

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lesley Scheaffer	:	
	:	C-2022-3032209
v.	:	
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Arlene Ashton
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Respondent’s oral motion to dismiss allegations in the Formal Complaint relating to the November 15, 2017 transfer of Complainant’s deceased father’s electric service account into Complainant’s name because they are barred by the statute of limitations, the Complaint having been filed more than three years after the events which gave rise to those allegations. The remainder of the Complaint is denied because the Complainant failed to meet her burden of proving that PPL Electric Utilities Corporation provided her with inadequate or unreasonable service.

HISTORY OF THE PROCEEDING

On April 22, 2022, Lesley Scheaffer (Complainant) 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 indicated that she was filing the Complaint due to incorrect charges on her bill, and because she would like a payment

arrangement with PPL. As requested, relief, the Complainant stated that she wanted her father's account closed and the account off her "name and credit."¹

On March 9, 2022, the Respondent filed an Answer (Answer) denying all material allegations of fact in the Complaint. PPL's Answer included New Matter, averring that any issues arising out of any alleged improper transfer of the Complainant's deceased father's electric service account to the Complainant are barred by Section 3314(a) of the Public Utility Code. 66 Pa.C.S. § 3314. The Answer was accompanied by a Notice to Plead; however, the Complainant filed no response.

By Initial Telephonic Hearing Notice dated June 24, 2022, an initial call-in telephonic hearing was scheduled for August 11, 2022, at 10:00 a.m., and the matter was assigned to me.

I issued a Prehearing Order on June 24, 2022. The Prehearing Order directed the parties to comply with various procedural requirements and also explained that the Complainant bears the burden of proof to establish that the Respondent violated its tariff, the Public Utility Code, or a Commission Order or regulation, and that she is entitled to the relief requested in the Complaint.

On August 8, 2022, Ms. Scheaffer sent an email to my office requesting a continuance of the hearing scheduled for August 11, 2022, and an in-person hearing in Carbon County.

On August 10, 2022, I issued an Order granting Ms. Scheaffer's request for a continuance. Ms. Scheaffer's request for an in-person hearing in Carbon County was denied. The August 10, 2022, Order advised Ms. Scheaffer that an in-person hearing could be held in either Philadelphia or Harrisburg, where the Office of Administrative Law Judge (OALJ) has hearing

¹ Complaint ¶ 5. The Complainant's reference to her "credit" in the section of the Complaint entitled "Requested Relief" is ambiguous. There is no reference in the Complaint to an overpayment on the Complainant's service account nor is a request for reimbursement in the requested relief. Thus, it appears that the Complainant is referring to her credit *report* not a specific *amount*.

rooms, and she was instructed to advise my office and PPL of her preferred location for the hearing on or before August 17, 2022.

Ms. Scheaffer failed to select a location for an in-person hearing as requested in the Order, therefore, on August 24, 2022, an Order rescheduling the hearing was issued specifying that a call-in telephonic hearing would be conducted on September 8, 2022. Also on August 24, 2022, a Call-In Telephone Hearing Notice was issued informing the parties of the date and time set for the telephonic hearing in this matter.

The hearing convened as scheduled on September 8, 2022. The Complainant appeared *pro se* and testified; she did not offer any exhibits. The Respondent also appeared and was represented by Garrett P. Lent, Esq., who presented the testimony of Dana Brunner, a PPL Customer Service Representative. The Respondent offered six exhibits, all of which were admitted into the record (Exhibits 1- 6).

The record consists of a 74-page transcript and six exhibits. The record closed on September 26, 2022, when the transcript was filed with the Commission.

FINDINGS OF FACT

1. The Complainant resides at 439 East Abbott St, Lansford, PA (Lansford service address). Tr. 11.
2. The Complainant resided at 985 Edgemont Avenue Palmerton, PA 18071 (Palmerton service address) from 1982 until September or October 2018. Tr. 18.
3. On October 11, 2017, the Complainant requested that an account for electric service at the Palmerton service address be established in her name. Tr. 11. Exhibit 1.
4. On or about October 11, 2017, PPL assigned account number XXXXX-07027 for electric service at the Palmerton service address to the Complainant. Exhibit 1.

