

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Judith Wallace	:	
	:	
v.	:	F-2023-3042297
	:	
PPL Electric Utilities Corporation	:	

**INITIAL DECISION**

Before  
Chad L. Allensworth  
Administrative Law Judge

**INTRODUCTION**

This decision sustains the Formal Complaint (“complaint”) of Judith Wallace (“Complainant” or “Ms. Wallace”) against PPL Electric Utilities Corporation (“Respondent” or “PPL”) on the claim of incorrect billing for electricity as Complainant established by a preponderance of the evidence that nothing at the service property had changed to support the increase in kilowatt-hour use reflected on Respondent’s bills in violation of the Public Utility Code. Based on the violations, Respondent is ordered to re-bill Complainant in accordance with this decision and a civil penalty of \$200 is imposed on Respondent.

**HISTORY OF THE PROCEEDING**

On August 14, 2023, Complainant filed a complaint with the Pennsylvania Public Utility Commission (“Commission”) against Respondent.<sup>1</sup> Complainant marked “incorrect

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<sup>1</sup> The Formal Complaint is a timely appeal from a decision issued by the Commission’s Bureau of Consumer Services (“BCS”) at BCS Case No. 3894662. (PPL Exhibit 3). BCS received the Informal Complaint on March 24, 2023 and dismissed it by decision dated June 12, 2023. (Tr. 11; PPL Exhibit 3). Complainant submitted

charges are on my bill” as the reason for the complaint and alleged that Respondent incorrectly billed her for electric service based on a defective meter. (Complaint ¶¶ 4-6). As relief, Complainant requested “reversal of incorrect charges due to incorrect meter readings from November 14, 2022 to January 7, 2023. (Complaint ¶ 6). The Commission served the complaint on Respondent on August 17, 2023.

On September 5, 2023, Respondent filed its “Answer of PPL Electric Utilities Corporation to the Complaint of Judith Wallace” (“answer”) in which it admitted and denied various allegations in the complaint. In its answer, Respondent admitted to being Complainant’s electric provider and admitted that Complainant’s monthly budget billing amount increased. (Answer ¶¶ 4-5). Respondent further averred that Complainant’s billing amount increase was the result of increased usage. (Answer ¶ 5). Respondent denied that there were any incorrect charges on Complainant’s bill for the billing periods from November 2022 to January 2023. (Answer ¶ 5).

On September 6, 2023, an Initial Call-In Telephone Hearing Notice (“Hearing Notice”) was issued scheduling a telephonic hearing on November 3, 2023 and assigning me as presiding officer. Also, on September 6, 2023, the undersigned issued a Prehearing Order addressing various procedures that would govern the hearing.

On November 3, 2023, the hearing was held as scheduled. Judith Wallace appeared and represented herself at the hearing. Ms. Wallace sponsored the following six exhibits: Complainant Exhibit 1 – Letter to PPL dated July 24, 2023, Complainant Exhibit 2 – Contract with Kopy Propane Inc., Complainant Exhibit 3 – AES Hearth and Patio Sales Order, Complainant Exhibit 4 – PPL Bills with Due Dates of December 29, 2022 and February 2, 2023, Complainant Exhibit 5 – Monthly kilowatt-hour (“kWh”) Usage from September 10, 2019 to September 8, 2023 and Complainant Exhibit 6 – Daily kWh Usage from October 5, 2022 to February 1, 2023. Complainant Exhibits 1 – 6 were admitted into evidence without objection.

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a request to appeal on June 13, 2023. (Tr. 12). A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

Respondent was represented by Attorney Lindsay A. Berkstresser at the hearing, who presented Tami Roland – Senior Customer Service Representative at PPL as a witness. Ms. Roland sponsored the following three exhibits: PPL Exhibit 1 – Account Activity Statement, PPL Exhibit 2 – Account Contact History, and PPL Exhibit 3 – Informal Case View. PPL Exhibits 1 – 3 were admitted into evidence without objection.

The record closed on November 29, 2023, when the 66-page transcript was filed with the Commission.

