

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Andrew Ciralo	:	
	:	
v.	:	C-2022-3034903
	:	
PPL Electric Utilities Corporation	:	

**INITIAL DECISION**

Before  
John M. Coogan  
Administrative Law Judge

**INTRODUCTION**

This decision dismisses the Formal Complaint filed by Andrew Ciralo (Mr. Ciralo or Complainant) against PPL Electric Utilities Corporation (PPL, Company, or Respondent). Complainant failed to satisfy his burden of demonstrating that Respondent violated the Public Utility Code, a Commission order or regulation or a Commission-approved tariff with respect to the service provided to him regarding power outages at his service address.

**HISTORY OF THE PROCEEDING**

On August 24, 2022, Andrew Ciralo filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation. The Formal Complaint was served on PPL on September 1, 2022. In his Formal Complaint, Mr. Ciralo averred that he is having a reliability, safety or quality problem with his utility service. Mr. Ciralo alleges that there have been excessive power interruptions; specifically, at least seven in 2022. As requested relief, Mr. Ciralo states he expects to stop losing service every time he has a storm.

On September 21, 2022, PPL filed an answer to Mr. Ciraolo's Formal Complaint.

On November 7, 2022, the Commission issued an initial telephonic hearing notice setting a formal call-in telephonic hearing for this matter for January 3, 2023, at 10:00 a.m. Also on November 7, 2022, I issued a prehearing order, setting forth various rules that would govern the evidentiary hearing.

The hearing was held as scheduled on January 3, 2023, at 10:00 a.m. Garrett P. Lent, Esquire attended on behalf of PPL, along with two witnesses for PPL: Gavin Canfield, Reliability Support Engineer for PPL; and Michael Trotta, Regional Forester for PPL. Andrew Ciraolo appeared on behalf of himself. PPL submitted seven exhibits that were admitted into the record. Complainant did not submit any exhibits.

The record in this case closed on January 23, 2023, upon the filing of the January 3, 2023, Hearing Transcript and Exhibits with the Commission.

#### FINDINGS OF FACT

1. The Complainant in this proceeding is Andrew Ciraolo.
2. The Respondent in this case is PPL Electric Utilities Corporation.
3. Mr. Ciraolo's PPL service address is 71 Pflaster Road, Damascus, PA 18415. Tr. 8.
4. PPL Exhibit GC-1 is a map of the transmission and distribution lines that serve Mr. Ciraolo. PPL Exhibit GC-1.
5. PPL Exhibit GC-2 is an aerial map of the area surrounding Mr. Ciraolo's service address. PPL Exhibit GC-2.

6. PPL Exhibit GC-3 is a record of momentary and extended outages experienced by Mr. Ciraolo. PPL Exhibit GC-3.
7. PPL Exhibit GC-4 is an analysis of the cost and reliability improvements associated with replacing the inaccessible portion of the electric line serving Mr. Ciraolo. PPL Exhibit GC-4.
8. PPL Exhibit MT-1 is a screenshot of PPL's work-planning software for vegetation management on Mr. Ciraolo's property in 2022. PPL Exhibit MT-1.
9. PPL Exhibit MT-2 is an audit of the vegetation management completed at Mr. Ciraolo's service address on September 6, 2022. PPL Exhibit MT-2.
10. PPL Exhibit MT-3 are pictures of electric lines at Mr. Ciraolo's residence. PPL Exhibit MT-3.
11. Mr. Ciraolo is served by PPL's West Damascus 2 distribution line (West Damascus 2). Tr. 29.
12. West Damascus 2 is one of the longer circuits within PPL territory. Tr. 29.
13. West Damascus 2 is located in a very mountainous and wooded area, with a lot of back dirt roads. Tr. 29.
14. Electric lines located in heavily wooded areas are more likely to experience outages than lines located in less wooded areas. Tr. 35-36.
15. There are approximately six and a half miles of electric line between the West Damascus 2 substation and Mr. Ciraolo's service address. Tr. 31.

