

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120**

Public Meeting held April 25, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman  
Kimberly Barrow, Vice Chair  
Ralph V. Yanora  
Kathryn Zerfuss  
John F. Coleman, Jr.

Susan Lloyd

F-2023-3041339

v.

PPL Electric Utilities Corporation

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions filed by Susan Lloyd (Ms. Lloyd or Complainant) filed on November 28, 2023, to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) John M. Coogan, issued on November 28, 2023. PPL Electric Utilities Corporation (PPL) filed Reply Exceptions on December 28, 2023. Upon consideration of the Exceptions, we shall deny the Complainant's Exceptions and adopt the Initial Decision, consistent with this Opinion and Order.

## I. History of Proceeding

On June 13, 2023, Ms. Lloyd filed a Formal Complaint (Complaint) against PPL, effectuating an appeal from a decision of the Bureau of Consumer Services (BCS) in Informal Complaint No. 3891508.<sup>1</sup> In the Complaint, Ms. Lloyd indicated she had been incorrectly charged by PPL on her January 24, 2023, electric bill. Complaint at 2, ¶ 5. Specifically, Ms. Lloyd explained that her normal PPL bill was between \$130.00 and \$140.00 per month and requested an adjustment to her bill. *Id.* at 3, ¶ 6.

On July 6, 2023, PPL filed an Answer to the Complaint (Answer). By way of its Answer, PPL denied the material factual allegations and conclusions of law in the Complaint. Specifically, PPL noted that Ms. Lloyd had received an estimated bill for electrical service provided in December 2022, but denied Ms. Lloyd's assertion that the estimated bill was not "trued-up" to the Complainant's actual metered usage amount. Answer at 2. PPL next outlined issues with the transfer of customer meter data to its customer service system that led to an underestimation of Ms. Lloyd's bill and required the issuance of an estimated bill. *Id.* PPL averred that meter data was being accurately collected and stored during this period and once PPL regained access to this information it issued a January 2023 bill which included the metered amount not included on the December 2022 bill. *Id.* at 2-3.

Also on July 6, 2023, the Commission issued an Initial Telephonic Hearing Notice scheduling a formal call-in hearing for August 16, 2023. On July 7, 2023, ALJ Coogan issued a Prehearing Order establishing rules and procedures governing this matter.

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<sup>1</sup> The Complaint is an appeal of a decision of the Commission's Bureau of Consumer Services, at Case No. 3891508. Appeal of a BCS informal complaint decision is a de novo review conducted by either an ALJ or a special agent. 52 Pa. Code § 56.173(a).

The Initial Hearing convened, as scheduled, on August 16, 2023. PPL, appearing with counsel, presented two witnesses, and submitted six (6) exhibits that were admitted to the record. Ms. Lloyd appeared *pro se* and submitted seven (7) exhibits that were admitted to the record.

The Initial Decision of ALJ Coogan was issued on November 28, 2023. The Initial Decision dismissed Ms. Lloyd's Complaint for failing to meet her evidentiary burden of proving, by a preponderance of the evidence, that PPL violated the Public Utility Code (Code) or a Commission Order or Regulation.

As noted, *supra*, Ms. Lloyd filed her Exceptions on November 28, 2023. PPL filed Reply Exceptions on December 28, 2023.

## **II. Discussion**

### **A. Legal Standards**

#### **1. Jurisdiction**

Section 701 of the Code outlines the Commission's procedure for the review of complaints, stating in relevant part:

The Commission, or any person ... having an interest in the subject matter ... may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.

66 Pa. C.S. § 701. As explained by the Commission in *West Penn Power Co. v. Pa. PUC*, 478 A.2d 947 (Pa. Cmwlth. 1984) (*West Penn*), Section 701 of the Code

provides for complaints against a public utility for anything done or not done in violation of the laws administered by the Commission or Commission Regulations and Orders. *Id.*

However, for the Commission to sustain a complaint against a public utility, the utility must be found to be in violation of its duty under the Code, the Commission's Regulations, or an Order of the Commission. Without proof of such a violation, the Commission does not have authority to require any action by the public utility in relation to the customer's complaint. *See, West Penn.*

## **2. Burden of Proof**

Pursuant to Section 332(a) of the Code , the Complainant, as the proponent of a rule or order, bears the burden of proof. 66 Pa. C.S. § 332(a). To satisfy the burden of proof, the Complainant, as the party seeking relief, must establish a sufficient case that PPL is responsible for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). This showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 529 Pa. 654, 602 A.2d 863 (1992). This standard requires the Complainant's evidence to be more convincing, by even the smallest amount, than the evidence presented by PPL. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

This Commission's decisions must be supported by substantial evidence in the record; more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & West Ry. Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980). "Opinions and conclusions cannot be relied upon as substantial evidence in a decision by the Commission." *Norman v Phila. Gas Works*, Docket No. C-2018-2640719 (Opinion and Order entered October 7, 2021) (*Norman*).

