

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Patricia Galderisi	:	
Fiorella Mauri	:	
	:	
v.	:	F-2023-3041574
	:	
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 Complainants failed to meet their 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 June 20, 2023, Patricia Galderisi and Fiorella Mauri (Complainants) filed a Formal Complaint against PPL Electric Utilities Corporation (PPL or Company).¹ The Formal Complaint was served on PPL on June 30, 2023. Complainants alleged there are incorrect charges on the final PPL bill they received after selling their home. Complainants stated that

¹ The Formal Complaint is a timely appeal of a decision issued by the Commission’s Bureau of Consumer Services at BCS Case No. 3888725. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

PPL explained meters failed to communicate to PPL and Complainants' bill was an estimated bill. Complainants assert these reasons do not explain why the charges on their final bill are extremely high and out of line with previous billing. Complainants assert the correct amount to pay PPL is \$846.43, not \$1,066.43. As relief, Complainants request that their bill be adjusted.

On July 20, 2023, PPL filed an answer to the Formal Complaint. In its answer, PPL denied or admitted the various averments in the Formal Complaint. PPL admitted the Complainants received an estimated bill for their electric service in December 2022. However, PPL asserted customer usage data was being accurately collected and stored at all times, and Complainants' actual usage during December 2022 was higher than PPL estimated. Accordingly, Complainants' underestimated bill was reconciled to the actual meter usage for the December 2022 billing period and the final bill issued on February 2, 2023 included costs for actual electric usage from the December 2022 billing period, as well as a budget bill balance carried forward from the electric service bill issued December 1, 2022 and costs for actual electric usage during the final billing period of January 4, 2023 to January 21, 2023.

On July 24, 2023, the Commission issued an initial telephonic hearing notice setting a formal call-in telephonic hearing of the Formal Complaint for September 21, 2023, at 10:00 a.m. and assigning Administrative Law Judge (ALJ) Alphonso Arnold III to this proceeding. On July 26, 2023, the Commission issued a notice, changing the assigned ALJ to the undersigned, and rescheduling the hearing to September 27, 2023, at 10:00 a.m. In anticipation of that hearing, I issued a prehearing order on July 28, 2023, setting forth various rules that would govern that proceeding.

The initial hearing convened on September 27, 2023, as scheduled. Megan Rulli, Esquire attended on behalf of PPL, along with two witnesses for PPL: Donna Brower, Customer Contact Center Supervisor for PPL, and Tami Roland, Senior Customer Service Representative for PPL. Patricia Galderisi and Fiorella Mauri appeared on behalf of themselves. PPL submitted six exhibits that were admitted into the record. Complainant submitted two exhibits that were admitted into the record.

The record in this case consists of the above-referenced exhibits and a transcript of 63 pages. The record closed on October 26, 2023, upon my receipt of the hearing transcript. For the reasons discussed below, the Formal Complaint will be dismissed.

FINDINGS OF FACT

1. The Complainants in this case are Patricia Galderisi and Fiorella Mauri.
2. The Respondent in this case is PPL Electric Utilities Corporation.
3. The service address at issue in this proceeding is 217 Minsi Trail West, Long Pond, PA 18334.
4. Complainants' Exhibit 1 is the final PPL bill issued to Complainants for service at the service address.
5. Complainants' Exhibit 2 is a letter attached to Complainants' Formal Complaint.
6. PPL Exhibit 1 is an Account Activity Statement for the service address.
7. PPL Exhibit 2 is an Account Contact History for Patricia Galderisi.
8. PPL Exhibit 3 is a record of Complainants' informal complaint filed with the Commission's Bureau of Consumer Services (BCS) at BCS case no. 3888725.
9. PPL Exhibit 4 is usage detail for Complainants' PPL account at the service address.
10. PPL Exhibit 5 is a meter reading history for Complainants' PPL account at the service address.