5. The Complainant's father resided at the Palmerton service address with the Complainant until his death in December 2016. Tr 13.

6. Prior to his death, the Complainant's father maintained a PPL account for electric service at the Palmerton service address and was assigned account number XXXXX-07018.

7. On or about November 15, 2017, PPL transferred the balance on the account associated with Ms. Scheaffer's father for service at the Palmerton service address *i.e.*, account number XXXXX-07018 to Ms. Scheaffer's account number XXXXX-07027. Tr 32. Exhibit 1.

8. In May 2018, the Complainant opened a new account for service at the Palmerton service address; she was assigned account number XXXXX-07036. Tr. 35. Exhibit 2.

9. On May 21, 2018, PPL transferred Complainant's balance for service at the Palmerton service address from Ms. Scheaffer's account number XXXXX-07027 to account number XXXXX-07036, the new account associated with her at that address. Tr. 35. Exhibit 1 - 2.

10. In May 2021, Complainant opened an account for service at the Lansford service address; the account number assigned to her for that service address was XXXXX-4810. Tr. 36. Exhibit 3.

11. On June 1, 2021, PPL transferred the balance of Complainant's account number XXXXX-07036 for service at the Palmerton service address to her new service account number XXXXX-4810 associated with the Lansford service address. Tr. 34 - 35, 39 - 40. Exhibit 2 - 3.

12. On July 23, 2021, the Complainant agreed to a payment arrangement with PPL. Tr. 45. Exhibit 4.

13. The Complainant defaulted on her payment arrangement with PPL. Tr. 45, 55 - 56. Exhibit 4, 6.

14. PPL bills are based on monthly meter readings. Tr. 42.

15. Monthly meter readings are not taken on the same day every month, rather they are taken in a window of time. Tr. 42.

16. Due dates for PPL bills vary because they are based on usage reported by monthly meter readings. Tr. 42 - 43.

17. PPL does not issue bills with due dates on a weekend or holiday. Tr. 42 - 43.

DISCUSSION

In this case, the Complainant alleged that PPL erroneously transferred her father's account to her. The Complainant also raised a claim of inadequate or unreasonable service relating to inconsistent due dates for bills for electric service. She also checked a box indicating that she would like a payment agreement. Although the Complaint recited several allegations against PPL, the only relief requested in the Complaint was "I want my father's account closed. And it off my name and credit."

At the hearing, PPL moved to dismiss the portion of the Complaint that alleges that PPL improperly transferred a balance for electric service provided to the Palmerton service address on or about November 2017 to the Complainant under Section 3314(a) of the Public Utility Code. Tr. 21 - 22. As more fully discussed below, PPL's motion is granted.

Statute of Limitations

Regarding the limitation of actions and cumulation of remedies, the Public Utility Code provides in pertinent part that:

No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained **unless brought within three years from the date at which the liability therefore arose[.]**²

In the Complaint, Ms. Scheaffer alleged that PPL erroneously transferred her father's account to her account in 2017. As demonstrated by her testimony at the hearing, that transfer was her primary rationale for filing the Complaint. At the hearing, she also forcefully and repeatedly stressed her intent to pursue a single remedy relating to that transfer. "My father died, so the account should have been closed." Tr. 13. She further explained: "When I called and told [PPL] about my father dying . . . when I went to put the bill in my name, they refused to close his account. They took off his name and put my name on the account. So, I know that's illegal." Tr. 14.

In her testimony, Ms. Scheaffer also referred to a complaint filed with the Commission in 2016 and a hearing held in February 2017 before Administrative Law Judge (ALJ) Benjamin Myers.³ Tr. 12. Ms. Scheaffer stated that she learned of the outcome of the Complaint in that matter "about four months ago [and] that basically [it] was shoved under the carpet[.]"⁴ Tr. 13. Furthermore, she explained that the Complaint filed on April 22, 2022, was "to get me this other court hearing." Tr. 13.

