

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Scott Sidle	:	
	:	
v.	:	C-2022-3032338
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Christopher P. Pell
Deputy Chief Administrative Law Judge

INTRODUCTION

This Initial Decision denies the Complainant’s Complaint because he did not meet his burden of proving that PPL provided him with inadequate or unreasonable service.

HISTORY OF THE PROCEEDING

On May 3, 2022, Scott Sidle (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 placed a checkmark in the box indicating “I am having a reliability, safety or quality problem with my utility service.” The Complainant explained that he has experienced multiple power outages at his home over a two-year period. As relief, the Complainant requested: that PPL conduct a danger or hazard tree review of his circuit to identify dead and defective trees both inside and outside of the right-of-way; that PPL verify that trees identified as threatening the wires be removed or made “line safe;” and that PPL tie his 1914 N. Rockhill Road portion of the circuit to other PPL circuit lines running north on N. Rockhill Road from Three Mile Run Road.

On May 25, 2022, the Respondent filed an Answer to the Complaint.

By Initial Telephonic Hearing Notice dated May 26, 2022, an initial call-in telephonic hearing was scheduled for July 12, 2022 at 10:00 a.m., and the matter was assigned to me.

I issued a Prehearing Order on June 7, 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 he is entitled to the relief requested in the Complaint.

By Interim Order dated July 1, 2022, I granted the Respondent's request for a continuance of the July 12, 2022 hearing. The Interim Order directed that by July 15, 2022 the parties were to provide at least three alternative hearing dates for the rescheduled hearing.

By Cancellation Notice dated July 1, 2022, the July 12, 2022 hearing was cancelled.

By Initial Telephonic Hearing Notice date July 18, 2022, an initial call-in telephonic hearing was scheduled for August 24, 2022 at 10:00 a.m.

The hearing convened as scheduled on August 24, 2022. The Complainant appeared *pro se* and testified. The Complainant offered one exhibit which was admitted into the record (Complainant Exhibit 1). The Respondent also appeared and was represented by Nicholas Stobbe, Esq., who presented the testimony of Stephen Dahl, a Forrester for PPL, and April Markley, a PPL Senior Reliability Engineer. The Respondent submitted eight exhibits, all of which were admitted into the record (SD-1, SD-2 and AM-1 through AM-6).

The record consists of a 114-page transcript and nine exhibits. The record closed on September 27, 2022, when the transcript was filed with the Commission.

FINDINGS OF FACT

1. The Complainant in this case is Scott Sidle.
2. The Respondent in this proceeding is PPL Electric Utilities Corporation.
3. The Complainant is a PPL customer residing at 1914 North Rockhill Road, Sellersville, PA (service address). Tr. 14.
4. The Complainant's family has occupied the service address for over 70 years, with the Complainant living there for approximately 5 years. Tr. 20-21.
5. The area surrounding the service address is heavily wooded. Tr. 70; PPL Exh. AM-2.
6. PPL serves the service address from its Ridge Road substation. Tr. 65.
7. PPL's Ridge Road 01 and 02 transmission lines supply the Ridge Road substation. Tr. 67.
8. PPL's Ridge Road 01 transmission line extends approximately 76 miles and traverses a heavily wooded area, including state game land. Tr. 67.
9. The service address is located approximately 17,000 circuit feet from the substation, or approximately 3 miles. Tr. 68.
10. A large portion of the circuit runs along Commonwealth game lands, which is heavily wooded and not easily accessible. Tr. 70; PPL Exh. AM-2.

11. It is typical for lines in heavily wooded areas similar to the area around the service address to experience more outages than less wooded areas due to increased exposure to tree-related faults and increased animal activity. Tr. 69-70.

12. The end of Ridge Road is the end of PPL's service territory, which restricts PPL's ability to provide alternate feed sources or paths to provide power. Tr. 71; PPL Exh. AM-2.

13. In 2020, PPL performed its comprehensive Vegetation Management Maintenance Program on the Complainant's circuit. Tr. 47, 50; PPL Exh. SD-1.

14. PPL maintains the Complainant's circuit on a 5-year-cycle. Tr. 49, 54, 59.

15. During PPL's routine maintenance on the Complainant's circuit, PPL performed a hazard tree inspection. Tr. 51.

16. PPL used a combination of non-herbicide and herbicide methods to maintain this circuit. Tr. 49, 54-55; PPL Exhs. SD-1 and SD-2.

