

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Sheron McKay	:	
	:	
v.	:	F-2020-3021673
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Steven K. Haas
Administrative Law Judge

INTRODUCTION

A customer filed a formal complaint against her electric distribution company wherein she alleged that the company (1) failed to shut off her service for several months after she requested that her account be terminated, resulting in additional charges she believes she should not have to pay, and (2) failed to come to her house to perform an energy assessment to reduce her bills despite her repeated requests to the company. This initial decision dismisses the complaint, finding that the Complainant failed to carry her burden of proving that the Respondent violated the Public Utility Code, a Commission regulation or order, or the utility's tariff.

HISTORY OF THE PROCEEDING

On July 23, 2020, the Complainant, Sheron McKay, filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL) at Docket No. F-2020-3021673. In her complaint, she alleged that PPL failed to shut off her service for several months after she requested that her account be terminated,

resulting in additional charges on a final bill she believes she should not have to pay. The formal complaint is an appeal of the May 22, 2020 decision of the Commission's Bureau of Consumer Services to an informal complaint filed by Ms. McKay at BCS Case No. 3758573.

On September 23, 2020, PPL filed an answer to the complaint. In its answer, PPL denied the material allegations in the complaint. It averred that its records do not reflect having received a request from the Complainant to terminate her service when the Complainant claims to have done so.

By Call-In Telephone Hearing Notice dated September 24, 2020, the Commission scheduled an initial telephonic hearing in this proceeding for October 27, 2020, and assigned me as the Presiding Officer.

The hearing was convened as scheduled on October 27, 2020. Ms. McKay appeared *pro se* and Kimberly Krupka, Esquire, appeared on behalf of PPL. During the hearing, Ms. McKay raised issues that were not included in her complaint. In addition, she stated that she wanted to hire an attorney to represent her in this proceeding. Accordingly, the initial hearing was continued, and Ms. McKay was instructed to file an amended complaint in which she should raise all issues she desires to pursue and to have an attorney file a Notice of Appearance with the Commission.

On or about November 10, 2020, Ms. McKay filed an amended complaint with the Commission in which she added allegations that were not included in her original complaint. On November 30, 2020, PPL filed an answer to the amended complaint in which it again denied the material allegations raised in the complaint. A Notice of Appearance was never filed on her behalf by an attorney.

By Telephonic Hearing Notice dated April 12, 2021, the Commission scheduled another telephonic hearing for May 11, 2021. The telephonic hearing was convened as scheduled. Ms. McKay appeared, *pro se*, and testified on behalf of herself. PPL appeared and was represented by Kimberly Krupka, Esquire. PPL presented the testimony of one witness and

offered two exhibits, both of which were admitted into the record. The record consists of a 77-page transcript and two PPL exhibits. The record closed on June 9, 2021, upon my receipt of the transcript.

FINDINGS OF FACT

1. The Complainant in this proceeding is Sheron McKay.
2. The Respondent in this proceeding is PPL Electric Utilities Corporation.
3. The service address that is the subject of this proceeding is 7214 Harvest Way, Long Pond, PA (service address). Tr. 47.
4. Ms. McKay was a customer of PPL at the service address until July 6, 2019, at which time her service was disconnected. Tr. 49.
5. Ms. McKay moved out of the service address in February 2019. Tr. 26.
6. A notation is made in PPL's customer contact records of all contacts with its customers involving billing-related issues. Tr. 46.
7. PPL maintains its customer contact records for four years. Tr. 47.
8. The only notation in PPL's records reflecting a contact from Ms. McKay in the past four years where she requested that service to the service address be terminated was on July 5, 2019. Tr. 47-48; PPL Ex. 2.
9. Ms. McKay requested during the July 5, 2019 contact that service to the service address be shut off, effective July 6, 2019. Tr. 47-48; PPL Ex. 2.
10. Ms. McKay's service was terminated on July 6, 2019. Tr. 49.

11. PPL's OnTrack assistance program gives eligible customers monthly payments that are lower than their usage, with the difference being written off the account, plus, if the bills are paid on time, additional credits toward any outstanding accumulated balances. Tr. 49-50.

