

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Dorothy A. Peterson	:	
	:	C-2021-3024019
v.	:	
	:	
Duquesne Light Company	:	

INITIAL DECISION

Before
Mary D. Long
Administrative Law Judge

INTRODUCTION

Complainant filed a Formal Complaint against an electric utility alleging the utility was discriminating against her because her service was not restored after an outage as promptly as service was restored to other homes in her area. This decision dismisses the Formal Complaint because the Complainant failed to meet her burden of proof.

HISTORY OF THE PROCEEDING

On January 5, 2021, Dorothy A. Peterson (Complainant) filed a Formal Complaint against Duquesne Light Company (Duquesne Light). Mrs. Peterson alleged that Duquesne Light was discriminating against her because her service was not restored after an outage as promptly as service was restored to other homes in her area. As relief, she asked to be connected to a different power grid.

Duquesne Light filed an Answer on March 8, 2021, which denied the material allegations of the Complaint. Specifically, Duquesne Light stated that the service rendered to

Mrs. Peterson was reasonable, noting that outages occur for some customers but not others because they are served by different electric facilities.

By Interim Order dated March 9, 2021, Chief Administrative Law Judge Charles E. Rainey, Jr. directed Mrs. Peterson and Duquesne Light to attempt to resolve their dispute and referred the Complaint to the Mediation Unit. The parties were not able to resolve their dispute, and by notice dated April 15, 2021, the Complaint was assigned to me and scheduled for a hearing by telephone on May 18, 2021. I issued a prehearing order which explained the procedures applicable to the hearing.

The hearing convened as scheduled. Mrs. Peterson appeared and testified on her own behalf. Emily M. Farah, Esquire, appeared on behalf of Duquesne Light. Duquesne Light presented the testimony of two witnesses, Lyndee Wielobob and Benjamin Cain. Duquesne Light also presented five exhibits, which were admitted into the record and labeled as Duquesne Light Exhibits B, E, G, H, and I.¹ The hearing resulted in a transcript of 58 pages. The record was closed by Interim Order on June 28, 2021.

FINDINGS OF FACT

1. The Complainant, Dorothy A. Peterson, resides at 5252 Webb Street, Aliquippa, Pennsylvania and receives service from Duquesne Light Company at that address. (Tr. 7-8).
2. Duquesne Light Company, Respondent, is a jurisdictional public utility.
3. Mrs. Peterson has lived at 5252 Webb Street since 1959. (Tr. 8).

¹ Duquesne Light Exhibits B, E, G and H were admitted into the record with Mrs. Peterson's account number and customer identification number, and the identification number for Duquesne Light's customer service representative redacted. Mrs. Peterson did not object to the admission of the redacted exhibits.

4. Mrs. Peterson has experienced electricity outages which include her house and other houses on her block, but do not affect other houses in the surrounding area. (Tr. 8-9).

5. On July 13, 2020, Benjamin Cain, a Manager of Lines and Construction for Duquesne Light, received an email from Duquesne Light's customer service contact center describing Mrs. Peterson's concerns. (Tr. 31).

6. On July 16, 2020, Mr. Cain visited Mrs. Peterson at her home. (Tr. 10, 13; 31).

7. Mrs. Peterson and Mr. Cain discussed Mrs. Peterson's desire to be switched to another circuit. (Tr. 32-33).

8. The Clearview neighborhood, which includes Mrs. Peterson's home, is served by the Crescent Circuit and the Gringo Circuit, described below. (Tr. 40).

9. Crescent Circuit D 23660 (Crescent Circuit) is a 23 kV distribution circuit. (Tr. 34; Duquesne Light Ex. I).

10. Gringo Circuit 4712 (Gringo Circuit) is a 4 kV distribution circuit. (Tr. 34).

11. Streets in the Clearview neighborhood served by the Crescent Circuit include Clifton Drive, Clearview Avenue, Busman Avenue, the top portion of Webb Street just beyond Mrs. Peterson's home, Alan Street, Glenwall Drive, Harvard Drive and Yale Drive. (Tr. 43; Duquesne Light Ex. I, p. 3).

12. McIntosh Drive, Martin Street, Goodnow Street, Schell Circle, and the bottom portion of Webb Street are serviced by the Gringo Circuit. (Tr. 44; Duquesne Light Ex. I, p. 3).