### FINDINGS OF FACT

1. Complainant is Judith Wallace, who resides at 45 Alters Road, Carlisle, PA 17015 (“service property”) and she has resided there for 11 years. (Tr. 9).
2. Respondent is PPL Electric Utilities Corporation, which has provided electric service to Complainant at the service property since June 8, 2012. (Tr. 9, 31).
3. The service property was constructed around 1982 and it is a 2,900 square foot ranch-style house with four bedrooms and one bathroom. (Tr. 21-22).
4. Two adults reside at the service property, with occasional visitors on weekends and holidays. (Tr. 14, 22, 25).
5. The service property relies primarily on propane to heat the home with a pellet stove as its secondary heat source. (Tr. 10, 13, 21).
6. In September 2022, Complainant spent \$2,699 on propane to heat the service property at a fixed price for the period from October 1, 2022 to March 31, 2023. (Tr. 13; Complainant’s Exhibit 2).

7. In June 2022, Complainant spent \$1,720 on wood pellets for the service property. (Complainant's Exhibit 3).

8. The service property does not use any electric space heaters for supplemental heat. (Tr. 21, 25).

9. The service property has other electrical appliances such as: two electric ovens, an electric dryer, two electric hot water tanks and air conditioning. (Tr. 22).

10. The only changes to the service property during the last several years Complainant resided there were a bathroom remodel in 2021 and new kitchen lighting in October 2023. (Tr. 15, 25).

11. In June 2022, Complainant went on a budget plan with Respondent that included "autopay" and periodically the budget amount rose based on usage. (Tr. 9).

12. In March 2023, Complainant contacted Respondent about a large increase in the bill through the end of February 2023. (Tr. 9-10).

13. Complainant contests kWh usage for the 63-day period reflected in bills issued by Respondent on December 8, 2022 and January 12, 2023. (Tr. 9, 15; Complainant's Exhibits 5 and 6).

14. The service property was vacant from December 21, 2022 to December 26, 2022 and nobody had access to the property during this period. (Tr. 14, 23-24).

15. No major electric appliances or devices were in use at the service property during the vacancy period. (Tr. 24).

16. On March 27, 2023, Respondent offered to test the meter at the service property for a \$35 fee, but Complainant declined choosing to wait for the Commission's decision on the matter. (Tr. 11, 27, 40).

17. No meter test was ever performed at the service property. (Tr. 44).

18. Tami Roland is a senior customer service representative at PPL, who has worked for PPL for 32 years, with eight years in her current position that requires her: to work on Commission complaints, help customer representatives with calls and take escalated calls. (Tr. 30-31).

19. Complainant was enrolled in "budget billing" with Respondent, which is a program for customers that allows the customer to pay an average amount each month and then settle at the end of the year with the amount subject to review and change every three months. (Tr. 33).

20. In December 2022, Complainant's budget bill amount was calculated to be \$222 per month. (Tr. 32-33; PPL Exhibit 1).

21. In March 2023, Complainant's budget bill amount increased to \$701 per month. (PPL Exhibit 1).

22. In May 2023, Complainant's budget bill amount increased to \$851 per month. (Tr. 33; PPL Exhibit 1).

23. From December 2022 to May 2023, Complainant continued to pay \$222 per month. (PPL Exhibit 1).

24. On June 13, 2023, Complainant opted out of Respondent's budget plan, but continued to pay what she believed to be the actual usage charges. (Tr 12).

25. On July 24, 2023, Complainant sent a letter to Respondent advising it of her appeals to the Commission as well as receipt of an automated phone and email from Respondent regarding the past due amount on her bill. (Tr. 12; Complainant’s Exhibit 1).

26. Complainant received a termination letter from Respondent on August 14, 2023 advising that the electric would be shut off on August 23, 2023. (Tr. 13).

