

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Deanna Eckert	:	
	:	
v.	:	F-2023-3041643
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial Decision denies the Complainant’s Formal Complaint because the Complainant failed to establish that there were incorrect charges on the bills.

HISTORY OF THE PROCEEDING

On July 5, 2023, Deanna Eckert (Complainant or Ms. Eckert) filed a Formal Complaint (Complaint) against PPL Electric Utilities Corporation (PPL or Respondent or Company) with the Pennsylvania Public Utility Commission (Commission).¹ In the Complaint, the Complainant contends that there were incorrect charges on the bills.

¹ The Complaint is a timely appeal from the determination of the Commission’s Bureau of Consumer Services (BCS), at BCS No. 3888995, which dismissed Complainant’s informal complaint. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

On July 27, 2023,² Respondent filed an Answer denying the material allegations of the Complaint.

On August 2, 2023, an Interim Order was sent to the parties which indicated that the matter was to be scheduled for a mediation resolution session.

By Telephonic Hearing Notice dated September 13, 2023, an initial hearing was scheduled for November 9, 2023, at 10:00 a.m., and the matter was assigned to me.

The hearing proceeded as scheduled on November 9, 2023. Complainant participated *pro se* and testified. Respondent appeared and was represented by Nicholas A. Stobbe, Esq., who presented the testimony of Tami Roland, a Senior Customer Service Representative, and April Lewis, a Customer Contact Center Supervisor. Respondent offered six exhibits, which were all entered into the record.

The hearing resulted in a 59-page transcript. The record closed on December 12, 2023, when I received the transcript of the hearing.

FINDINGS OF FACT

1. The Complainant in this case is Deanna Eckert, who resides at 910 Route 152, Hilltown, Pennsylvania 18927 (Service Address). Tr. 13.
2. The Respondent is PPL Electric Utilities Corporation.
3. The Service Address is a one-story single-family home. Tr. 17.
4. The Service Address has three bedrooms and two-and-a-half bathrooms. Tr. 17.

² The Formal Complaint was served on the Respondent by the Secretary's Bureau on July 7, 2023.

5. The Complainant lives alone at the Service Address. Tr. 16.
6. The Service Address is entirely electric service. Tr. 18.
7. The Service Address is approximately 3,000 square feet. Tr. 21.
8. The Service Address has two heat pumps providing heat. Tr. 21.
9. On December 22, 2022, the Complainant received a bill based on estimated usage. Tr. 35; PPL Exh. 1.
10. The bill was estimated because some of the PPL's meter data was not transferring from one system to another. Tr. 35.
11. Estimated bills are calculated based on average daily usage in the same month from the prior year and multiplied by the number of days in the billing period. Tr. 35.
12. The December 22, 2022 bill was for the billing period from November 19, 2022 to December 21, 2022 and the estimated usage for that period was 2,814 kilowatt hours. Tr. 36; PPL Exh. 1.
13. Based on actual meter data for the billing period, the Company found that the actual usage was 3,347 kilowatt hours. Tr. 36; PPL Exh. 7.
14. There was an underestimate of usage for the billing period of 533 kilowatt hours. Tr. 36.
15. A bill was issued on January 20, 2023 for the billing period December 21, 2022 to January 20, 2023 for actual usage in the amount of 3,490 kilowatt hours. Tr. 37; PPL Exh. 1.

16. The January 20, 2023 bill also accounts for the 533 kilowatt hour underestimate for the December 22, 2022 bill. Tr. 37; PPL Exh. 1.
17. The Complainant's current balance is \$3,979.13. Tr. 38; PPL Exh. 1.
18. The Complainant's usage is higher in the winter months. Tr. 42; PPL Exh. 1.
19. The Complainant contacted the Respondent on May 30, 2023 and September 2, 2023 and requested a meter test. Tr. 50; PPL Exh. 2.
20. The Complainant was told that there was a \$35 meter testing fee and PPL never received a payment from the Complainant to complete the meter test. Tr. 50; PPL Exh. 2.
21. PPL has made changes to its IT department to ensure the estimated billing issue will not happen again. Tr. 51.

DISCUSSION

The Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S. § 332(a).

To establish a sufficient case and satisfy the burden of proof, Complainant must show that the respondent public utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990), *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (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, 602 (Pa. Cmwlth. 1990). A preponderance of the evidence is evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon

substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704. 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. 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. 1960); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the Complainant shifts to the Respondent. If the evidence presented by the Respondent is of co-equal weight, the Complainant has not satisfied her burden of proof. The Complainant would be required to provide additional evidence to rebut the evidence of the Respondent. *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

The Complainant is disputing the bills from January 2023 as being too high. She specifically indicated that her usage was down from prior years and that this particular bill was very high.

The burden of proof for “high bill” complaints has been explained in *Waldron v. Philadelphia Electric Co.*, 54 Pa.P.U.C. 98 (1980) (*Waldron*), and its progeny. In *Waldron*, the Commission adopted the Michigan Public Service Commission’s (PSC’s) policy announced in *Hallifax v. O & A Electric Co-Op*, Case No. U-5825, May 1979, which stated that, while the accuracy of the meter is an important factor in resolving billing disputes, it is not the sole criterion. The Commission stated that it will also consider the following factors: the billing history of the Complainant; any change in the number of occupants residing at the household; the

potential for energy utilization; and any other relevant facts or circumstances that are brought to light during the complaint proceeding. *Waldron* at 100.