13. The Gringo Circuit is older than the Crescent Circuit. (Tr. 34).
14. The Crescent Circuit includes automated equipment, remote switching capabilities, and normal open tie points that operation center employees can utilize to restore service when an unplanned outage occurs. (Tr. 35).
15. The Gringo Circuit does not have any automated equipment to aid the restoration of service. (Tr. 35).
16. It is not feasible to change Mrs. Peterson's electric service from the Crescent Circuit to the Gringo Circuit. (Tr. 34).
17. To switch Mrs. Peterson to the Gringo Circuit, Duquesne Light would have to construct line extension and set new poles, conductors, and transformers. (Tr. 34).
18. Duquesne Light plans to replace the Gringo Circuit because it is an older circuit. (Tr. 34).
19. Changing Mrs. Peterson's distribution connection to the Gringo Circuit would not make her electric service more reliable and may decrease reliability because the Gringo Circuit is older. (Tr. 34-35).
20. From December 2, 2018, through May 4, 2021, Mrs. Peterson has experienced eight power outages. (Tr. 39; Duquesne Light Ex. E).
21. Six of the outages from December 2, 2018, to May 4, 2021, were caused by storm events. (Tr. 39; Duquesne Light Ex. E).
22. Not all of Mrs. Peterson's neighbors lost power during the eight outages from December 2, 2018, through May 4, 2021. (Tr. 39-40).

23. If there were an outage only on the Gringo Circuit, Mrs. Peterson would not lose electricity service. (Tr. 40).

24. Mrs. Peterson contacted Duquesne Light on November 16, 2020, to complain that her neighbors had power during an outage on November 15, 2020, but she did not have power. (Tr. 23-24; Duquesne Light Ex. G).

25. A Duquesne Light supervisor returned Mrs. Peterson's call on December 3, 2020. (Tr. 24; Duquesne Light Ex. H).

DISCUSSION

Section 701 of the Public Utility Code (Code), provides that any person may complain, in writing, about any act or thing done or omitted to be done by a public utility in violation, or claimed violation, of any law which the Commission has the jurisdiction to administer, or of any regulation or order of the Commission.² A person seeking affirmative relief from the Commission has the burden of proof.³

In this matter, Mrs. Peterson is the party asking for relief from the Commission; therefore, she has the burden of proof. This means, that Mrs. Peterson must establish facts which support her claim by a preponderance of the evidence.⁴ The term "preponderance of the evidence" means one party must present evidence which is more convincing, by even the smallest amount, than the evidence presented by the other party.⁵ Relief can only be granted if Mrs. Peterson proves facts by a preponderance of the evidence, which show that Duquesne Light violated the Public Utility Code or Commission regulations.

² 66 Pa.C.S. § 701.

³ 66 Pa.C.S. § 332(a).

⁴ *Popowsky v. Pa. Pub. Util. Comm'n*, 937 A.2d 1040, 1055-56 (Pa. 2007) (*Popowsky*); *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

⁵ *Popowsky*.

Section 1501 of the Code,⁶ requires that a public utility must furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and must make such repairs, changes, alterations, substitutions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience and safety of its patrons and the public. Upon finding that the service or facilities of a public utility are unreasonable, unsafe, or inadequate, the Commission may prescribe, by regulation or order, the reasonable, safe and adequate service or facilities that a public utility must furnish or employ.⁷

The Commonwealth Court has cautioned that the Commission may not sustain a complaint pursuant to Section 1501 unless it finds that a utility has violated a duty to render reasonable and reliable service.⁸ Further, the Commission has stated that a utility is not mandated to furnish perfect service:

[Section 1501] does not mandate perfect service nor must a public utility provide the best possible service. Most certainly, a public utility is not a guarantor of either perfect service or the best possible service.^[9]

This standard of reasonableness is the test to determine the adequacy of a utility's response to customer service complaints, as well as repairs made to its facilities.¹⁰

Mrs. Peterson contends that her electric service is unreliable because when she loses power, her neighbors on the lower section of Webb Street and other streets near her house do not lose power. In her view, Duquesne Light is treating her service differently than the service of her neighbors. Accordingly, she wants Duquesne Light to switch her service connection to a different circuit.

⁶ 66 Pa.C.S. § 1501.

⁷ 66 Pa.C.S. § 1505.

⁸ *W. Penn Power Co. v. Pa. Pub. Util. Comm'n*, 478 A.2d 947, 949 (Pa.Cmwlth. 1984).