11. PPL Exhibit 6 is a daily usage collection for Complainants' PPL meter at the service address.
12. Complainants' vacation home was located at the service address. Tr. 16.
13. Complainants owned their vacation home for 37 years. Tr. 16.
14. Complainants' vacation home used electric heat. Tr. 15.
15. Only the Complainants stayed at the house. Tr. 15-16.
16. Complainants spent time at the vacation home during November 2022 through January 2023 to prepare to sell the house. Tr. 15.
17. After January 21, 2023, Complainants no longer owned the house at the service address. Tr. 15.
18. Complainants received an estimated bill for the December 2022 billing period because PPL discovered that customer meter data was not transferring from its command center into its meter data management system. Tr. 27.
19. Customer usage data was being accurately collected and stored at all times in PPL's command center. Tr. 27.
20. Complainants' estimated PPL electric usage for the December 2022 billing period was calculated based on average daily usage in the same month from the prior year multiplied by the number of days in the billing period. Tr. 27-28.
21. Complainants' estimated PPL electric usage for the December 2022 billing period, i.e., November 30, 2022 to January 4, 2023, reflected an estimated usage of 2,545 kilowatt hours (kWh) at a total cost of \$291.03. Tr. 28-29; PPL Exhibit 1, 4, 5.

22. Complainants' actual PPL electric usage for the service dates November 30, 2022 to January 4, 2023 was 5,350 kWh at a total cost of \$594.60. Tr. 28-35, 50; PPL Exhibits 1, 4, 5.

23. Complainants' actual PPL electric usage for service dates January 4, 2023 to January 21, 2023 was 2,569 kWh at a total cost of \$285.26. Tr. 50-51; PPL Exhibits 1, 4, 5.

24. Complainants' PPL account for the service address was closed on January 21, 2023. Tr. 49; PPL Exhibit 2.

25. Complainants were enrolled in budget billing at the time their account was closed. Tr. 49.

26. Budget billing is a levelized payment plan that is subject to review and change every three months and settles once a year. Tr. 49.

27. Complainants' final bill included a budget balance of \$186.57. Tr. 51; PPL Exhibit 1.

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 Hosier 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, Complainants filed a Complaint against PPL alleging overbilling and seeking adjustment to their PPL bill. Complainants, therefore, bear 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 Pub. 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. *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.

Milkie, 768 A.2d at 1219-1220 (citing *Burleson v. Pa. Pub. Util. Comm'n*, 461 A. 2d 1234, 1235 (Pa. 1983)). In *Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Opinion and 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."

Thomas, at 5 (citation omitted).

Complainants are disputing their PPL bills for December 2022 and January 2023. Tr. 15. Specifically, instead of the \$1,066.43 claimed due by PPL, Complainants have asserted they owe \$846.43. Formal Complaint; Tr. 41-42. Ms. Galderisi explained that the \$846.43

consists of \$355.35 for actual charges for the December 2022 billing period, a budget balance of \$186.57, and \$285.26 for the January 2023 billing period.² *Id.*

In response, PPL explained that the \$1,066.43 was comprised of:

- Actual PPL electric usage for the service dates November 30, 2022 to January 4, 2023 was 5,350 kilowatt hours at a total cost of \$594.60. Tr. 28-35, 50; PPL Exhibits 1, 4, 5.
- Actual PPL electric usage for service dates January 4, 2023 to January 21, 2023 at a total cost of \$285.26. Tr. 50-51; PPL Exhibits 1, 4, 5.
- A budget balance of \$186.57. Tr. 51; PPL Exhibit 1.

Although Ms. Galderisi stated that Complainants dispute their December 2022 and January 2023 PPL bills, after comparing the parties' assertions, it appears Complainants agree with PPL that the bill for the January 2023 billing period was \$285.26. Additionally, Complainants agree with PPL that a budget balance of \$186.57 is due. Therefore, the only dispute among the parties is the amount billed for the December 2022 billing period.

