

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael Hamad	:	
	:	
v.	:	C-2020-3017975
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Steven K. Haas
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses a formal complaint, finding that the utility is legally required to maintain service to a landlord’s rental unit in the landlord’s name until it is notified that a foreign load condition at the property has been corrected.

HISTORY OF THE PROCEEDING

On January 22, 2020, the Complainant, Michael Hamad, filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL). In his complaint, Mr. Hamad acknowledged and described a foreign wiring condition at a property owned by him. He avers that it will cost between \$15,000 and \$18,000 to correct the wiring issue. He complains that PPL will not put service to his tenant’s unit back into the name of the tenant until the foreign wiring issue is corrected.

On February 27, 2020, PPL filed an answer to Mr. Hamad’s complaint. In its answer, PPL denied that it is improperly requiring the landlord to maintain the disputed account in his name. PPL requests that Mr. Hamad’s complaint be denied.

On July 1, 2020, a Call-In Telephone Hearing Notice was issued to the parties by which a telephonic hearing was scheduled for August 26, 2020, at 10:00 a.m. Also on July 1, 2020, a Prehearing Order was issued to the parties, by which the parties were provided with the procedures that would govern the hearing.

The telephonic hearing was held as scheduled on August 26, 2020. Mr. Hamad appeared at the hearing and represented himself. Kimberly Krupka, Esquire, represented PPL. PPL presented the testimony of one witness, Holly Hankerson, and offered four exhibits, all of which were admitted into the record.

The record closed on September 28, 2020, upon my receipt of the hearing transcript. The record consists of the 22-page transcript and four PPL exhibits.

FINDINGS OF FACT

1. The Complainant in this proceeding is Michael Hamad.
2. The Respondent in this proceeding is PPL Electric Utilities Corporation.
3. Mr. Hamad owns the property at issue in this proceeding, which is located at 63 E. Oak Street, Pittston, PA (service address). (Tr. 6).
4. The service address consists of a total of two units. (Tr. 7, 9).
5. Wiring in unit 1 of the property provides electricity to a ceiling fan, kitchen light, living room lights and bathroom lights. (Tr. 16; PPL Ex. 2).
6. The foreign wiring in unit 1 is connected to the meter in unit 2. (Tr. 7, 10).
7. In recognition of the fact that unit 2 is paying for electric service provided to unit 1, Mr. Hamad gives the tenant in unit 2 a monthly rent discount of \$15.00. (Tr. 8).

8. Wiring in the basement of the building is also connected to the meter in one of the tenant units. (Tr. 18; PPL Ex. 7).

9. Mr. Hamad has access to the basement and sometimes uses the electricity there. (Tr. 18).

10. Electricity used in the basement is billed to the tenant unit whose meter is connected to the basement wiring. (Tr. 18; PPL Ex. 7).

11. It will cost Mr. Hamad between \$15,000 and \$18,000 to have the foreign wiring condition at his property corrected. (Tr. 8).

12. Mr. Hamad has not had the foreign wiring condition corrected because he cannot afford the cost. (Tr. 8).

13. PPL will not place service in the name of the tenants until the foreign wiring condition is corrected. (Tr. 10).

DISCUSSION

The Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of a rule or order. Here, Mr. Hamad is asking the Commission to direct PPL to place the electric service to the service address in the name of his tenants. As the proponent of a rule or order, Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S. § 332(a).

To establish a sufficient case and satisfy the burden of proof, Complainant must show that the respondent public utility is responsible or accountable for the problem described in the complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. PUC 196 (1990), *Feinstein v. Phila. Suburban Water Co.*, 50 Pa. PUC 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa.Cmwlth. 1990), *alloc. den.*, 602 A.2d 863 (Pa. 1992). That is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery*

v. Margulies, 364 Pa. 45, 70 A.2d 854 (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 Transp. 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 & W. Ry. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemp't Comp. Bd. of Review*, 194 Pa.Super. 278, 166 A.2d 96 (1960); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 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/her 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).

Section 1529.1(a) of the Public Utility Code (the Code), 66 Pa.C.S. § 1529.1(a), provides that it is the duty of every owner of a residential building which contains one or more dwelling units, not individually metered, to notify each public utility from whom utility service is received of their ownership and the fact that the premises served are used for rental purposes. Section 1529.1(b) of the Code, 66 Pa.C.S. § 1529.1(b), provides in pertinent part that, “if the mobile home or residential building contains one or more dwelling units not individually metered, an affected public utility shall forthwith list the account for the premises in question in the name of the owner, and the owner shall thereafter be responsible for the payment for the utility services rendered thereunto.” *See also, Del Vecchio v. PPL Elec. Utils. Corp.*, Docket No. Z-01464793 (Order entered September 13, 2005) (*Del Vecchio*); *Afshari v. PPL Elec. Utils.*

Corp., Docket No. C-20055547 (Order entered August 15, 2007) (*Afshari*). In *Del Vecchio*, the Commission found the utility violated 66 Pa.C.S. § 1529.1, because it failed to transfer Complainant's electric account to the landlord when it found foreign load on Complainant's meter.