Upon presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the evidentiary burden shifts to PPL to present persuasive evidence rebutting that of the Complainant. If PPL's evidence is of co-equal weight, the Complainant has not satisfied their burden of proof, and must provide additional evidence to rebut that of PPL. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 501 Pa. 433, 461 A.2d 1234 (1983) (*Burleson*). While the evidentiary 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 to prove their case by a preponderance of the evidence. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001) (*Milkie*).

### **3. Overbilling Complaint**

Where a complainant alleges overbilling by their utility provider, the Commission utilizes the *Waldron* rule. *See, Waldron v. Phila. Elec. Co.*, 54 Pa. PUC 98 (1980) (*Waldron*). *Waldron* and its progeny hold that to establish a *prima facie* case of overbilling, the Complainant must prove, by a preponderance of the evidence: (1) that the number of occupants in the household has not changed; (2) that the potential for energy utilization was low; and (3) that the complainant's billing history shows no prior abnormalities. *Waldron; Replogle v. Pa. Elec. Co.*, 54 Pa. PUC 528 (1980). Once the Complainant shows a *prima facie* case, the burden of proof shifts to PPL; however, the burden of persuasion never shifts and always remains with the Complainant. *Id.*

The Commonwealth Court of Pennsylvania clarified the *Waldron* rule in *Milkie*, holding:

While the 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*, 461 A.2d at 1235. (Emphasis in original). In *Thomas v. PECO Energy Co.*, the Commission contemplated the types of evidence that might establish a *prima facie* case pursuant to *Waldron*:

[C]onsistent 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.”

Docket No. C-2010-2187197 at 5 (Opinion and Order entered November 15, 2011) citing *Charisse Bennett v. Peoples Natural Gas Co.*, Docket No. C-2009-2122979 at 6 (Opinion and Order entered October 13, 2010).

## **B. Initial Decision**

In the Initial Decision (I.D.), ALJ Coogan made thirty-two (32) Findings of Fact and reached eight (8) Conclusions of Law. I.D. at 2-5, 10-11. The Findings of Fact and Conclusions of Law are incorporated herein by reference and adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

ALJ Coogan's Initial Decision, made after a hearing and review of the record, can be distilled to two distinct findings: (1) while Ms. Lloyd may have presented a *prima facie* case of overbilling, the record did not contain substantial evidence establishing by a preponderance of the evidence that a PPL error resulted in Ms. Lloyd being overbilled for the January 2023 billing period and the evidence presented by PPL was of greater weight and refuted the allegations of overbilling; and (2) Ms. Lloyd failed to prove by a preponderance of the evidence that PPL's actions violated the Code, a Commission Order or Regulation, or a Commission-approved tariff. I.D. at 9-11.

ALJ Coogan examined the evidence and testimony submitted by the Parties regarding Ms. Lloyd's January 2023 electric bill for \$414.39. I.D. at 7, citing Tr. 30-31; PPL Exhibit 12. Ms. Lloyd testified that her service address is heated with electric heat and the indoor temperature is kept at 69 degrees throughout the year. I.D. at 9, citing Tr. 16, 27. In her Complaint, Ms. Lloyd stated her typical electric bill from PPL is \$130 or \$140. Complaint at 3, ¶ 6. ALJ Coogan considered this information alongside the testimony and exhibits submitted by PPL.

PPL presented testimony that Ms. Lloyd received an estimated bill for the December 2022 billing period based on an issue preventing the transfer of customer data from PPL's command center to its meter data management system. I.D. at 8, citing Tr. 41-42. Referring to 52 Pa. Code § 56.12(3), ALJ Coogan reiterated the right of a

utility to provide estimated bills where circumstances prevent actual meter reading. I.D. at 9. The estimated bill was based on Ms. Lloyd's November 2022 usage and was for \$143.34 or 1,016 kilowatt hours of usage. I.D. at 8, citing Tr. 42-46, PPL Exhibit 1. PPL's witness testified the Company had access to daily readings for Ms. Lloyd's electric meter during the December 2022 billing period and the meter registered 2,107 kilowatt hours. I.D. at 8, citing Tr. 49-54; PPL Exhibit 5. PPL asserted that Ms. Lloyd was underbilled by 1,091 kilowatt hours for the December 2022 billing period, with this amount subsequently added to the electric bill for the January 2023 billing period. I.D. at 8, citing Tr. 50, 54. ALJ Coogan cited to 52 Pa. Code § 56.14 in finding utilities may send a "make-up bill" for any previously unbilled amounts. I.D. at 9.

