

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Melody Hartley	:	
	:	
v.	:	C-2022-3034294
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Complainant’s Formal Complaint because she failed to sustain her burden of proof to establish that PPL Electric Utilities Corporation violated any Commission orders or regulations concerning charges on her bill. The Complainant also failed to meet her burden to establish that she was entitled to a second Commission-issued payment arrangement because she defaulted on a prior Commission-issued payment arrangement and has not experienced a change in income.

HISTORY OF THE PROCEEDING

On August 5, 2022, Melody Hartley (Complainant or Ms. Hartley) 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 the utility is threatening to shut off her service and there were incorrect charges on her bills. The Complainant requests an analysis of her bills and a more affordable payment.

On August 25, 2022, Respondent filed an Answer denying the material allegations of the Complaint.

On September 8, 2022, a Hearing Notice was issued which indicated an initial hearing was scheduled in the matter for October 12, 2022, at 10:00 a.m., and assigned to me. I issued a Prehearing Order on September 27, 2022.

The initial hearing in this matter was held as scheduled on October 12, 2022. The Complainant appeared *pro se* and testified on her own behalf. The Complainant offered one exhibit which was entered into the record at the hearing. Respondent appeared and was represented by Garret P. Lent, Esq., who presented the testimony of one witness, Dana Brunner. Respondent offered four exhibits which were entered into the record at the time of the hearing.¹

The hearing resulted in an 86-page transcript. The record closed on November 14, 2022, when I received the transcript.

FINDINGS OF FACT

1. The Complainant in this case is Melody Hartley, who resides at 1040 Bear Drive, Newfoundland, Pennsylvania 18445 (Service Address). Tr. 7-8.
2. The Respondent in this case is PPL Electric Utilities Corporation.
3. The Complainant owns the Service Address. Tr. 22.
4. The Complainant resides alone at the Service Address. Tr. 15.
5. The Complainant is employed as a rural postal carrier. Tr. 28.

¹ The parties indicated that they would perform a meter test at the Service Address and would provide me with an update by November 14, 2022. As of the date of this decision, the parties did not provide me with any update or any documentation that a meter test had been performed.

6. The Service Address has electric baseboard heat, electric hot water heater, electric well pump, electric stove. Tr. 16.

7. The baseboard heating was installed when the house was built in 1989. Tr. 16.

8. The Service Address is a three-bedroom and two-bathroom residence that has a total of seven rooms. Tr. 15-16.

9. The Complainant's usage is higher in the winter months because she has electric heating. Tr. 65; PPL Exh. 1 and 2.

10. The Complainant received a Commission-issued payment arrangement from the Bureau of Consumer Services (BCS) Determination No. 3823912 on April 26, 2022 for \$421.00 budget billing plus \$623.00 on the arrears for 12 months. PPL Exh. 3 and 4.

11. The Complainant defaulted on the BCS-issued payment arrangement on May 11, 2022. Tr. 70; PPL Exh. 3.

12. The Complainant had company-issued payment arrangements on January 29, 2021, April 13, 2021, May 21, 2021, July 29, 2021, September 20, 2021, October 25, 2021, January 18, 2022, and March 17, 2022. PPL Exh. 2 and 3.

13. The Complainant has defaulted on all of the company-issued payment arrangements. Tr. 71; PPL Exh. 3.

14. The Complainant enrolled in budget billing on December 2, 2020. Tr. 54; PPL Exh. 2.

15. Budget billing is based on the most recent 12 months of usage and the customer is charged for the average and is adjusted based on actual usage every three months. Tr. 53-54.

16. At the end of the 12 month period, the customer account is reconciled and either given a credit to their account or the balance owed is broken into installments. Tr. 54.

17. The Complainant did not make consistent payments while she was on budget billing. Tr. 55; PPL Exh. 1.

18. The Complainant last made a payment on her account on February 10, 2022, in the amount of \$500 when her balance was \$4,888.80. Tr. 47; PPL Exh. 1.

19. The Complainant's current account balance is \$8,783.96. Tr. 46; PPL Exh. 1.

DISCUSSION

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. Sub. 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). A preponderance of the evidence is evidence that is 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 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 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 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).

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).

High Bill Dispute

The Complainant contends that her bills are out of line for the amount of electricity she is using. The Complainant indicates that she does not believe that she is using any excessive amount of electricity.