12. Ms. McKay was enrolled in the OnTrack program in March 2017. Tr. 56.

13. Ms. McKay was removed from the OnTrack program in September 2018 as the result of her failure to recertify her eligibility for the program. Tr. 56.

14. Ms. McKay discussed with a PPL representative in April 2019 about applying for the OnTrack program. Tr. 38-39.

15. Ms. McKay was approved for PPL's OnTrack program on April 5, 2019, and she received OnTrack credits each month thereafter until her service was terminated on July 6, 2019. Tr. 48-49.

16. PPL's records contain an entry dated April 8, 2019, wherein Ms. McKay requested that the company not terminate her service because she had been approved for the OnTrack Program. Tr. 48; PPL Ex. 2.

17. OnTrack credits were applied to Ms. McKay's PPL account after the April 2019 enrollment in the OnTrack program and were reflected on her May 2019 and June 2019 bills. Tr. 51-52; PPL Ex. 1.

18. The total outstanding balance owed on Ms. McKay's account as of the date of the hearing is \$1,572.46. Tr. 51; PPL Ex. 1.

19. Ms. McKay was identified in PPL's records as a non-electric heat customer, meaning the main heat source in her house was not electric. Tr. 53.

20. The main source of heat in Ms. McKay's house was propane. Tr. pp. 22-23.

21. Ms. McKay used plug-in electric heaters throughout her house as an additional source of heat. Tr. 23.

22. Ms. McKay's house did not have insulation. Tr. 19.

23. Ms. KcKay's monthly electric bills were sometimes in the range of \$1,000.00 - \$1,300.00. Tr. 19.

24. PPL's Winter Relief Assistance Program (WRAP) is offered to eligible customers and provides certain benefits to assist customers with their electric bills. Tr. 53.

25. In order to be eligible to receive a home energy assessment under the WRAP program, a customer must complete and submit an application to PPL. Tr. 54-55.

26. Upon receipt of a WRAP application, PPL will make an eligibility determination and, if the customer is eligible, the customer is placed on a waiting list and an outside contractor will be assigned to perform the assessment. Tr. 54-55.

27. PPL makes its customers aware of the WRAP program through periodic bill inserts, e-mails, media campaigns, and through information posted on its web site. Tr. 55.

28. There are no entries in PPL's customer contact records reflecting a contact with Ms. McKay about the WRAP program prior to April 2019. Tr. 54; PPL Ex. 2.

29. On April 8, 2019, a PPL representative spoke with Ms. McKay and referred her to the company's WRAP program. Tr. 54; PPL Ex. 2.

30. Ms. McKay was removed from the WRAP program when her account was closed on July 6, 2019. Tr. 55.

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, Ms. McKay alleges that PPL (1) failed to shut off her service for several months after she requested that her account be terminated, resulting in additional charges she believes she should not have to pay, and (2) failed to come to her house to perform an energy assessment to reduce her bills despite her repeated requests to the company to do so. Therefore, as the proponent of a rule or order in this proceeding, Ms. McKay bears the burden of proof pursuant to 66 Pa.C.S. § 332(a).

To 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 in violation of the Public Utility Code, a Commission regulation or order, or the company's own Commission-approved tariff. *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 (Pa.Cmwlth. 1990), *alloc. den.*, 602 A.2d 863 (Pa. 1992). The preponderance of evidence standard is met 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. Unemployment 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).

Failure to Terminate Service Upon Request

Ms. McKay first alleges that PPL failed to shut off her service for several months after she requested that her account be terminated, resulting in additional charges she believes she should not have to pay. She testified that she moved out of the service address in February 2019. Tr. 26-27. She testified that she spoke with PPL representatives in January and February 2019 and that she notified them of her upcoming move. Tr. 27-28. She alleges that PPL kept the service in her name until July 2019. Tr. 29. She testified that she ultimately received a notice from a collection agency informing her that she owed approximately \$1,400. Tr. 30. She stated she then contacted PPL and was told the service was kept in her name until July 2019. Tr. 30. She does not believe she should be held responsible for the balance. Tr. 31.