27. Electric service was not terminated upon clarification with Respondent that a complaint was filed. (Tr. 13).

28. Respondent billed Complainant for the following monthly kWh usage based on actual meter readings from 2019 to 2023:

	2019	2020	2021	2022	2023
January	X	01/10 bill 1251 kWh	01/12 bill 1538 kWh	01/12 bill 1434 kWh	01/12 bill 6486 kWh
February	X	02/10 bill 1219 kWh	02/11 bill 1311 kWh	02/10 bill 1275 kWh	02/08 bill 1207 kWh
March	X	03/11 bill 1070 kWh	03/15 bill 1175 kWh	03/11 bill 1217 kWh	03/10 bill 1051 kWh
April	X	04/09 bill 1042 kWh	04/14 bill 1068 kWh	04/11 bill 1152 kWh	04/11 bill 1205 kWh
May	X	05/11 bill 1188 kWh	05/13 bill 1074 kWh	05/11 bill 1189 kWh	05/10 bill 951 kWh
June	X	06/10 bill 1184 kWh	06/14 bill 1233 kWh	06/10 bill 929 kWh	06/09 bill 874 kWh
July	X	07/10 bill 1650 kWh	07/14 bill 1668 kWh	07/12 bill 1381 kWh	07/11 bill 1251 kWh
August	X	08/11 bill 2247 kWh	08/12 bill 1733 kWh	08/10 bill 1807 kWh	08/09 bill 1483 kWh
September	X	09/10 bill 1552 kWh	09/13 bill 1748 kWh	09/09 bill 1289 kWh	09/08 bill 1180 kWh
October	10/10 bill 1038 kWh	10/12 bill 1134 kWh	10/12 bill 1017 kWh	10/10 bill 1072 kWh	10/09 bill 1000 kWh

	2019	2020	2021	2022	2023
November	11/08 bill 864 kWh	11/10 bill 1023 kWh	11/10 bill 1095 kWh	11/08 bill 1319 kWh	X
December	12/10 bill 1458 kWh	12/10 bill 1333 kWh	12/10 bill 1605 kWh	12/08 bill 2984 kWh	X

(Tr. 34; Complainant’s Exhibit 5 and PPL Exhibit 1).

29. The current unpaid amount accrued on Complainant’s account is \$1,554.97.

(Tr. 32).

30. BCS dismissed Complainant’s Informal Complaint for this billing dispute on June 12, 2023. (PPL Exhibit 3).

## DISCUSSION

### Legal Standard

As a matter of law, to establish a legally sufficient claim, 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 also be a violation of the Public Utility Code, a Commission regulation or order or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701.

Section 332(a) of the Public Utility Code (Code) provides that a Complainant, as the party seeking affirmative relief from the Commission, has the burden of proof by a preponderance of the evidence. 66 Pa.C.S. § 332(a); *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 opposing party. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

Additionally, this Commission's decision must be supported by substantial evidence in the record. 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); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

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 with some additional 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); *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983). As the party seeking relief from the Commission, Ms. Wallace bears the burden of proof in this case.

In this case, Complainant makes an allegation of overbilling. (Tr. 14-15). Overbilling, if proven by a preponderance of the evidence, falls under a quality-of-service issue which is within the Commission's jurisdiction under Section 1501 of the Public Utility Code, which states in pertinent part:

[c]haracter 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.

Thus, the statute at 66 Pa.C.S. § 1501 governs any allegations of unreasonable or inadequate service. Pursuant to 66 Pa.C.S. § 1501, the Commission has original jurisdiction over the reasonableness and adequacy of public utility service. *Elkin v. Bell Tel. Co. of Pa.*, 372 A.2d 1203 (Pa. Super. 1977) *aff'd* 420 A.2d 371 (Pa. 1977); *Behrend v. Bell Tel. Co. of Pa.*, 243 A.2d 346 (Pa. 1968). As a general proposition, neither the Public Utility Code nor the Commission's regulations require public utilities to provide constantly flawless service. The Public Utility Code at 66 Pa.C.S. § 1501 does not require perfect service or the best possible service but does require public utilities to provide reasonable and adequate service. *Analytical Lab'y Servs., Inc. v. Metro. Edison Co.*, Docket No. C-20066608 (Opinion and Order entered Dec. 21, 2007); *Emerald Art Glass v. Duquesne Light Co.*, Docket No. C-00015494 (Opinion and Order entered June 14, 2002); *Re: Metro. Edison Co.*, 80 Pa.P.U.C. 662 (1993).

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. *Waldron v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980) ("*Waldron*"); *Repogle v. Pa. Elec. Co.*, 54 Pa.P.U.C. 528 (1980).

In *Milkie v. Pennsylvania Public Utility Co.*, 768 A.2d 1217 (Pa. Cmwlth. 2001) ("*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.