16. The long distance between the West Damascus 2 substation and Mr. Ciruolo's service address impacts his service because any faults that occur upstream of his residence will impact his service. Tr. 31-32.
17. Mr. Ciruolo is the last customer served along his tap. Tr. 82-83; PPL Exhibit GC-1.
18. Two reclosers are located on the line between the West Damascus 2 substation and Mr. Ciruolo's service address. Tr. 33.
19. Fuses are located on the line between the West Damascus 2 substation and Mr. Ciruolo's service address. Tr. 33.
20. PPL classifies a momentary outage as a power outage with a duration less than five minutes. Tr. 36.
21. Typically, momentary outages only last a matter of seconds. Tr. 36.
22. Mr. Ciruolo experienced 30 momentary outages between January 1, 2020, and December 25, 2022. PPL Exhibit GC-3; Tr. 72-73.
23. A momentary outage may occur until a fault is cleared from the electric line. Tr. 42-43.
24. PPL classifies a fault as a disruption in the electrical current moving over a PPL line. Tr. 38.
25. Faults can be caused by trees, animals, equipment failure, motor vehicle pole hits, scheduled outages, and other types of contact with an electric line. Tr. 38-39.

26. Momentary outages allow customers to retain service instead of causing a permanent outage. Tr. 44.

27. The protective devices on the distribution and transmission lines serving Mr. Ciruolo have been working properly. Tr. 44.

28. If the fault is not cleared, a permanent outage occurs. Tr. 43.

29. PPL classifies a permanent outage as a power outage with a duration more than five minutes. Tr. 36.

30. Mr. Ciruolo experienced 12 permanent outages between August 4, 2020, and August 8, 2022. PPL Exhibit GC-3; Tr. 72-73.

31. Six of the 12 permanent outages were caused by trees outside PPL's right of way. PPL Exhibit GC-3; Tr. 53.

32. Four of the 12 permanent outages were caused by trees inside PPL's right of way. PPL Exhibit GC-3; Tr. 53.

33. One of the 12 permanent outages was caused by equipment failure. PPL Exhibit GC-3; Tr. 53.

34. One of the 12 permanent outages was caused by unexplained reasons. PPL Exhibit GC-3; Tr. 53.

35. Part of the electric line serving Mr. Ciruolo is inaccessible. Tr. 61; PPL Exhibit GC-1.

36. An electric line is inaccessible if a truck cannot physically drive up to the line and must be serviced by alternative methods. Tr. 74-75.

37. PPL performed two cost-benefit analyses to determine whether it was justified to replace the inaccessible portion of the electric line serving Mr. Ciruolo. Tr. 56-66.

38. PPL's cost-benefit analyses did not justify replacement of the inaccessible portion of the electric line serving Mr. Ciruolo. Tr. 56-66; PPL Exhibit GC-4.

39. PPL's vegetation management along the line serving Mr. Ciruolo included circuit trimming, removal of trees, and brush control in 2016. Tr. 80.

40. Circuit trimming, removal of trees, and brush control along the line serving Mr. Ciruolo was ongoing at the time of the January 3, 2023, evidentiary hearing, and is expected to be completed by March 2023. Tr. 80, 85.

41. PPL performs vegetation management for the electric service line serving Mr. Ciruolo on a six-year cycle. Tr. 83-84.

42. Mr. Ciruolo did not make a request for additional tree trimming prior to filing his Formal Complaint. Tr. 92.

43. PPL performed tree trimming at Mr. Ciruolo's property after the Formal Complaint was filed. Tr. 92.

44. Vegetation management at Mr. Ciruolo's property was completed on September 6, 2022. Tr. 90.

### DISCUSSION

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196

(1990). “Burden of proof” means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). The offense must be a violation of the Public Utility Code, the Commission’s regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701.

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. *Milkie v. Pa. Pub. Util. Comm’n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *see also, Burlison v. Pa. Pub. Util. Comm’n*, 443 A.2d 1373 (Pa. Cmwlth. 1982). Moreover, the Commission’s decision must be supported by “substantial evidence,” which consists of evidence that a reasonable mind might accept as adequate to support a conclusion. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm’n*, 413 A.2d 1037 (Pa. 1980). A mere trace of evidence or a suspicion of the existence of a fact is insufficient. *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1960). A complainant cannot establish a case merely by stating his or her personal beliefs, since assertions, personal opinions or perceptions do not constitute evidence. *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

Public utilities are required by law to provide the Complainant with adequate and reasonable service. Section 1501 of the Public Utility Code Section states:

**§ 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.

66 Pa.C.S. § 1501. This section does not require utility companies to provide perfect service. *Elkin v. Bell Tel. Co. of Pa.*, 372 A.2d 1203 (Pa. Super. 1987) (*Elkin*).