PPL presented the testimony of Tami Roland, a Senior Customer Service Representative. Ms. Roland reviewed and sponsored PPL Ex. 1 (an account consumption, billing, and payment summary) and PPL Ex. 2 (a customer contact history) for Ms. McKay's account at the service address. Ms. Roland explained that PPL keeps records of all contacts it has with its customers during which billing, OnTrack, WARM or other account information is discussed, and that these records are retained by PPL for four years. Tr. 46-47. She testified that

she reviewed PPL's records for Ms. McKay's account for the past four years and that the only notation reflecting a contact with her where she requested that her service be shut off was on July 5, 2019. Tr. 47-48; PPL Ex. 2.

Ms. Roland testified that Ms. McKay was approved for the OnTrack program on April 5, 2019. Tr. 49. She further testified that Ms. McKay received OnTrack credits on her account for the service address each month thereafter until the account was terminated in July. Tr. 49, 51-52; PPL Ex. 1. She stated that OnTrack credits were reflected on Ms. McKay's May 2019 and June 2019 bills. Tr. 51-52; PPL Ex. 1. Ms. Roland further stated that there was a contact between a PPL representative and Ms. McKay on April 8, 2019, during which Ms. McKay requested that her service not be shut off because she had been approved for the OnTrack program. PPL Ex. 2. Ms. McKay corroborated Ms. Roland's testimony on this issue. Ms. McKay acknowledged during cross-examination that she had spoken with a PPL representative in April 2019 about the OnTrack program. Tr. 38-39. Ms. McKay testified that, although she does not remember if she completed the process, she does remember talking to a representative about the OnTrack application process and that she considered applying. Tr. 38-39. As noted above, PPL's records reflect that Ms. McKay requested on July 5, 2019, that her service to the service address be shut off effective July 6, 2019. Tr. 47-48; PPL Ex. 2.

Although Ms. McKay presented evidence that she that she did instruct PPL in February 2019 to shut off the service to the service address, thereby making out a *prima facie* case, I find that the evidence presented by PPL not only rebuts but outweighs the evidence presented by Ms. McKay. Ms. McKay testified that she contacted PPL in February 2019 and instruct PPL that she was moving from the service address and to shut off her service. Tr. 28. There is no other record evidence supporting this contention. She stated that PPL did not shut off her service until July 2019. Tr. 29.

PPL, on the other hand, presented credible evidence that Ms. McKay, in fact, did not request that her service be terminated until July 5, 2019. As noted, Ms. Roland reviewed the records for Ms. McKay's account for the past four years. She testified that there are no notations in the records prior to July 5, 2019, where Ms. McKay requested that her service be shut off. Tr.

47-48; PPL Ex. 2. In fact, Ms. Roland testified that there was a contact between a PPL representative and Ms. McKay on April 8, 2019, during which Ms. McKay requested that her service not be shut off because she had been approved for the OnTrack program. Tr. 48; PPL Ex. 2. PPL's records do reflect a contact with Ms. McKay on July 5, 2019, where Ms. McKay instructed PPL to shut off her service to the service address effective July 6, 2019. Tr. 47-49.

PPL presented additional evidence that corroborates its position. Ms. Roland testified that Ms. McKay was approved for the OnTrack program on April 5, 2019, and that OnTrack credits were reflected on her May 2019 and June 2019 PPL bills. Tr. 49, 51-52; PPL Ex. 1. In fact, Ms. McKay acknowledged, as noted above, that she had a conversation with a PPL representative in April 2019 during which she discussed with the representative the OnTrack program application process. Tr. 38-39. Ms. McKay stated that, although she remembers discussing the application process, she does not remember if she applied. Tr. 39.

Ms. McKay may, in fact, have moved out of the service address in February 2019 as she testified. The record evidence, however, supports PPL's contention that she did not request that the service be shut off until July 5, 2019. The fact that Ms. McKay discussed applying for the OnTrack program with a PPL representative in April 2019, and that she received OnTrack credits on her May 2019 and June 2019 PPL bills, suggests that she knew the service was still in her name well beyond February. I find, therefore, that the evidence presented by PPL on this issue outweighs that presented by Ms. McKay and, accordingly, conclude that Ms. McKay has failed to meet her burden of proof on this allegation.