Dana Brunner, a PPL customer service representative testified that Ms. Scheaffer established an account in her name for electric service at the Palmerton service

² 66 Pa.C.S. § 3314(a) (emphasis added).

³ Commission records indicate that on November 23, 2016, Ms. Scheaffer filed a Formal Complaint at docket number F-2016-2577647 (the 2016 complaint) on behalf of her father, Leslie W. Scheaffer against PPL alleging that PPL had failed or refused to accept payments on her father's account. As relief, the Complainant requested that the outstanding account balance be considered paid in full and the account current. The Commission dismissed the 2016 complaint, ruling that Ms. Scheaffer lacked standing to prosecute claims on behalf of her father, who passed away on December 22, 2016; and as a non-attorney, she was unable to represent her deceased father in the proceeding. *Scheaffer v. PPL Elec. Utils. Corp.*, Docket No. F-2016-2577647, pp. 5, 11- 13 (Opinion and Order entered Apr. 3, 2018). The 2016 complaint was dismissed "without prejudice so the appropriate party may refile if desired." *Id.*, 13. Commission records do not reveal any filing by Ms. Scheaffer from the date of issuance of the Commission Order and Opinion to the date of filing of the Complaint in this matter on April 22, 2022.

⁴ Commission records indicated that Ms. Scheaffer filed exceptions to the Initial Decision issued by ALJ Meyers and PPL filed reply exceptions; however, in her testimony, she seemed to indicate that she was unaware of the Commission's Opinion and Order at docket number F-2016-2577647. Tr. 24 - 25.

address in October 2017. Tr. 32. Ms. Brunner also testified that the balance for accrued electric service at that address previously associated with Ms. Scheaffer's father was transferred to Ms. Scheaffer's account because Ms. Scheaffer had resided there simultaneously with her father since 2004. Tr. 32 - 33. In addition, Ms. Brunner testified that subsequently, in May 2018, Ms. Scheaffer opened another account for electric service at 985 Edgemont Avenue, which was assigned account number XXXXX-07036. Finally, she testified that on June 1, 2021, PPL transferred the balance of Ms. Scheaffer's account number XXXXX-07036 to Ms. Scheaffer's account associated with the Lansford service address. Tr. 35 - 36. Exhibit 2 - 3.

As noted above, the first balance transfer *i.e.*, from Ms. Schaeffer's father's account to that of Ms. Scheaffer occurred in October 2017, more than four years before the Complaint was filed. The second transfer *i.e.*, from one of Ms. Scheaffer's accounts to another of her accounts occurred in May 2018, almost four years before the Complaint was filed. Both transfers occurred beyond the statute of limitations and cannot be addressed. 66 Pa.C.S. § 3314(a). Accordingly, Respondent's motion to dismiss the portion of the Complaint relating to an alleged improper transfer of a balance for electric service provided to 958 Edgemont Avenue Palmerton, PA to the Complainant in November 2017 under Section 3314(a) of the Code is granted.

Unreasonable Service

In the Complaint, Ms. Scheaffer alleged that PPL provided her with inadequate or unreasonable service because the due date for her electric bill was not consistent.⁵ In addition, she checked the box indicating that she would like a payment agreement.

The Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of a rule or order. 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).

⁵ Complainant also raised issues concerning heating and household appliances, which are outside the scope of the Commission's jurisdiction under the Public Utility Code. 66 Pa CSA §§101, *et seq.* Although the Complaint recited several allegations against PPL, the only relief requested in the Complaint was "I want my father's account closed. And it off my name and credit."

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.P.U.C. 196 (1990), *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 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). That 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*, 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 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*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 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 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*, 461 A.2d 1234 (Pa. 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).

PPL is required by law to provide the Complainant with adequate and reasonable service. Section 1501 of the Public Utility Code, 66 Pa.C.S. § 1501, provides, in relevant part:

§ 1501. Character of service and facilities

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission.