The burden of proof for “high bill” complaints has been explained in *Waldron v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980) (*Waldron*), and its progeny. In *Waldron*, the Commission adopted the Michigan Public Service Commission’s (PSC’s) policy announced in *Hallifax v. O & A Electric Co-Op*, Case No. U-5825, May 1979, which stated that, while the accuracy of the meter is an important factor in resolving billing disputes, it is not the sole criterion. The Commission stated that it will also consider the following factors: the billing

history of the complainant; any change in the number of occupants residing at the household; the potential for energy utilization; and any other relevant facts or circumstances that are brought to light during the complaint proceeding. *Waldron* at 100.

The Commission explained the burden of proof set forth in *Waldron* as follows:

the *Waldron* Rule allows a complainant to establish a *prima facie* case in a “high bill” complaint by showing that the disputed bill is abnormally high when compared to prior usage patterns and his or her pattern of usage has not changed *or by providing other relevant evidence showing that the disputed bill is unreasonably high*. In evaluating a “high bill” complaint, the Commission may consider such evidence as “the billing history of the account, any change in usage patterns (such as a change in the number of occupants residing in the household or potential energy utilization), *and any other relevant facts or circumstances that come to light during the proceeding.*”

Thomas v. PECO Energy Co., Docket No. C-2010-2187197, at 5 (Opinion and Order entered Nov. 15, 2011) (emphasis added).

The Complainant owns the Service Address. Tr. 22. The Complainant resides at the Service Address alone. Tr. 15. The Service Address has electric baseboard heat, electric hot water heater, electric well pump, electric stove. Tr. 16. The baseboard heating was installed when the house was built in 1989. Tr. 16. The Service Address is a three-bedroom and two-bathroom residence that has a total of seven rooms. Tr. 15-16. The Complainant’s electric usage is higher in the winter months because she has electric heating. Tr. 65; PPL Exh. 1 and 2.

The Complainant received a Commission-issued payment arrangement from the Bureau of Consumer Services (BCS) Determination No. 3823912 on April 26, 2022, for \$421.00 budget billing plus \$623.00 on the arrears for 12 months. PPL Exh. 3 and 4. The Complainant defaulted on the BCS-issued payment arrangement on May 11, 2022. Tr. 70; PPL Exh. 3. The Complainant had company-issued payment arrangements on January 29, 2021, April 13, 2021, May 21, 2021, July 29, 2021, September 20, 2021, October 25, 2021, January 18, 2022, and

March 17, 2022. PPL Exh. 2 and 3. The Complainant has defaulted on all of the company-issued payment arrangements. Tr. 71; PPL Exh. 3.

The Complainant enrolled in budget billing on December 2, 2020. Tr. 54; PPL Exh. 2. PPL's witness testified that budget billing is based on the most recent 12 months of usage and the customer is charged for the average and is adjusted based on actual usage every three months. Tr. 53-54. At the end of the 12-month period, the customer account is reconciled and either given a credit to their account or the balance owed is broken into installments. Tr. 54. The Complainant did not make consistent payments while she was on budget billing. Tr. 55; PPL Exh. 1. The Complainant last made a payment on her account on February 10, 2022, in the amount of \$500 when her balance was \$4,888.80. Tr. 47; PPL Exh. 1. The Complainant's current account balance is \$8,783.96. Tr. 46; PPL Exh. 1.

The Complainant contends that she had bills that were out of line with her actual usage. There is nothing in the record to suggest that the usage was unusual for the Service Address. "Mere bald assertions...do not constitute evidence." *Mid-Atl. Power Supply Ass'n of Pa. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000) (citing *Pa. Bur. of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987)); see also *Steffy's Pattern Shop v. Frontier Commc'n of Pa., Inc.*, Docket No. R-00994808 (Opinion and Order entered Mar. 3, 2000). The evidence of record suggests that the bills are the result of baseboard heating at the residence which was installed in 1989. Further, the rest of the home is run on electric, including a hot water heater, and a well pump. Moreover, based on the Complainant's payment history, which is sporadic, it appears that the Complainant's current account balance is the result of lack of payments, late payment charges accruing, and the Complainant's failure to keep any of the payment arrangements that were provided to her. As such, the Complainant has failed to meet her burden to demonstrate that her bills were incorrect and this portion of her Complaint must be dismissed.