A Section 1501 violation regarding unreasonable service outages is fact specific as to the number of outages, their causes, and a company's corrective actions. *Barry v. Metro. Edison Co.*, Docket No. C-2018-3005410 (Opinion and Order entered Aug. 12, 2019). The Commission does not automatically consider an outage from an off right-of-way tree to exonerate the utility from fault. *Id.* An electric distribution company shall strive to prevent interruptions of electric service and, when interruptions occur, restore service within the shortest reasonable time. 52 Pa. Code § 57.194(d).

In this proceeding, Complainant has alleged that PPL violated section 1501 of Title 66 of the Public Utility Code regarding reasonable, safe and quality service. 66 Pa.C.S. § 1501. Therefore, Complainant has the burden of proof in this proceeding.

When provided an opportunity to testify at the January 3, 2023, hearing, Mr. Ciruolo stated he feels his PPL service has been extremely unreliable, and he expressed dissatisfaction both with PPL's responsiveness to his concerns and maintenance of the electric line serving him. Tr. 9-16. Mr. Ciruolo alleges he has experienced seven or eight power outages in 2022. Tr. 9. PPL submitted testimony and documentation of 12 permanent outages at Mr. Ciruolo's service address between August 4, 2020, and August 8, 2022, including 5 outages in calendar year 2022. PPL Exhibit GC-3; Tr. 72-73. Of the 12 permanent outages, six were caused by trees outside of PPL's right of way, four were caused by trees inside PPL's right of way, one was caused by equipment failure, and one was caused by an unexplained reason. PPL Exhibit GC-3; Tr. 53. PPL also submitted testimony and documentation of 30 momentary outages between January 1, 2020, and December 25, 2022, including 12 outages in calendar year 2022. PPL Exhibit GC-3; Tr. 72-73.

PPL witness Canfield admits that the long distance between the West Damascus 2 substation and Mr. Ciruolo's service address impacts his service because any faults that occur upstream of his residence will impact his service. Tr. 31-32. However, PPL witness Canfield notes it has devices to improve reliability and prevent outages on the electric line serving Mr. Ciruolo, i.e., reclosers and fuses. Tr. 33-34, 43-44. PPL witness Trotta also detailed the specific vegetation management it completed in response to Mr. Ciruolo's Formal Complaint, in addition to its routine vegetation management along West Damascus 2. Tr. 92; PPL Exhibits MT-1 and MT-2.

Recently, in a different proceeding, the Commission found that fourteen outages and eight reclosure events over approximately three and a half years did not constitute unreasonable service. *Zampatti v. West Penn Power Co.*, Docket No. C-2020-3021157 (Opinion and Order entered Apr. 25, 2022) (*Zampatti*). The Commission did not cite or set a rule about a quantity of outages that constitute inadequate and unreasonable service but did emphasize that West Penn took steps to remedy the service concerns and that those steps did lead to fewer outages. *Id* at 11-12.

Here, Complainant experienced twelve permanent outages over approximately two years, and 30 momentary outages over approximately three years. PPL's witnesses described protective devices on the electric line serving Mr. Ciruolo and vegetation management efforts it has undertaken or is currently undertaking. However, it is not clear that those steps are leading to a decrease in outages, whether permanent or momentary. Regarding momentary outages, PPL Exhibit GC-3 shows that three occurred in 2020, 15 occurred in 2021, and 12 occurred in 2022. Regarding permanent outages, PPL Exhibit GC-3 shows that, over an approximately two-year period, two outages occurred in the first year (i.e., August 4, 2020, to August 4, 2021), and seven occurred in the second year (i.e., August 5, 2022, to August 8, 2022).

Nonetheless, I find that Complainant has not met his burden of proof that PPL's service is unreasonable and inadequate. Starting with the permanent outages, six of the twelve outages were caused by things not clearly within PPL's control, i.e., off right-of-way trees or unexplained reasons. Although the Commission does not automatically consider an outage from

an off right-of-way tree to exonerate the utility from fault, the Complainant did not establish in the record that PPL did not provide reasonable or adequate service in relation to managing or attempting to manage the off right-of-way trees that caused outages. It is also unclear what caused the one permanent outage due to an unexplained reason, and therefore whether the outage was within PPL's control to prevent.