Interpreting this provision in *West Penn Power Co. v. Pennsylvania Public Utility Commission*, 478 A.2d 947 (Pa. Cmwlth. 1984), the Commonwealth Court stated:

[w]e hold that in order for the PUC to sustain a complaint brought under this section, the utility must be in violation of its duty under this section. Without such a violation by the utility, the PUC does not have the authority, when acting on a customer's complaint, to require any action by the utility.

478 A.2d at 949 (footnote omitted).

The statutory definition of “service” is to be broadly construed.⁶ *Country Place Waste Treatment Co., Inc. v. Pa. Pub. Util. Comm'n*, 654 A.2d 72 (Pa. Cmwlth. 1995). In applying the facts to the law, the issue becomes whether PPL's actions as described in the Complaint rise to the level of inadequate service that constitutes a violation of the Public Utility Code.

Ms. Scheaffer did not provide testimony or evidence to support her position that PPL is required to bill customers on a fixed date each month or that its practice of doing so within “a window” was unreasonable. PPL's witness provided credible testimony that service bills were issued within a “window of time” each month to enable billing based on

⁶ “Service.” Used in its broadest and most inclusive sense, includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities, or contract carriers by motor vehicle, in the performance of their duties under this part to their patrons, employees, other public utilities, and the public, as well as the interchange of facilities between two or more of them[.]” 66 Pa.C.S. § 102.

actual meter readings and to facilitate billing and payment by avoiding issuance or payment deadlines on holidays and weekends. Tr. 42 - 43. Therefore, as to that allegation, Ms. Scheaffer has failed to meet the burden of proving unreasonable service.

Payment Arrangement

Ms. Scheaffer's Complaint indicated that she wished to have a payment arrangement with PPL, but she failed to provide any testimony in support of her request. The record indicates that on July 23, 2021, the Complainant agreed to a payment arrangement with PPL; however, she defaulted on that payment arrangement. Tr. 45, 55 - 56. Exhibit 4, 6. Furthermore, when directly questioned by the presiding officer about her interest in pursuing a payment arrangement, she failed to respond to the inquiry and disconnected herself from the telephonic hearing without providing information necessary to address that issue. Tr. 61-63.

As to the Complainant's claims regarding incorrect charges on her bill and her request for a payment arrangement, she has failed to meet her burden of proof. Therefore, the Complainant's Complaint must be denied in its entirety.

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 on the Complainant. 66 Pa.C.S. § 332(a).
3. 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.

4. No action for the recovery of any penalties or forfeitures incurred under the provisions of the Public Utility Code, and no prosecutions on account of any matter or thing mentioned in the Public Utility Code, shall be maintained unless brought within three years from the date at which the liability therefore arose. 66 Pa.C.S. § 3314(a).

5. The Commission does not have jurisdiction to address the Complainant's Complaint regarding the transfer of her father's account to her on November 15, 2017, because she filed her Complaint more than three years after the transfer occurred. 66 Pa.C.S. § 3314(a).

6. The Commission does not have jurisdiction to address the Complainant's Complaint regarding the transfer of her account for service at the Palmerton service address to a second account associated with her at that address on May 21, 2018, because she filed her Complaint more than three years after the transfer occurred. 66 Pa.C.S. § 3314(a).

7. Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service. 66 Pa.C.S. § 1501.

8. The Complainant failed to meet her burden of proving that she is entitled to the relief requested. 66 Pa.C.S. §§ 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. PPL Electric Utilities Corporation's Oral Motion to Dismiss Complainant's Complaint under 66 Pa.C.S. § 3314, is granted.

2. That the Complaint of Katherine Scheaffer at Scheaffer v. PPL Electric Utilities Corporation, Docket No. C-2022-3032209 is denied.

3. That the proceeding at Docket No. C-2022-3032209 be marked closed.

Date: December 9, 2022

_____/s/
Arlene Ashton
Administrative Law Judge