*Burleson v. Pennsylvania Pub. Util. Comm'n*, 501 Pa. 433, 435-36, 461 A.2d 1234, 1235 (1983).

*Milkie*, 768 A.2d at 1219-1220 (footnote omitted) (emphasis in original).

The Commission restated its position for the purpose of clarifying the *Waldron* test in *Bennett v. Peoples Natural Gas Co., LLC*, Docket No. C-2009-2122979 (Opinion and Order entered October 13, 2010) ("*Bennett*"). In *Bennett*, the Commission stated:

[w]hile a comparison of the disputed monthly bill to the Complainant's billing history and the consistency of her usage pattern are important criteria to consider, they alone do not resolve the issue of the Complainant's disputed high bill .... Also, this interpretation does not allow for other relevant facts or circumstances with probative value to be considered as evidence supportive of a high bill complaint. *Waldron* does not limit the establishment of a *prima facie* case to the above two elements alone. Rather, the Commission may consider 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.

*Bennett* at 6 (emphasis in the original).

In *Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Opinion and Order entered Nov. 15, 2011) ("*Thomas*"), the Commission explained that:

[C]onsistent with our holding in *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 at 5.*

The Commission has also considered circumstances where a Complainant contends that their utility bill is inordinately large as compared to their perceived utility usage. In *Kirby v. PPL Electric Utilities Corp.*, the Commission ruled that, “[c]omplainant’s testimony consisted solely of his opinion that these charges are too high. Regardless of how earnestly Complainant believes the complaint allegations to be true, personal opinions or perceptions do not constitute substantial evidence sufficient to permit him to sustain his burden of proof.” *Kirby v. PPL Elec. Util. Corp.*, Docket No. C-20066297 (Final Order entered Nov. 16, 2006).

### Issues

In this case, Ms. Wallace alleged that PPL overbilled billed her for electricity based on higher-than-normal kWh usage for a 63-day period reflected in bills issued by PPL on December 8, 2022 and January 12, 2023 that included the service property being vacant from December 21, 2022 to December 26, 2022. (Tr. 9, 10-12, 14-15, 23-24; Complainant’s Exhibits 5, 6). In support of her claim, Ms. Wallace presented Complainant’s Exhibits 1 – 6 and testified that she has resided at the service property for 11 years and it was a 2,900 square foot ranch-style house with four bedrooms, one bathroom and electrical appliances that included two electric ovens, an electric dryer, two electric hot water tanks and air conditioning. (Tr. 9, 21-22). Ms. Wallace further testified that two adults reside at the service property with occasional visitors, the service property uses propane as the primary heat source with a pellet stove as a secondary heat source and they do not use any electric space heaters. (Tr. 10, 13, 21, 25). Ms. Wallace also provided that that the only two changes to the service property during her time there were a bathroom remodel in 2021 and new kitchen lighting installed in October 2023. (Tr. 15, 25).

In opposition, PPL presented testimony from Tami Roland, a senior customer service representative and PPL Exhibits 1 – 3. (Tr. 30-31). Ms. Roland testified Ms. Wallace established the electric account for the service property on June 8, 2012, she currently owes

\$1,554.97 on the account, Ms. Wallace used kWh in excess of what her budget bills had anticipated for the bills issued December 8, 2022 and January 12, 2023, but she only paid the budget bill amounts of \$222. (Tr. 31-34). Ms. Roland further testified that Ms. Wallace's kWh usage for the contested bills were higher than the same periods in prior years and that the extra use appeared to be heat-related, but Ms. Roland acknowledged that the kWh usage did not always increase when the temperature was lower. (Tr. 37, 46). Ms. Roland also clarified that no meter test was ever performed at the service property. (Tr. 40).