Even if fault is assigned to PPL for the five remaining permanent outages that are arguably more within PPL's control, i.e., caused by equipment failure or on-right-of way trees, Section 1501 of the Public Utility Code requires reasonable service, not perfect service. 66 Pa.C.S. § 1501; *Elkin*. It is not clear that these five outages alone over a two-year period constitute unreasonable and inadequate service. Also, PPL noted that each of the five outages most clearly within its control occurred during some sort of weather event, i.e., wind, lightning, thunder, rain, or some combination thereof. PPL Exhibit GC-3.

Mr. Ciruolo experienced 30 momentary outages over an approximately three-year period. Although PPL defines momentary outages as lasting under five minutes, PPL witness Canfield testified that momentary outages typically only last "for a matter of seconds, sometimes even a split second, which you will only see the lights dim in your house before they [become] bright". Tr. 36. PPL witness Canfield also explained how momentary outages serve a protective function to clear faults instead of allowing a fault to become a permanent outage. As explained above, the Commission does not have a brightline rule regarding the number of outages that establish unreasonable service. *See Zampatti*. However, even if these 30 momentary outages were considered *prima facie* unreasonable, I find that PPL successfully rebutted Mr. Ciruolo's claim in relation to momentary outages by establishing that these outages were both of short duration and provide a protective benefit by avoiding permanent outages. 66 Pa.C.S. § 1501; *Elkin*.

As relief, Complainant expects to stop losing service every time he has a storm. The record of this proceeding shows that PPL provides protection to the electric line serving Complainant and PPL has taken steps regarding vegetation management to improve service to the Complainant. Although the annual number of outages does not appear to be clearly

decreasing, for the reasons explained above, the record also does not contain substantial evidence that PPL is providing unreasonable and inadequate service and therefore violating the Public Utility Code, a Commission order or regulation or a Commission-approved tariff as it relates to Complainant's service. Accordingly, the Complainant's Formal Complaint is dismissed.<sup>1</sup>

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter within its regulations and the parties to this proceeding. 66 Pa.C.S. § 701.

2. Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).

3. A complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990).

4. The offense must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701.

5. "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

6. If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the

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<sup>1</sup> In *Zampatti*, although the Commission did not find that the formal complaint should be sustained, it found that the circumstances warranted further review by the Bureau of Technical Utility Services – Reliability Division to help ensure continued reliable, safe and quality service into the future. *Zampatti* at 12. Although Complainant has not met their burden of proof in this proceeding to sustain their formal complaints, the Commission may find it appropriate to provide a referral similar to that made in *Zampatti*. The Commission made a similar referral recently in *Bierkamp v. Metropolitan Edison Co.*, Docket No. C-2019-3015097 (Opinion and Order entered March 15, 2023).

complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *see also*, *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

7. The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

8. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. 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. Co. 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. 1961); and *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

9. Utility companies are required to provide adequate and reasonable service. 66 Pa.C.S. § 1501.

10. Section 1501 of Title 66 of the Public Utility Code does not require utility companies to provide perfect service. *Elkin v. Bell Tel. Co. of Pa.*, 372 A.2d 1203 (Pa. Super. 1987); 66 Pa.C.S. § 1501.

11. A Section 1501 violation regarding unreasonable service outages is fact specific as to the number of outages, their causes, and a company's corrective actions. The Commission does not automatically consider an outage from an off right-of-way tree to exonerate the utility from fault. *Barry v. Metro. Edison Co.*, Docket No. C-2018-3005410 (Opinion and Order entered Aug. 12, 2019).

12. An electric distribution company shall strive to prevent interruptions of electric service and, when interruptions occur, restore service within the shortest reasonable time. 52 Pa. Code § 57.194(d).

13. PPL provided adequate and reasonable service consistent with Section 1501 of Title 66 of the Public Utility Code. 66 Pa.C.S. § 1501.

14. Complainant failed to satisfy his burden to demonstrate that PPL violated the Public Utility Code, a Commission order or regulation or a Commission-approved tariff. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Andrew Ciruolo against PPL Electric Utilities Corporation on August 24, 2022, Andrew Ciruolo v. PPL Electric Utilities Corporation, docket number C-2022-3034903 is hereby dismissed.

2. That this matter is marked closed.

Date: April 7, 2023

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/s/  
John M. Coogan  
Administrative Law Judge