

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joseph McAndrew	:	
	:	
v.	:	F-2023-3041730
	:	
PPL Utilities Corporation	:	

INITIAL DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Initial Decision denies the Formal Complaint of Joseph McAndrew because he failed to satisfy his burden of proving that PPL Utilities Corporation violated its tariff, the Public Utility Code, or a Commission Regulation or Order.

HISTORY OF THE PROCEEDING

On June 29, 2023, Joseph McAndrew (Mr. McAndrew or Complainant) filed a Formal Complaint (Complaint) against PPL Utilities Corporation (PPL or Respondent) with the Pennsylvania Public Utility Commission (Commission).¹ In the Complaint, Mr. McAndrew alleged that there were incorrect charges on his electric bill for the month of December 2022.

¹ The Complaint is a timely appeal from the determination of the Commission’s Bureau of Consumer Services (BCS), at BCS No. 3902770. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

On August 3, 2023, PPL filed an Answer to the Complaint. In its Answer, PPL admitted in part, and denied in part, various material allegations of the Complaint. PPL admitted that it provided electric service to the Complainant. PPL denied that the Complainant was billed incorrectly for the month of December 2022. PPL requested that the Complaint be denied.

By Hearing Notice dated September 20, 2023, an Initial Call-In Telephonic Hearing was scheduled for November 15, 2023, and the matter was assigned to me.

A Prehearing Order was issued on October 10, 2023, advising the parties of the date and time of the scheduled hearing, and informing them of the procedures applicable to the proceeding.

On November 15, 2023, the hearing convened as scheduled. The Complainant appeared *pro se*, testified on his own behalf, and offered no exhibits for the record. Nicholas Stobbe, Esquire, appeared on behalf of PPL and presented the testimony of two witnesses: Alicia Watkinson, a Customer Contact Center Supervisor at PPL, and Holly Hankerson, a Customer Service Representative at PPL. Ms. Watkinson sponsored five exhibits, which were admitted into the record without objection.

The record closed on December 13, 2023, upon the filing of the transcript with the Commission.

FINDINGS OF FACT

1. The Complainant is Joseph McAndrew.
2. The Respondent is PPL Utilities Corporation, a utility under the jurisdiction of the Pennsylvania Public Utility Commission.
3. The Complainant resides and receives electric service from PPL at 85 West Chestnut Street, Macungie, Pennsylvania 18062 (Service Address). Tr. 7.

4. In December 2022, customer meter data was not transferring from PPL's meter data management system ("MDMS") to its customer service system ("CSS") for many customers, including the Complainant, which resulted in customers receiving bills based on estimated usage instead of actual usage. Tr. 18.

5. On December 29, 2022, PPL issued the Complainant a bill in the amount of \$433.90 based on an estimated usage of 2,263 kilowatt-hours (kWh) for the billing period of November 22, 2022, to December 28, 2022. Tr. 18-19; PPL Exh. 1.

6. PPL has access to the actual daily readings from the Service Address meter for the billing period in question. Tr. 19; PPL Exh. 6.

7. The Complainant's actual usage for the billing period of November 22, 2022 to December 28, 2022 was 2,404 kWh. Tr. 19; PPL Exh. 6.

8. On January 25, 2023, PPL issued the Complainant a bill that included the actual usage from December 28, 2022 to January 25, 2023 (*i.e.*, 1,667 kWh), plus the unbilled usage from the December 2022 billing period (*i.e.*, 141 kWh), for a total of 1,808 kWh. Tr. 19-23; PPL Exhs. 1,6,7.

9. On December 1, 2022, PPL's rate increased from 9.5 cents/kWh to 14.6 cents/kWh. Tr. 29.

10. On December 26, 2019, PPL issued the Complainant a bill in the amount of \$277.90 based on actual usage of 2,206 kWh. PPL Exh. 1.

11. On December 28, 2020, PPL issued the Complainant a bill in the amount of \$232.74 based on actual usage of 1,938 kWh. PPL Exh. 1.

12. On December 28, 2021, PPL issued the Complainant a bill in the amount of \$299.32 based on actual usage of 2,137 kWh. PPL Exh. 1.

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 (Opinion and Order entered Feb. 8, 1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (Opinion and Order entered Oct. 6, 1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A complainant can meet that burden if he presents evidence more convincing, by even the smallest amount, than that evidence presented by Respondent. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). The offense must be a violation of the Public Utility Code (Code), a Commission Regulation or Order, or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701.

The 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. 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 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 the 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).

In this matter, Mr. McAndrew alleged that there were incorrect charges on his electric bill for the month of December 2022. Mr. McAndrew bases this allegation on two facts. First, Mr. McAndrew's December 2022 bill was based on estimated usage rather than actual usage. Tr. 8-9. Second, Mr. McAndrew's December 2022 bill was higher than bills for the same time period in previous years. Tr. 7-8. However, while both of the foregoing facts are true, they are not the reason Mr. McAndrew's bill was higher in December 2022 compared to previous years. The estimated bill was based on generally the same amount of kWhs as the previous three years as shown below.

Billing Period	kWhs
December 2019	2206
December 2020	1938
December 2021	2137
December 2022	2263 ²

The actual reason Mr. McAndrew's electric bill increased was that on December 1, 2022, PPL's rate increased approximately 54% from 9.5 cents/kWh to 14.6 cents/kWh in accordance with PPL's Commission-approved tariff.

A utility's Commission-approved tariff (list of services, rules for service and rates for service) has the force of law and is binding on the utility and its customers. *Stiteler v. Bell Tel. Co. of Pa.*, 379 A.2d 339 (Pa. Cmwlth. 1977); *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981); *Pa. Elec. Co. v. Pa. Pub. Util. Comm'n*, 663 A.2d 281 (Pa. Cmwlth. 1995). Thus, I find the Complainant failed to satisfy his burden of proving that PPL violated its tariff, the Public Utility Code, or a Commission Regulation or Order. Accordingly, the Complaint will be denied.

² It should be noted that the estimated usage of 2,263 kWhs was actually less than the actual usage of 2,404 kWhs. Tr. 19; PPL Exh. 6.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. § 701.
2. The burden of proof in this proceeding is on the Complainant. 66 Pa.C.S. § 332(a).
3. A utility's Commission-approved tariff (list of services, rules for service and rates for service) has the force of law and is binding on the utility and its customers. *Stiteler v. Bell Tel. Co. of Pa.*, 379 A.2d 339 (Pa. Cmwlth. 1977); *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981); *Pa. Elec. Co. v. Pa. Pub. Util. Comm'n*, 663 A.2d 281 (Pa. Cmwlth. 1995).
4. The Complainant has failed to satisfy his burden of proving that PPL violated its tariff, the Public Utility Code, or a Commission Regulation or Order. 66 Pa.C.S. § 701.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Joseph McAndrew at Joseph McAndrew v. PPL Utilities Corporation, Docket No. F-2023-3041730, is denied.

2. That Docket No. F-2023-3041730 be marked closed.

Date: March 8, 2024

/s/
F. Joseph Brady
Administrative Law Judge