### Analysis

Based on the evidence presented, I find that Ms. Wallace presented sufficient credible testimony to meet her burden of proof under the *Waldron* Rule as clarified by the Commission in *Bennet* and *Thomas*. First, Ms. Wallace provided uncontradicted testimony that the same two people (i.e., Ms. Wallace and her husband) have lived at the service property with occasional visitors and that the only changes to the service property were a bathroom remodel in 2021 and new kitchen lighting installed in October 2023. (Tr. 15, 25). Neither of the changes to the service property were during the contested period. Furthermore, Ms. Wallace established that there was a period of vacancy from December 21, 2022 to December 26, 2022 that should have resulted in lower kWh usage during the contested period, but instead resulted in the following kWh usage for an empty residence: (a) December 21<sup>st</sup> – 263.028 kWh, (b) December 22<sup>nd</sup> – 258.903 kWh, (c) December 23<sup>rd</sup> – 254.803kWh (d) December 24<sup>th</sup> – 253.113 kWh, (e) December 25<sup>th</sup> – 257.964 kWh and (f) December 26<sup>th</sup> 269.218 kWh. (Tr. 14, 23-24; Complainant's Exhibit 6). Thus, Ms. Wallace established that there was no basis for a dramatic increase in kWh usage for the 63-day period reflected in the bills issued on December 8, 2022 and January 12, 2023.

Next, prevailing case law focuses on the issue of billing history. *Thomas*. As previously indicated, Ms. Wallace contested a 63-day period reflected in the bills issued on December 8, 2022 and January 12, 2023 based on a spike in kWh usage. (Tr. 9, 15). Documentation admitted at the hearing showed that kWh usage for the contested period was

dramatically higher than the same periods in prior years. (PPL Exhibit 1 and Complainant’s Exhibit 5. The percentage of the increases were as follows:

	2019	2020	2021	2022	2023	Approximate Percentage Increase for last year of billing
December Billing	1458 kWh	1333 kWh	1605 kWh	2984 kWh	X	80.31%
January Billing	X	1251 kWh	1538 kWh	1434 kWh	6486 kWh	352.30%

The documentation supports that Ms. Wallace’s kWh usage was consistent from year to year for the December and January billing cycles except for the bills issued in December 2022 and January 2023. For these two billing months, there was an average increase in kWh use of 216.30% for the service property from the prior year in the same month with the highest increase in kWh use being a 352.30% increase in kWh usage on the January 2023 bill. This is further compounded by the fact that there was a five-to-six-day period in December 2022 where the service property was vacant with no significant appliances running that would have been reflected in the January 2023 bill.

Respondent offered minimal evidence to contradict Ms. Wallace’s “high bill” claim. No meter test was conducted at the service property so there was no evidence offered about its accuracy. (Tr. 40). The only arguments offered by PPL were that Ms. Wallace’s kWh use was monitored via actual meter readings and that the increase in kWh usage reflected in the December 2022 and January 2023 bills compared to prior years appeared to be heating related. (Tr. 37). The average temperature for the December and January billing cycles from December 2019 to January 2023 is set forth below (Complainant’s Exhibit 5):

	2019	2020	2021	2022	2023	Temperature Difference for last year of billing
Ave. Temp. for December Billing	40°	46°	42°	42°	X	0°
Ave. Temp for January Billing	X	36°	36°	38°	36°	-2°

There was a minimal change in the average temperature between the prior year and last year for the same billing cycles. Additionally, the average temperature for the December 2022 and January 2023 bills was also equal to or higher than some of the prior years for the same period. As such, PPL’s argument that heating was the basis for the dramatic increase is not supported by the record. Furthermore, PPL’s own witness acknowledged that Ms. Wallace’s kWh usage did not always increase when the temperature was lower and Ms. Wallace established that they did not use electricity to heat the service property. (Tr. 10, 13, 21, 46).

PPL failed to offer a sufficient explanation to rebut the convincing evidence presented by Ms. Wallace to prove the meter readings obtained for kWh usage for the December 2022 and January 2023 bills were inaccurate. Ms. Wallace provided sufficient evidence to meet her burden of proving that she had been overbilled based on circumstantial evidence in accordance with *Waldron, Bennet* and *Thomas*. Thus, the complaint is sustained as to the violation of 66 Pa.C.S. § 1501 on the issue of PPL failing to provide Ms. Wallace with accurate bills for kWh use.

