in-person visits to the Service Address on November 14, 2018, November 29, 2018, and January 4, 2019. On February 4, 2019, PPL posted a written termination notice at the Service Address before service was ultimately terminated on February 22, 2019. Accordingly, I find PPL was authorized to terminate the Complainant's service for refusal to grant access to his meter for exchange

pursuant to 66 Pa. C.S. § 1406(a)(4). More importantly, I find PPL satisfied all notice requirements prior to terminating the Complainant's service pursuant to 66 Pa. C.S. § 1406 and 52 Pa. Code § 56.93.

Moreover, it is unlikely that a certified letter would have changed the outcome in this case. The fact of the matter is the Complainant was aware that his service would be terminated if he did not grant access to change his meter, and yet only made a minimal effort to grant PPL access. For example, the Complainant spoke with PPL on December 3, 2018 regarding the meter exchange and was given the number of the vendor to schedule an appointment. However, instead of calling for an appointment right away, he waited nearly an entire month until December 26, 2018 to call and try and make an appointment for a four-day only window during the holidays. Then, despite agreeing to call back and reschedule, the Complainant never did. The Complainant could have easily prevented termination of his service if he called back any time in the *two months* that passed in between his December 26<sup>th</sup> call and eventual termination of service on February 22, 2019. During this time, PPL tried in vain to contact the Complainant, but the Complainant admitted that he ignored notices and bills from PPL and that he does not have voicemail. The simple truth is that under the circumstances, it is doubtful that the Complainant would have arranged access to the meter even if he received a certified letter.

Based on foregoing, I find that the Complainant failed to satisfy his burden of proving that PPL violated any rules, regulations, or Orders of the Commission in terminating the Complainant's service. Accordingly, the Complaint shall be dismissed.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.
2. The burden of proof in this proceeding is upon the Complainant. 66 Pa.C.S. § 332(a).

3. The Complainant must satisfy his burden of proof by a preponderance of the evidence, that is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *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); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

4. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704.

5. A public utility may notify a customer and terminate service provided to a customer after notice for failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading. 66 Pa. C.S. § 1406(a)(4).

6. Prior to terminating service under 66 Pa. C.S. § 1406(a), a public utility shall provide written notice of the termination to the customer at least ten days prior to the date of the proposed termination. 66 Pa. C.S. § 1406(b)(1)(i).

7. A public utility may not interrupt, discontinue or terminate service without attempting to contact the customer or responsible adult occupant, either in person, by telephone or electronically with the customer's consent, to provide notice of the proposed termination at least 3 days prior to the scheduled termination using one of the methods in this section. If personal contact by one method is not possible, the public utility is obligated to attempt another method.

- (1) Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between the hours of 8 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m. and at least 2 hours apart. Calls made to contact telephone numbers provided by the customer shall be deemed to be calls to the residence.

- (2) If contact is attempted in person by a home visit, only one attempt is required. The public utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant during the home visit.

52 Pa. Code § 56.93(a)(1)-(2).

8. PPL was authorized to terminate the Complainant's service for refusal to grant access to his meter for exchange pursuant to 66 Pa. C.S. § 1406(a)(4).

9. PPL satisfied all notice requirements prior to terminating the Complainant's service pursuant to 66 Pa. C.S. § 1406 and 52 Pa. Code § 56.93.

10. The Complainant failed to satisfy his burden of proving that PPL violated any rules, regulations, or Orders of the Commission in terminating the Complainant's service.

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Michael Adorante against PPL Electric Utilities Corporation at Docket No. C-2019-3013845, is dismissed; and

2. That Docket No. C-2019-3013845 be marked closed.

Date: April 24, 2020

\_\_\_\_\_  
/s/  
F. Joseph Brady  
Administrative Law Judge