Request for Payment Arrangement

The Complainant also requests a Commission-issued payment arrangement in this matter. PPL contends that the Complainant is not entitled to a payment arrangement due to her poor payment history and the fact that the Complainant has had a prior Commission-issued payment arrangement which was broken.

The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401–1419, (the Act or Chapter 14) applies to complaints alleging inability to pay and requesting a Commission-issued payment arrangement. This law provides strict guidelines that the Commission must follow in handling customer complaints. Section 1405(a) of the Public Utility Code reads as follows:

§ 1405. Payment arrangements

(a) GENERAL RULE. -- The commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers. The commission is authorized to establish payment arrangements between a public utility, customers and applicants within the limits established by this chapter.

66 Pa.C.S. § 1405(a).

However, absent a change in income, the Commission shall not establish or order a public utility to establish a second or subsequent payment arrangement if a customer has defaulted on a previous payment arrangement established by a Commission order or decision.

66 Pa.C.S. § 1405(d).

The Complainant resides at the Service Address alone. Tr. 15. The Complainant is employed as a rural mail carrier. Tr. 28. The Complainant did not testify that there has been any change in her income since the Commission-issued payment arrangement was put into place in April 2022. The Complainant received a Commission-issued payment arrangement from the

Bureau of Consumer Services (BCS) Determination No. 3823912 on April 26, 2022, for \$421.00 budget billing plus \$623.00 on the arrears for 12 months. PPL Exh. 3 and 4. The Complainant defaulted on the BCS-issued payment arrangement on May 11, 2022. Tr. 70; PPL Exh. 3.

The Complainant did not make consistent payments while she was on budget billing. Tr. 55; PPL Exh. 1. The Complainant last made a payment on her account on February 10, 2022, in the amount of \$500 when her balance was \$4,888.80. Tr. 47; PPL Exh. 1. The Complainant's current account balance is \$8,783.96. Tr. 46; PPL Exh. 1.

Further, The Complainant had company-issued payment arrangements on January 29, 2021, April 13, 2021, May 21, 2021, July 29, 2021, September 20, 2021, October 25, 2021, January 18, 2022, and March 17, 2022. PPL Exh. 2 and 3. The Complainant has defaulted on all of the company-issued payment arrangements. Tr. 71; PPL Exh. 3.

In this matter, the Commission is constrained to grant only one payment arrangement to the Complainant, absent a change in income. *See* 66 Pa.C.S. § 1405(d). A change in income is defined as "[a] decrease in household income of 20% or more if the customer's household income level exceeds 200% of the Federal poverty level or a decrease in household income of 10% or more if the customer's household income level is 200% or less of the Federal poverty level." 66 Pa.C.S. § 1403. The Complainant failed to demonstrate a change in income since she was provided with a Commission-issued payment arrangement in April 2022. The Complainant defaulted on that payment arrangement. As such, the Complainant's request for a payment arrangement must be 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. Pursuant to 66 Pa.C.S. § 332(a), the burden of proof in this proceeding is upon the complainant.

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. The accuracy of the meter is an important factor in resolving billing disputes, but it is not the sole criterion. The Commission stated that it will also consider the following factors: the billing history of the complainant; any change in the number of occupants residing at the household; the potential for energy utilization; and any other relevant facts or circumstances that are brought to light during the complaint proceeding. *Waldron v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980).

5. “[T]he Commission may consider such evidence as ‘the billing history of the account, any change in usage patterns (such as a change in the number of occupants residing in the household or potential energy utilization), and any other relevant facts or circumstances that come to light during the proceeding.’ *Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197, at 5 (Opinion and Order entered Nov. 15, 2011).

6. Absent a change in income, the Commission shall not establish or order a public utility to establish a second or subsequent payment arrangement if a customer has defaulted on a previous payment arrangement established by a Commission order or decision. 66 Pa.C.S. § 1405(d).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Melody Hartley against PPL Electric Utilities Corporation at Melody Hartley v. PPL Electric Utilities Corporation, Docket No. C-2022-3034294 is denied and dismissed;
2. That the record at Docket No. C-2022-3034294 be marked closed.

Date: February 10, 2023

_____/s/_____
Marta Guhl
Administrative Law Judge