Relief

Having found a violation of 66 Pa.C.S. § 1501 in regard to the PPL’s overbilling of Ms. Wallace on the December 2022 and January 2023 billing cycles, the Commission is authorized to impose a maximum civil penalty of \$1,000 for each day the violation persisted. 66 Pa.C.S. § 3301. The Commission has a regulation at 52 Pa. Code § 69.1201 that sets forth ten factors that the Commission will consider in evaluating and determining whether a fine for

violating a Commission order, regulation or statute is appropriate. The factors and standards that are to be considered by the Commission are the following:

- (1) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.
- (2) Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.
- (3) Whether the conduct at issue was deemed intentional or negligent. This factor may only be considered in evaluating litigated cases. When conduct has been deemed intentional, the conduct may result in a higher penalty.
- (4) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.
- (5) The number of customers affected and the duration of the violation.
- (6) The compliance history of the regulated entity which committed the violation. An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty.
- (7) Whether the regulated entity cooperated with the Commission's investigation. Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty.

- (8) The amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.
- (9) Past Commission decisions in similar situations.
- (10) Other relevant factors.

52 Pa. Code § 69.1201.

The first criterion to consider is whether the violation was of a serious nature or whether it was less egregious, such as an administrative or technical error. In this case, PPL misbilled Ms. Wallace and does not appear to have taken any intentional act against her, such as denying her service or otherwise causing harm to Ms. Wallace or her property. Additionally, PPL did communicate with Ms. Wallace multiple times, and she characterized the PPL representatives as very polite and very helpful. (Tr. 10; PPL Exhibit 2). PPL also offered to test her meter for \$35 in March 2023, but Ms. Wallace declined the option at the time. Thus, I conclude this violation warrants a lower penalty on this ground.

The second criterion is whether the resulting consequences of the conduct were of a serious nature, such as personal injury or property damage. There was no personal injury or property damage in this instance. The resulting damage was financial. Ms. Wallace continued to pay the budget bill amount for her prior use of \$222, but the erroneous kWh usage resulted in higher bills causing her to now owe \$1,554.97 in excess of what she has paid. I find that the financial damages in this case are not serious and there is no other damage alleged. Thus, I conclude the violation warrants a lower penalty on this ground.

The third criterion is whether the conduct at issue was deemed intentional or negligent. PPL's conduct here was a negligent oversight and a misunderstanding of the effect the weather had on Ms. Wallace's kWh usage. Thus, I conclude the conduct warrants a lower penalty on this factor.

The fourth criterion is whether the utility made efforts to modify internal practices and procedures to address the conduct and prevent similar conduct, and the amount of time it

took for the implementation of these measures. There is no evidence PPL recognized its billing error here and no indication that PPL has modified any of its practices. Thus, I conclude a higher penalty may be warranted under this factor.

The fifth criterion is the number of customers affected. The evidence in the record only supports the fact that Ms. Wallace was impacted. Thus, a lower penalty is warranted.

The sixth criterion is a consideration of PPL's compliance history. No evidence was presented that PPL had a poor compliance record. Thus, I conclude a lower penalty is warranted.

The seventh criterion is whether the regulated entity cooperated with the Commission's investigation. There record contains no evidence that there was an investigation by the Commission and therefore this criterion works neither to mitigate nor to aggravate the penalty to be imposed.

The eighth criterion is the amount of the civil penalty or fine necessary to deter future violations, with consideration of the size of the utility. PPL is a large utility with an extensive territory. Ms. Wallace did not request a civil penalty in her complaint and instead asked for a reversal of incorrect charges for the billing period in question. In light of PPL's size, the limited consequences from this error, the short period of time over which the error occurred, the rejected efforts of PPL and the potential for repetition, I conclude that there should be a penalty imposed by the Commission.

The ninth criterion is past Commission decisions. Neither party cited any prior Commission decisions involving unreasonable customer service in how PPL records consumption amounts, and/or charges its customers for electric service based on the recorded consumption. However, a civil penalty of \$100 per month for billing errors is consistent with the Commission's prior decision in *Risser v. PPL Elec. Util. Corp.*, Docket No. F-2017-2612481 (Final Order entered Apr. 27, 2018).

Based on the aforementioned facts, I find that a civil penalty in the amount of \$200, or \$100 for overbilling in December 2022 and January 2023, is appropriate. In addition, PPL will be ordered to conduct a meter test at the service property, waive any fee in connection with performing the test and provide the results to Ms. Wallace.

