

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Maria Camody	:	
	:	
v.	:	F-2023-3041898
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
John M. Coogan
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses a Formal Complaint that alleged overbilling by an electric utility because the Complainant failed to meet her burden of proving, by a preponderance of the evidence, that the utility violated the Public Utility Code or a Commission order or regulation.

HISTORY OF THE PROCEEDING

On July 17, 2023, Maria Camody (Ms. Camody or Complainant) filed a Formal Complaint against PPL Electric Utilities Corporation (PPL or Company).¹ Ms. Camody's Formal Complaint was served on PPL on July 26, 2023. Ms. Camody alleges there are incorrect charges on her bill. Specifically, Ms. Camody questioned why her bills increased during the

¹ Ms. Camody's Formal Complaint is a timely appeal of a decision issued by the Commission's Bureau of Consumer Services at BCS Case No. 3889740. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

billing periods from October 2022 to February 2023. Ms. Camody requested to be reimbursed for PPL's alleged errors.

On August 15, 2023, PPL filed an answer to the Formal Complaint. In its answer, PPL denied or admitted the various averments in the Formal Complaint. In particular, PPL denied that Complainant's electric service bills contain incorrect charges. PPL also asserted that Complainant was not issued any estimated bills for her electric service and her account was unaffected by the data transfer error that occurred in December 2022, which affected other PPL customers.

On August 22, 2023, the Commission issued an initial telephonic hearing notice setting a formal call-in telephonic hearing on the Formal Complaint for October 13, 2023, at 10:00 a.m. and assigning me as the presiding officer.² I issued a prehearing order on August 17, 2023, setting forth various rules that would govern an evidentiary hearing.

The initial hearing convened on October 13, 2023, as scheduled. Megan Rulli, Esquire attended on behalf of PPL, along with one witness for PPL, Holly Hankerson, Customer Service Lead for PPL. Maria Camody appeared on behalf of herself. PPL submitted five exhibits that were admitted into the record. Complainant did not submit any exhibits for the record.

The record in this case consists of the above-referenced exhibits and a transcript of 56 pages. The record closed on October 24, 2023, upon my receipt of the hearing transcript. For the reasons discussed below, the Formal Complaint will be dismissed.

FINDINGS OF FACT

1. The Complainant in this case is Maria Camody.

² Two previous initial telephonic hearing notices were issued on August 16, 2023, and August 17, 2023 for a hearing date on October 11, 2023. However, due to scheduling conflicts, a third initial telephonic hearing notice was issued on August 22, 2023 for a hearing date on October 13, 2023.

2. The Respondent in this case is PPL Electric Utilities Corporation.
3. Ms. Camody receives PPL electric service at 334 Liberty Street, Bethlehem, PA (service address). Tr. 14.
4. Ms. Camody disputes the accuracy of her PPL bills from October 2022 to February 2023. Tr. 9-10.
5. PPL Exhibit 1 is an Account Activity Statement from October 7, 2019 to September 6, 2023.
6. PPL Exhibit 2 is an Account Contact History from October 7, 2019 to September 6, 2023.
7. PPL Exhibit 3 is a payment agreement Ms. Camody made with PPL starting June 14, 2023.
8. PPL Exhibit 4 are the Commission's Bureau of Consumer Services (BCS) records of an informal complaint Ms. Camody filed with BCS on February 16, 2023.
9. PPL Exhibit 5 is a Meter Reading History from August 6, 2019 to September 5, 2023.
10. In December 2022, PPL's meter reading system was working, but its billing system was not appropriately receiving customer information. Tr. 21.
11. Because PPL's billing system was not appropriately working, estimated bills were sent to customers. Tr. 21.

12. Ms. Camody did not receive an estimated bill between October 7, 2019 and September 6, 2023. Tr. 21, 25-26, 38-42; PPL Exhibit 1; PPL Exhibit 5.