Complainants questioned the accuracy of their bills because of the problems PPL had with its billing system that caused it to initially issue Complainants an estimated bill for the December 2022 billing period. Tr. 8-9, 58-59. PPL witness Donna Brower testified that Complainants received an estimated bill for the December 2022 billing period because PPL discovered that customer meter data was not transferring from its command center into its meter data management system. Tr. 27. However, Ms. Brower also testified that customer usage data was being accurately collected and stored at all times in PPL's command center. *Id.*

² These three amounts add to \$827.18, not \$846.43.

PPL Exhibit 1 provides billing data for Complainants’ service address from September 18, 2019 to June 27, 2023. Comparing billing for the December 2022 billing period with December billing periods for the prior three years demonstrates the following:

Billing period	Billing date	Days in bill	Total kWh used	Avg. kWh per day	Total electric service costs	Avg. Temperature
December						
	1/19/2023	35	5350	153	\$594.60	35
	1/5/2022	33	2400	73	\$263.34	39
	1/5/2021	33	2699	82	\$295.41	34
	1/6/2020	31	2372	77	\$262.34	37

PPL Exhibits 1, 4, 5.

PPL records do show that Complainants’ bill for the December 2022 billing period appear abnormally high when compared to previous years’ billing periods, i.e., the average kWh used per day was approximately twice as much as prior years. Ms. Galderisi testified that Complainants’ vacation home is heated with electricity. Tr. 15. However, PPL’s records do not show that the average temperature was notably lower during the December 2022 billing period, which, if it had been, could have caused increased electric heat use. Ms. Galderisi also testified that only Complainants used the vacation home and there was no unusual use of electricity during the December 2022 billing period when compared to previous years. Tr. 15-18.

While it may be arguable that Complainants presented a *prima facie* case of overbilling by asserting their bill for the December 2022 billing period was abnormally high, I find that the evidence presented by PPL outweighs Complainants’ evidence and, accordingly, conclude that Complainants have not proven their allegation of overbilling by a preponderance of the evidence. PPL’s witnesses presented credible and convincing evidence that Complainants’ actual PPL electric usage for the December 2022 billing period, i.e., November 30, 2022 to January 4, 2023, was 5,350 kWh at a total cost of \$594.60, not \$355.35 as claimed by Complainants. Tr. 27-35, 50; PPL Exhibits 1, 4, 5. Additionally, it is notable that Complainants spent time at the

service address during the December 2022 billing period to prepare to sell their vacation home. Tr. 15. Given the unusual situation that Complainants were preparing to sell their home that they owned for 37 years, it is possible that Complainants spent more time at their vacation home during the December 2022 billing period or used electricity in a different manner when compared to prior December billing periods. Although Complainants assert there was no difference in electric use when compared to prior years, 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)).

Although Complainants were initially provided an estimated bill for the December 2022 billing period, utilities are allowed to estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading. 52 Pa. Code § 56.12(3). Here, Ms. Brower testified that Complainants received an estimated PPL bill for the December 2022 billing period because PPL discovered that customer data was not transferring from PPL's command center to its meter data management system. Tr. 27. Further, utilities are allowed to render a make-up bill for previously unbilled public utility service. 52 Pa. Code § 56.14.

After considering both parties' evidence, I do not find that the Complainants met their burden of proof to demonstrate that their final bill with PPL should be \$846.43, rather than \$1,066.43. Accordingly, I find that Complainants failed to carry their burden of proof to show that the final PPL bill issued to Complainants was 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. 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); *Repole 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 (Opinion and Order entered Nov. 15, 2011).

6. Utilities are allowed to estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading. 52 Pa. Code § 56.12(3).

7. Utilities are allowed to render a make-up bill for previously unbilled public utility service. 52 Pa. Code § 56.14.

8. Complainants have failed to satisfy their burden of proof in this proceeding to demonstrate that their PPL bills were not accurate or that PPL violated the Public