Ms. Wallace also requested a reversal of the incorrect charges. Based on violations at issue, I find that Ms. Wallace is entitled to receive credit on her account for both the December 2022 and January 2023 bills. In this case, the highest kWh usage presented for a December bill, excluding the contested December 2022 bill, was the bill issued in December 2021 when PPL billed Ms. Wallace for 1605 kWh when the average temperature was 42°. This is the same average temperature as the December 2022 bill. The highest kWh usage for a January bill, excluding the contested January 2023 bill, was the bill issued in January 2021 when PPL billed Ms. Wallace for 1538 kWh when the average temperature was 36°. This again is the same average temperature as the January 2023 bill. Accordingly, I conclude that PPL shall recalculate the December 2022 bill using 1605 kWh as opposed to the 2984 kWh charged on the current bill and shall recalculate the January 2023 bill using 1538 kWh as opposed to the 6486 kWh charged on the current bill. PPL shall then credit Ms. Wallace's account with the difference between the prior and new bills. Additionally, because the billing inaccuracies in this case occurred through no fault of Ms. Wallace, any late payment charges should also be credited to Ms. Wallace's account.

#### CONCLUSIONS OF LAW

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

2. Section 1501 of the Public Utility Code governs any allegations of unreasonable or inadequate service. 66 Pa.C.S. § 1501.

3. The party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).

4. 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).

5. The act or failure to act 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.

6. "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).

7. Preponderance of the evidence is tantamount to a "more likely than not" inquiry. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

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

9. "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. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

10. 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*, *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

11. A complainant may 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 (Opinion and Order entered Nov. 15, 2011)

12. Complainant met the burden of proving Respondent improperly charged Complainant for electric service for a 63-day period reflected in bills issued in December 2022 and January 2023 which Complainant did not use. 66 Pa.C.S. § 332(a); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

13. The Commission is authorized to consider and impose civil monetary penalties against a public utility company. 66 Pa.C.S. § 3301; 52 Pa. Code § 69.1201.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Judith Wallace in Judith Wallace v. PPL Electric Utilities Corporation at Docket No. F-2023-3042297 is sustained.

2. That Respondent shall complete a meter test for 45 Alters Road, Carlisle, PA 17015 for accuracy in recording Complainant's electric usage and waive any fee associated with performing the test.

3. That within 60 days from the date of the Final Order in this matter, Respondent shall provide the results of the meter test conducted at 45 Alters Road, Carlisle, PA 17015 to Complainant.

4. That within 30 days from the date of the Final Order in this matter, Respondent is directed to pay a total of \$200 in civil penalties by sending a certified check or money order payable to the "Commonwealth of Pennsylvania" with the docket number of this proceeding listed on the check to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

5. That within 30 days of the date of this Order, Respondent is directed to:

a. Recalculate the bills issued to Complainant in December 2022 and January 2023 using 1605 kwh and 1538 kWh, respectively and shall credit Complainant's account with the difference between the prior and current calculation; and

b. Waive any late fees charged to Complainant related to the December 2022 and January 2023 bills; and

6. Within ten days of completing the action required by Ordering Paragraph No. 5, Respondent shall also file documentation that it completed this action with the Secretary's Bureau of the Commission.

7. That a copy of this Opinion and Order shall be served upon the Financial and Assessment Chief, Office of Administrative Services and the Commission's Bureau of Technical Utility Services.

8. That, if PPL Electric Utilities, Inc. fails to make the civil penalty payment required by Ordering Paragraph No. 4 above, within 30 days of the entry date of a Final Commission Order in this proceeding, it is further ordered that the Bureau of Administrative Services, Assessment Section, shall refer this matter to the Pennsylvania Office of Attorney General for collection of the total set forth above and appropriate action.

9. That Respondent shall cease and desist from further violations of the Public Utility Code and/or the Public Utility Commission's Regulations.

10. That upon payment of the amount referenced in ordering paragraph 4 and receipt of documentation showing compliance with ordering paragraph 5, the Secretary shall mark the matter at Docket No. F-2023-3042297 as closed.

Date: February 26, 2024

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/s/  
Chad L. Allensworth  
Administrative Law Judge