13. Ms. Camody shops for her energy supply. Tr. 13.

14. Between June 2022 and March 2023, Ms. Camody's energy supplier was American Power and Gas. Tr. 13.

15. Ms. Camody usually uses a space heater. Tr. 15.

16. During the winter of 2022-2023, Ms. Camody did not use a space heater. Tr. 15.

17. The service address includes gas heat. Tr. 15.

18. Two people, including Ms. Camody, live at the service address and have lived at the service address for the past two years. Tr. 14.

DISCUSSION

Burden of Proof

Section 332(a) of the Pennsylvania Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). "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). 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). 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. In this proceeding, Ms. Camody filed a Complaint against

PPL alleging overbilling and seeking reimbursement. Ms. Camody, therefore, bears the burden of proof in this proceeding.

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) (*Milkie*); *see also, Burlison v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

Any decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "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); *Murphy v. Dept. of Public Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

Overbilling Complaint

In cases of alleged high billing, the Commission applies the *Waldron* rule, which provides that to establish a *prima facie* case of overbilling, a Complainant must show: (1) that the number of occupants in the household has not changed, (2) that the potential for energy utilization was low and (3) that complainant's billing history shows no prior abnormalities. Once the Complainant makes out a *prima facie* case, the burden of proof then shifts to the utility; however, the ultimate burden of persuasion always remains with the Complainant. *Malcolm Waldron v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980); *Repogle v. Pa. Elec. Co.*, 54 Pa.P.U.C. 528 (1980).

In *Milkie*, the Commonwealth Court of Pennsylvania further refined the *Waldron* rule by holding:

[w]hile the [Waldron] rule is often explained by stating that the ratepayer must establish certain specific elements in order to make out a prima facie case of overbilling by a utility company, we believe this view is too restrictive. Rather the controlling principle is that even where the utility can present evidence that it has tested the customer's meter and found it to be accurate, the customer may nonetheless prove his case by circumstantial evidence, which would support a finding that the metered usage exceeded the actual usage. Thus, as our Supreme Court has explained, the rule operates as a device by which the complainant is protected from dismissal because of his inability to marshal direct proof that his meter had malfunctioned. *Gary and Doris Burlison v. Pennsylvania Public Utility Commission*, 501 Pa. 433, 435-6, 461 A. 2d 1234, 1235 (1983).

Milkie, 768 A.2d at 1219–1220. In *Thomas v. PECO Energy Company*, Docket No. C-2010-2187197 (Final Order entered Nov. 15, 2011) (*Thomas*), the Commission explained:

consistent with our holding in *Charisse Bennett v. Peoples Natural Gas Co.*, Docket No. C-2009-2122979 (Order entered October 13, 2010), 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.” *Id.* at 6 (emphasis added).

Thomas, Docket No. C-2010-2187197 at 5.

Ms. Camody disputes the accuracy of her PPL bills from October 2022 to February 2023. Tr. 9. Ms. Camody asserts that her bills were inaccurate because they were part

of a “glitch” with PPL. Tr. 11. Ms. Camody also asserted that the bills from October 2022 to February 2023 were higher than prior years’ bills. Tr. 9-12. Ms. Camody’s testimony also highlighted her concern with the supply portion of her bill. Tr. 9-11. For instance, she highlighted that the distribution portion of her December 2022 and February 2023 bills was half as much as her supply costs. Tr. 9-10

PPL witness Holly Hankerson did admit that, in December 2022, PPL did experience a “glitch.” Tr. 21. Ms. Hankerson explained that, although PPL’s meter reading system was working, PPL’s billing system was not appropriately receiving customer information, so estimated bills were sent to customers. Tr. 21. However, Ms. Hankerson testified that Ms. Camody did not receive estimated bills and she was not affected by this glitch in any other way. Tr. 21.