17. Herbicide application is a method of applying an herbicide to stop the growth of vegetation. Tr. 54.

18. PPL uses herbicides in addition to trimming vegetation because it provides PPL with better control of the target plant material, and because only trimming increases the stem count over time. Tr. 54.

19. During planning for the regular maintenance cycle, PPL evaluates potentially hazardous vegetation that is not strictly located within the Company's right-of-way that poses a threat to PPL facilities and contacts the property owners. Tr. 51-52.

20. PPL’s 2020 maintenance cycle was planned by a third-party contractor, reviewed by a PPL employee, and the contracted work was inspected for completion. Tr. 52.

21. During the 2020 maintenance cycle, PPL removed all hazardous trees from the Complainant’s circuit. Tr. 52.

22. During the 2020 maintenance cycle, PPL’s contractors removed 384 trees, controlled approximately nine acres of brush, and executed tree trimming in over 1,200 locations. Tr. 56.

23. PPL is next scheduled to perform vegetation management on the Complainant’s circuit in 2025. Tr. 50.

24. Since 2020, the Complainant has experienced the following outages at the service address:

Date of Outage	Duration of Outage
5/23/2020	momentary interruption
8/4/2020	1,494 minutes
10/29/2020	94 minutes
10/29/2020	430 minutes
11/15/2020	883 minutes
11/22/2020	momentary interruption
5/31/2021	momentary interruption
11/13/2021	577 minutes
12/7/2021	72 minutes
2/18/2022	1,697 minutes
4/19/2022	375 minutes
6/30/2022	25 minutes

Tr. 11-13, 21-22.

25. A momentary outage is a temporary power outage lasting less than five minutes. Tr. 71.

26. An extended outage is an outage that lasts longer than five minutes. Tr. 71.
27. A fault is a disruption in the electric current or abnormal electric currents on an electric circuit. Tr. 71.
28. The most common cause of faults on a distribution system have mechanical or electrical causes, such as animal or vegetation contact, vehicle hits, lightning strikes and equipment failures. Tr. 72.
29. An electric circuit serving a customer or an area is not an independent circuit; it is electrically connected with the rest of the system. Tr. 73.
30. A fault occurring in one location would noticeably impact customers in a different location. Tr. 73.
31. PPL has monitoring technology on their system designed to automatically detect faults. Tr. 73.
32. When a fault is detected on the system, PPL has redundant protective systems in place, including automatic circuit breakers or reclosers, that intervene to isolate the problem and restore power. Tr. 73.
33. While the automatic circuit breakers and reclosers are opening and closing, a customer may experience momentary outages. Tr. 75.
34. If a fault persists after three attempts to reclose, the device will consider the fault to be permanent and power will remain off until a technician or line crew restores power. Tr. 74, 76.

35. The redundant protective systems on the distribution and transmission lines serving the Complainant are working properly. Tr. 78.

36. A Tripsaver reclosure is an automatic recloser designed for a single feed circuit. Tr. 80.

37. When configuring in protective mode, a Tripsaver will coordinate with upstream devices so that when a fault is detected downstream of the tripsaver it is programmed to isolate the fault quicker than the upstream device. Tr. 80.

38. In approximately July 2022, PPL installed a Tripsaver upstream of the service address to further reduce the risk and duration of outages affecting the Complainant's circuit. Tr. 78, 80, 86; PPL Exh. AM-3.

39. The Tripsaver installed on the Complainant's circuit will twice attempt to clear faults before manual recloser is required. Tr. 81.

40. Since January 1, 2020, the Complainant has experienced ten extended outages, the majority of which occurred during PUC reportable storms. Tr. 82; PPL Exh. AM-4.

41. None of these extended outages were caused by failure of PPL's facilities. Tr. 83; PPL Exh. AM-4.

42. Reliability projects are funded by ratepayers. Tr. 88.

43. A Reliability Engineer generally identifies reliability projects by ratio of the cost of the project to the number of customer minutes interrupted (CMI) that the project could prevent, based on five years of historical data. Tr. 88.

44. When evaluating reliability projects, PPL uses \$2 per CMI per company guidelines as the cutoff dollar amount. Tr. 88, 96-97; PPL Exh. AM-5.