Section 1529.1 holds a property owner is financially responsible for a tenant's entire account once foreign load is verified on the tenant's utility service. 66 Pa.C.S. § 1529.1; *also see, Santos v. Metro. Edison*, Docket No. C-00967757 (Order entered August 7, 1997) (*Santos*). Upon finding foreign load, the utility must list the account, including any arrearage, in the name of the landlord. The landlord bears the responsibility of paying the utility bills until the foreign load is corrected. Once the foreign load is corrected by the landlord and verified by the utility, the utility may place the account back in the name of the tenant. However, the arrearage, if any, remains with the landlord. *Ace Check Cashing Inc. v. Philadelphia Gas Works*, Docket No. C-2008-2056428 (Order entered May 21, 2010) (*Ace*).

The material facts in the instant case are not in dispute. Both Mr. Hamad and PPL agree that the wiring in unit 1 powers certain appliances in unit 1 but is connected to the meter in unit 2. (Tr. 10, 16; PPL Ex. 2). Further, PPL witness Holly Hankerson testified that wiring in the basement of the building is also connected to the meter in one of the tenant units and that Mr. Hamad has access to the basement and sometimes uses the electricity there. (Tr. 18; PPL Ex. 7). She testified that electricity used in the basement is billed to the tenant unit whose meter is connected to the basement wiring. (Tr. 18; PPL Ex. 7). Mr. Hamad did not dispute this testimony, nor is there any evidence in the record to the contrary. Mr. Hamad acknowledges these conditions but is unable to afford to correct the wiring. (Tr. 8).

It is undisputed in this proceeding that the wiring to unit 1, as well as the wiring in the basement, constitutes foreign wiring. As noted, Mr. Hamad acknowledges that the wiring serving unit 1 is connected to the meter in unit 2. Under 66 Pa.C.S. § 1529.1, Mr. Hamad's multi-unit property is not individually metered, thus requiring PPL to list the service in Mr. Hamad's name and hold him responsible for the payment of the charges incurred on the tenant's account. *See, Del Vecchio; Afshari*. As noted above, upon finding foreign load, the utility must list the account, including any arrearage, in the name of the landlord. The landlord bears the

responsibility of paying the utility bills until the foreign load is corrected. Once the foreign load is corrected by the landlord and verified by the utility, the utility may then place the account back in the name of the tenant, as sought by Mr. Hamad.

As the party seeking affirmative relief from the Commission, Mr. Hamad bears the burden of proof. 66 Pa.C.S. § 332(a). Mr. Hamad failed to prove that PPL violated the Code, Commission regulations or any Commission order by refusing to place service in the name of his tenants prior to the correction of the foreign load conditions. Accordingly, the complaint is denied.

CONCLUSIONS OF LAW

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

2. To establish a sufficient case and satisfy the burden of proof, a Complainant must show that the respondent public utility is responsible or accountable for the problem described in the complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. PUC 196 (1990), *Feinstein v. Phila. Suburban Water Co.*, 50 Pa. PUC 300 (1976).

3. Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa.Cmwlt. 1990), *alloc. den.*, 602 A.2d 863 (Pa. 1992).

4. If the mobile home or residential building contains one or more dwelling units not individually metered, an affected public utility shall forthwith list the account for the premises in question in the name of the owner, and the owner shall thereafter be responsible for the payment for the utility services rendered thereunto. 66 Pa.C.S. § 1529.1(b).

5. A property owner is financially responsible for a tenant's entire account, including all arrearages, once foreign load is verified on the tenant's utility service. *Ace Check*

Cashing Inc. v. Phila. Gas Works, Docket No. C-2008-2056428 (Order entered May 21, 2010); 66 Pa.C.S. § 1529.1.

6. Complainant has failed to meet his burden of proving that he is entitled to the relief he seeks from the Commission. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal complaint of Michael Hamad against PPL Electric Utilities Corporation at Docket No. C-2020-3017975 is hereby denied.

2. That the Docket in this proceeding, Docket No. C-2020-3017975 be marked closed.

Date: December 23, 2020

/s/
Steven K. Haas
Administrative Law Judge