Consistent with the Commission's holding in *Bennett v. Peoples Natural Gas Co.*, Docket No. C-2009-2122979 (Opinion and Order entered Oct. 13, 2010) (*Bennet*), 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.” *Bennet*, at 6; *See also Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Opinion and Order entered Nov. 15, 2011).

The Complainant testified that she noticed that her bill was high in January 2023. However, Ms. Eckert did not provide any evidence beyond her testimony to support her claims. “Mere bald assertions ... do not constitute evidence.” *Mid-Atl. Power Supply Ass'n of Pa. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000); *Pa. Bur. of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *see also, Steffy's Pattern Shop v. Frontier Commc'ns of Pa., Inc.*, Docket No. R-00994808 (Opinion and Order entered Mar. 3, 2000).

The Service Address is a one-story single-family home. Tr. 17. The Complainant has three bedrooms and two and a half bathrooms. Tr. 17. The Complainant lives alone at the Service Address. Tr. 16. The Service Address is entirely electric service, including heating. Tr. 18. The Service Address is approximately 3,000 square feet and has two heat pumps providing the residence heat. Tr. 21.

PPL presented the testimony of Ms. Lewis in this matter. She testified that on December 22, 2022, the Complainant received a bill based on estimated usage. Tr. 35; PPL Exh. 1. Ms. Lewis explained that the bill was estimated because some of the PPL meter data was not

transferring from one system to another. Tr. 35. Ms. Lewis also stated that estimated bills are calculated based on average daily usage in the same month from the prior year and multiplied by the number of days in the billing period. Tr. 35. The December 22, 2022 bill was for the billing period from November 19, 2022 to December 21, 2022 and the estimated usage for that period was 2,814 kilowatt hours. Tr. 36; PPL Exh. 1. Ms. Lewis noted that the Company went back and based on actual meter data for the billing period, the Company found that the actual usage was 3,347 kilowatt hours. Tr. 36; PPL Exh. 7. There was an underestimate of usage for the billing period of 533 kilowatt hours. Tr. 36. Ms. Lewis also noted that in general the Complainant's usage is higher in the winter months. Tr. 42; PPL Exh. 1.

Furthermore, Ms. Lewis indicated that a bill was issued on January 20, 2023 for the billing period December 21, 2022 to January 20, 2023 for actual usage in the amount of 3,490 kilowatt hours. Tr. 37; PPL Exh. 1. The January 20, 2023 bill also accounts for the 533 kilowatt hour underestimate for the December 22, 2022 bill. Tr. 37; PPL Exh. 1. Ms. Lewis testified that PPL has made changes to its IT department to ensure the estimated billing issue will not happen again. Tr. 51.

Moreover, Ms. Lewis noted that the Complainant contacted the Respondent on May 30, 2023 and September 2, 2023 and requested a meter test. Tr. 50; PPL Exh. 2. The Complainant was told that there was a \$35 meter testing fee and PPL never received a payment from the Complainant to complete the meter test. Tr. 50; PPL Exh. 2.

The Complainant did not present any evidence besides her own testimony that her January 2023 bill was too high. PPL explained that the Complainant's December 2022 was based on estimated usage and that once the Company went back and looked at its actual meter data for the Service Address, it found that it had underestimated the Complainant's usage for December 2022. It then corrected the issue when it sent the January 2023 bill to the Complainant which was based on actual usage and included the underestimate from the December 2022 billing cycle. There is nothing in the record to suggest that PPL violated the Public Utility Code or the Commission's regulations or order in this case. The Complainant's testimony alone is not enough to meet the burden of proof. As such, the Complainant has not

met her burden of proving that the charges on her bill was incorrect, and the Complainant must be dismissed.

CONCLUSIONS OF LAW

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

2. The burden of proof in this proceeding is upon the complainant. 66 Pa.C.S. § 332(a).

3. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704.

4. The Commission stated that it will consider the following factors: the billing history of the complainant; any change in the number of occupants residing at the household; the potential for energy utilization; and any other relevant facts or circumstances that are brought to light during the complaint proceeding. *Waldron v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980).

5. “[T]he 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, at 5 (Opinion and Order entered Nov. 15, 2011).

6. “Mere bald assertions ... do not constitute evidence.” *Mid-Atlantic Power Supply Ass'n of Pa. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000); *Pa. Bur. of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *see also, Steffy's Pattern Shop v.*

Frontier Commc'ns of Pa., Inc., Docket No. R-00994808 (Opinion and Order entered Mar. 3, 2000).

7. The Complainant did not meet her burden of proving that there were incorrect charges on her January 2023 bill. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Deanna Eckert against the PPL Electric Utilities Corporation at *Deanna Eckert vs. PPL Electric Utilities Corporation* at Docket No. F-2023-3041643 is denied and dismissed and;
2. That Docket No. F-2023-3041643 be marked closed.

Date: March 8, 2024

/s/
Marta Guhl
Administrative Law Judge