⁹ *Re Metro. Edison Co.*, 80 Pa. PUC 663, 672 (1993).

¹⁰ *Thurby v. W. Penn Power Co.*, Docket No. C-2011-2254048 (Final Order April 4, 2013).

Duquesne Light's witness, Benjamin Cain, explained that Mrs. Peterson's neighborhood and the surrounding neighborhoods are served by two different circuits: the Crescent Circuit and the Gringo Circuit. Mrs. Peterson, and her neighbors on her block of Webb Street are served by the Crescent Circuit. The bottom portion of Webb Street and several other streets in the Clearview plan are served by the Gringo Circuit.

The Crescent Circuit, a 23 kV circuit, is more modern than the Gringo Circuit and includes more technology protecting customers from sustained outages. The Crescent Circuit includes automated equipment, remote switching capabilities, normal open tie points that operation center employees can utilize to restore service when an unplanned outage occurs. In contrast, the Gringo Circuit is a much older 4 kV facility. Duquesne Light plans to replace it with a newer circuit. Mr. Cain went on to explain that when there is an outage on the Crescent Circuit, homes connected to the Gringo Circuit may not also experience an outage. Not only is it not feasible to connect Mrs. Peterson to the Gringo Circuit because of the construction that would be involved, but connection to the Gringo Circuit is unlikely to improve the reliability of her electricity service.

Mrs. Peterson does not contend that she experiences an unreasonable number of outages or that the outages are not resolved reasonably promptly. There is no evidence that homes served by the Gringo Circuit have fewer outages than homes served by the Crescent Circuit. Indeed, the Crescent Circuit is a higher capacity, more modern distribution facility. Mr. Cain credibly testified that switching Mrs. Peterson to the Gringo Circuit is unlikely to improve the reliability of her service.

Mrs. Peterson failed to prove that Duquesne Light provided her with unreasonable or unreliable service. Setting aside the issue of feasibility of transferring Mrs. Peterson's service to the Gringo Circuit,¹¹ it is also unlikely that switching Mrs. Peterson to the Gringo Circuit will resolve her Complaint. Although there was no direct testimony on this point, if there are times when the Gringo Circuit provides electricity service when there is an outage on the Crescent

¹¹ It is also worth noting that the cost to construct line extension and set new poles, conductors, and transformers to benefit only Mrs. Peterson, would have to be borne by all of Duquesne Light's ratepayers.

Circuit, there are also times when there is a service outage on the Gringo Circuit, but no outage on the Crescent Circuit.

Mrs. Peterson's Complaint also suggests that Duquesne Light has not provided her with reasonable customer service by not returning her calls. Mrs. Peterson did not testify as to a specific call that she made to Duquesne Light that was not returned or addressed. Instead, the evidence is that Mrs. Peterson contacted Duquesne Light in July 2020 regarding her Complaint that she did not have electric service when her neighbors had power and that she wanted her service switched to another circuit. In response to this call, Mr. Cain personally visited Mrs. Peterson to discuss her service and to explain how electric service was provided to her home. Duquesne Light's customer contact records also note that Mrs. Peterson contacted Duquesne Light on November 16, 2020, and that the call was returned by a supervisor on December 3, 2020. While in some circumstances, a period of over two weeks between a customer contact and a return phone call may be unreasonable, I cannot reach that conclusion in this case. The Thanksgiving holiday occurred during that period of time, it does not appear that Mrs. Peterson's Complaint was emergent, and there is no indication that this time lag is more than an isolated incident. Therefore, Duquesne Light did not render unreasonable customer service to Mrs. Peterson in violation of Section 1501 of the Public Utility Code, and Mrs. Peterson's claim is dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this dispute. 66 Pa.C.S. § 701.
2. The Complainant, as the party seeking affirmative relief from the Commission, has the burden of proof. 66 Pa.C.S. § 332(a).
3. The Complainant has failed to satisfy the burden of proving that Duquesne Light failed to provide adequate and reliable electric distribution service or customer service. 66 Pa.C.S. § 1501.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Dorothy A. Peterson against Duquesne Light Company at Docket No. C-2021-3024019 is dismissed.
2. That the Secretary's Bureau shall mark Docket No. C-2021-3024019 as closed.

Date: July 22, 2021

_____/s/_____
Mary D. Long
Administrative Law Judge