45. The Rockhill Quarry project would have rerouted the source feeding the quarry to the accessible Rockhill Road, away from the inaccessible section where it currently runs. Tr. 89.

46. The Rockhill Quarry project would have been partially funded through a line extension guarantee with the quarry where over half of the cost of the project would have been provided by the customer. Tr. 91.

47. Rockhill Quarry pulled out of the shared cost agreement, making the project fail to meet the minimum criteria to move forward. Tr. 91.

48. The Complainant wants PPL to move forward and fund this project. Tr. 26, 89.

49. Based on the outage history, the cost benefit analysis of this project resulted in a cost of \$8.88 per CMI. Tr. 90; PPL Exh. AM-6.

50. Without the substantial cost offset that was going to be provided by the quarry, PPL determined that this project is not financially feasible because it would cost approximately \$450,000. Tr. 91, 92, 97-98; PPL Exh. AM-6.

51. The portion of the line that would be moved through this project is only responsible for approximately 30% of the outages the Complainant has experienced in recent years. Tr. 94.

DISCUSSION

In the present case, the Complainant alleged that PPL's vegetation management has frequently left him with power outages in his home. The Complainant has raised a claim of inadequate or unreasonable service.

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).

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). A preponderance of the evidence is evidence that is more convincing, by even the smallest amount, than the evidence 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 and W. Ry. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Dep't of Pub. 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*, 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:

We 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. (footnote omitted).

478 A.2d at 949.

The statutory definition of “service” is to be broadly construed.¹ *Country Place Waste Treatment Co., Inc. v. Pa. Publ. Util. Comm’n*, 654 A.2d 72 (Pa. Cmwlth. 1995). In applying the facts to the law, the issue becomes whether PECO’s actions as described in the Complaint rise to the level of inadequate service that constitutes a violation of the Public Utility Code.

¹ “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.

The Complainant alleged in his Complaint and during the hearing that PPL's vegetation management has caused him to experience frequent power outages in his home. In particular, the Complainant raised concerns about trees located outside of PPL's right-of-way, which he believes PPL should address. Additionally, the Complainant wants PPL to move forward with the Rockhill Quarry Project as he believes this project would address his concerns. Tr. 26. Alternatively, the Complainant requested that PPL tie in the service address to other PPL circuit lines running north on North Rockhill Road from Three Mile Run Road. Tr. 18, 24.

The record reflects that PPL has taken a number of measures to try and ensure continuity of service to the Complainant, including its Vegetation Management program performed every five years as well as the installation of automatic circuit breakers, reclosers and Tripsavers. It is important to consider that, when these devices fail on the Complainant's circuit, which is rural and heavily wooded, PPL technicians often must enter difficult terrain to make repairs, which can take longer than if the disruption occurred in an open area.

It is also of note that the Complainant acknowledged his belief that the outages he experienced at the service address were not caused by trees located within PPL's right-of-way. Tr. 16. Although the company does not have the authority to trim vegetation located outside of the right-of-way, the record demonstrates that PPL does make efforts to obtain permission to eliminate vegetation it deems dangerous that is located outside of the right-of-way.

Regarding the Complainant's request for alternative sources for electric service such as the Rockhill Quarry project and tie ins to other circuits, the record demonstrates that the Rockhill Quarry project is no longer financially viable since the quarry withdrew from the project. Additionally, the record reflects that the portion of the line that would be moved through this project is only responsible for approximately 30% of the outages the Complainant has experienced in recent years. Tr. 94. Therefore, the Complainant would still experience outages even if the Company moved forward with this project. Moreover, the record reflects that the end of Ridge Road is the end of PPL's service territory. This restricts PPL's ability to provide the Complainant with alternate feed sources or paths to provide power. Tr. 71; PPL Exh. AM-2.

While the power outages the Complainant has experienced are unfortunate, under the circumstances presented here, including the location of the service address, the rural nature of the area, PPL's vegetation management program, and the redundant devices PPL has installed to help prevent power outages, I cannot conclude that PPL provided the Complainant with inadequate or unreasonable service. Accordingly, the Complainant's Complaint is denied.

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. 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. Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service. 66 Pa.C.S. § 1501.
5. The Complainant did not meet his burden of proving that PPL provided him with unreasonable or inadequate service.