PPL Exhibit 1 provides billing data for Ms. Camody’s service address from October 7, 2019 to September 6, 2023. Comparing billing for October 2022 to February 2023 with similar periods for the prior two years demonstrates the following:

Billing period	Billing date	Days in bill	Total KWh used	Total electric service costs³
October				
	10/07/2020	33	253	\$44.42
	10/07/2021	29	262	\$47.83
	10/06/2022	29	343	\$93.66
November				
	11/05/2020	29	354	\$55.57
	11/05/2021	29	407	\$63.69
	11/04/2022	29	556	\$121.21
December				
	12/07/2020	32	751	\$99.89

³ The bills for some months also included a forward balance. However, the amounts reflected in this column only reflect the electric service costs for the month detailed not including the forward balance.

	12/07/2021	32	891	\$123.81
	12/06/2022	32	884	\$156.82
January				
	01/07/2021	31	857	\$114.62
	01/07/2022	31	850	\$130.37
	01/11/2023	31	1166	\$204.88
February				
	02/08/2021	32	777	\$105.39
	02/07/2022	31	892	\$131.67
	02/06/2023	29	1039	\$183.61

PPL Exhibit 1.

PPL’s records do show that Ms. Camody’s electric bills were higher from October 2022 to February 2023 than the bills during the same period for the prior two years. Ms. Camody also testified that two people, including Ms. Camody, live at the service address and have lived at the service address for the past two years. Tr. 14. However, I do not find that Ms. Camody made a *prima facie* case that her PPL bills from October 2022 to February 2022 were abnormally high. First, regarding Ms. Camody’s assertion that her account was affected by a glitch, Ms. Hankerson testified, and PPL’s exhibits show, that Ms. Camody’s bills were based on actual consumption, and that she was not affected by the problems with PPL’s billing system in December 2022. Tr. 21, 25-26, 38-42; PPL Exhibit 1; PPL Exhibit 5.

Second, PPL’s records show that Ms. Camody consumed more electricity in four of the five months during the October 2022 to February 2023 period than the same period in the prior two years. Therefore, a likely factor in her increased bills was her increased electricity consumption. Although Ms. Camody asserted she did not use more electricity during the disputed billing period than prior years, I do not find that her testimony alone constitutes substantial evidence of her claim. Mere bald assertions, personal opinions or perceptions do not constitute evidence to bolster a claim. *Mid-Atlantic Power Supply Ass’n of Pa. v. Pa. Pub. Util.*

Comm'n, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000) (citing *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12, 14 (Pa. 1987)).

Third, Ms. Camody acknowledged that, between June 2022 and March 2023, her energy supplier was American Power and Gas, and that energy supply costs are set by her energy supplier, not PPL. Tr. 13-14. It is therefore possible that another factor in her comparably higher bills was comparably higher energy supply costs. However, there is no record evidence that either way shows how Ms. Camody's energy supply costs for October 2022 to February 2023 compare to the energy supply costs for the same period in the prior two years.⁴

Given the record evidence, I cannot conclude that Ms. Camody has met her burden of proving by a preponderance of the evidence that the alleged high PPL bills from October 2022 to February 2023 were the result of an error by PPL. Accordingly, I find that Ms. Camody has failed to carry her burden of proof to show that her PPL bills were excessive or otherwise not accurate as rendered.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 701.
2. The party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).
3. "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).

⁴ PPL's Exhibit 1 separately accounts for supply costs for the billing period October 2022 to October 2023, but not for the billing periods October 2020 to February 2021 or October 2021 to February 2022.

4. In cases of alleged high billing, to establish a prima facie case of overbilling, a complainant, must show: (1) that the number of occupants in the household has not changed, (2) that the potential for energy utilization was low and (3) that complainant's billing history shows no prior abnormalities. Once the complainant makes out a prima facie case, the burden of proof then shifts to the utility; however, the ultimate burden of persuasion always remains with the complainant. *Waldron v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980); *Repogle v. Pa. Elec. Co.*, 54 Pa.P.U.C. 528 (1980).

5. 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. *Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Final Order entered Nov. 15, 2011).

6. Ms. Camody has failed to satisfy her burden of proof in this proceeding to demonstrate that her PPL bills were not accurate or that PPL violated the Public Utility Code, a Commission Order or Regulation or a Commission-approved tariff with regard to the bills rendered by it. 66 Pa.C.S. § 332(a).