Failure to Perform Home Assessment

Ms. McKay also alleges that PPL failed to come to her house to perform an energy assessment to reduce her bills despite her repeated requests to the company to do so. She testified that she contacted PPL several times a year for many years to request having a home assessment performed to help determine why her electric bills were so high. Tr. 22. She testified that her house was not insulated and that her monthly bills were sometimes in the range of \$1,000 to \$1,300. Tr. 19. Ms. McKay stated that once a customer is enrolled in OnTrack,

they become eligible for the WRAP program. Tr. 19, 22. She testified that, despite her repeated inquiries, a WRAP home assessment was never performed, thereby resulting in continuing high electric bills. Tr. 20-22. Ms. McKay argues that, because the company never performed a home assessment to help reduce her bills, she should not have to pay the excessive charges that accrued on her account. Tr. 31. Ms. McKay acknowledged during cross-examination that she does not remember any specific dates over the last five years when she called PPL to ask about the WRAP assessment. Tr. 33.

PPL witness Roland explained that the company's WRAP program is offered to eligible customers and provides benefits to assist customers with their electric bills. Eligible customers may receive a home energy assessment under the WRAP program. Customers must first complete and submit an application to PPL, which will make an eligibility determination. If the customer is eligible, the customer is placed on a waiting list and an outside contractor will be assigned to perform the assessment. Tr. 53-55.

As noted, Ms. Roland stated that all contacts between PPL representatives and its customers involving billing issues, including contacts concerning the OnTrack and the WRAP programs, are summarized and recorded in PPL's customer contact records and maintained for four years. Tr. 46-47. She testified that she reviewed PPL's records on Ms. McKay's account and did not find any entries in the records reflecting a contact with Ms. McKay about the WRAP program prior to April 2019. Tr. 54; PPL Ex. 2. Ms. Roland testified that the company's records contain a notation reflecting a contact on April 8, 2019, where a PPL representative spoke with Ms. McKay and referred her to the company's WRAP program. Tr. 54; PPL Ex. 2. This is consistent with Ms. Roland's testimony that Ms. McKay was approved for the OnTrack program on April 5, 2019, and suggests that, for some period of time prior to April 8, 2019, Ms. McKay was not enrolled in the WRAP program and would not have been on the home assessment waiting list. Ms. Roland stated that Ms. McKay was subsequently removed from the WRAP home assessment waiting list when her account was closed on July 6, 2019. Tr. 55.

Additionally, as Ms. Roland stated, Ms. McKay was enrolled in the OnTrack program on March 21, 2017, and subsequently removed from the program on September 21,

2018, because she failed to re-certify her eligibility. Tr. 56. Again, this suggests that, for some period of time prior to her enrollment in OnTrack on March 21, 2017, she was not enrolled in the WRAP program and would have been ineligible for a home assessment. In fact, it is unclear from the record on precisely which dates over the past several years Ms. McKay had been enrolled in the WRAP program and would have been eligible to have a home assessment performed.

Again, I find that PPL's evidence on this issue outweighs the evidence presented by Ms. McKay. Ms. McKay testified that she contacted the company several times a year to inquire about the WRAP home assessment. She could not, however, remember any specific dates when she called. PPL's witness, on the other hand, reviewed the company's records on Ms. McKay's account, including its customer contact records, for the past four years. The only entry in the records where the WRAP program was discussed with Ms. McKay was on April 8, 2019, after she was re-enrolled in the OnTrack program and was referred to the WRAP program. Tr. 54. Additionally, Ms. McKay was enrolled in OnTrack on March 21, 2017, and removed on September 21, 2018, for failure to re-certify. Accordingly, there were periods of time prior to March 21, 2017, when she was not enrolled in the WRAP program. As noted, the record is unclear as to all the dates over the past several years when she was actually enrolled in the WRAP program. I find, therefore, that Ms. McKay has failed to meet her burden of proof on this allegation.

As the party seeking affirmative relief from the Commission, Ms. McKay bears the burden of proof. 66 Pa.C.S. § 332(a). For the reasons set forth above, I find that Ms. McKay failed to prove by a preponderance of the evidence that PPL violated the Public Utility Code, a Commission regulation or order, or the company's own Commission-approved tariff. 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.