In finding PPL's evidence was of greater weight than that of Ms. Lloyd, ALJ Coogan notes the actual, metered usage for the December 2022 and January 2023 billing periods were similar, with metered usage of 2,107 kilowatt hours in December 2022 and 2,010 kilowatt hours in January 2023. I.D. at 9, citing Tr. 49-50; PPL Exhibit 5. Considering this usage, ALJ Coogan stated Ms. Lloyd's bills for the December 2022 and January 2023 bill periods would have been for roughly \$280 for each billing period and it was plausible that usage and bills were higher during these periods because of colder weather and the length of the billing periods. I.D. at 9, citing PPL Exhibit 4.

ALJ Coogan also addressed other issues raised by Ms. Lloyd during the hearing, finding that PPL credibly testified it had not received a request from Ms. Lloyd to test her meter, that PPL did not retain copies of bills once an account is finalized but retains account statements, and that a letter sent to Ms. Lloyd reflecting an account balance of \$2.77 was for a separate account and not the account at issue in this matter. I.D. at 10, citing Tr. 73, 60, 76.

### C. Exceptions and Replies

We note that the format of the Exceptions does not strictly comply with Section 5.533(b) of our Regulations, which requires that each exception be numbered and identify the finding of fact and conclusion of law to which exception is taken and cite to the relevant pages of the Initial Decision. 52 Pa. Code § 5.533(b). Nevertheless, recognizing that the Complainant is appearing *pro se*, we will exercise our discretion to accept and review and consider the merits of the Exceptions, despite the fact that the Exceptions are not numbered and do not clearly identify the finding or conclusion to which each is taken.

As noted, *supra*, on November 28, 2023, Ms. Lloyd timely filed her Exceptions to the Initial Decision which consist of one, typewritten page, formatted as a letter. The Exceptions advance several arguments against the findings of the Initial Decision. Ms. Lloyd argues the evidence “clearly shows” that PPL “egregiously and maliciously” overbilled her and refused to address or investigate the matter after being sent a written notice. Exc. at 1. The Exceptions question the merits of PPL’s testimony, asserting that PPL’s defense is “frivolous” and witnesses “could not even answer basic questions in regards to their bills.” *Id.* Ms. Lloyd also suggests she is entitled to “summary judgment” because PPL “spoliated evidence” in this matter because the utility did not retain copies of bills in this matter. *Id.* Additionally, the Exceptions refer to the pending informal investigation against PPL for alleged billing errors, suggesting PPL’s testimony in this matter violates “the laws and their own agreement they signed with their 1 million dollar fine for egregious billing errors.”<sup>2</sup> *Id.* Finally, Ms. Lloyd refers to an

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<sup>2</sup> *Bureau of Investigation and Enforcement Informal Investigation Against PPL Electric Utilities Corp.*, Joint Petition for Approval of Settlement filed at Docket No. M-2023-3038060. The Joint Petition for Approval of Settlement was published in the Pennsylvania Bulletin on February 3, 2024 (Proposed Joint Settlement).

intention to file a “fraud and unfair trade lawsuit” should her bill not be reduced as PPL is “maliciously and intentionally causing me injury.” *Id.*

PPL filed their Reply Exceptions on December 28, 2023. As an initial matter, PPL contends the Exceptions fail to comply with Commission regulations as they “are unnumbered, improperly cite to and rely on certain extra record evidence (citation omitted), and do not cite to any of the ID’s Findings of Fact, Conclusions of Law, or specific pages of the ID.” R. Exc. at 1. PPL asks the Commission to deny the Exceptions filed by Ms. Lloyd; adopt the Initial Decision of ALJ Coogan without modification; and dismiss this matter. *Id.* PPL’s Reply Exceptions attempt to group and number the arguments made in the Exceptions, resulting in PPL’s replies of three (3) counterarguments: (1) the ALJ properly found that the Complainant failed to establish PPL overbilled her for electric service; (2) the ALJ correctly rejected the Complainant’s claims regarding retention of hard copies of bills by PPL; and (3) the Complainant’s arguments, based on the proposed settlement in Docket No. M-2023-3038060, are without merit. R. Exc. at 1.

PPL asks the Commission to deny the Exceptions as Ms. Lloyd failed to sustain her burden of proof. *Id.* at 2. PPL reiterates that it had to issue an estimated bill to Ms. Lloyd for the December 2022 billing period as the utility discovered customer data was not properly transferred to its meter data management system and that this resulted in an underbilling. *Id.* at 2-3. However, PPL had access to the actual recorded meter usage and notes concerning the contested January 2023 bill that included the underbilled portion from December 2022. *Id.* PPL also refers to the comparable usage in December 2022 and January 2023, with Ms. Lloyd using 2,107 kilowatt hours in December 2022 and 2,010 kilowatt hours in January 2023. *Id.* at 3-4.

PPL also notes that despite not retaining hard copies of bills, PPL always maintained access to detailed account records and data via account statements.

R. Exc. at 4. PPL suggests that Ms. Lloyd could have retained her copies of the original bills and agrees with the ALJ's denial of Ms. Lloyd's claims. *Id.* at 4-5.

Lastly, PPL turns to Ms. Lloyd's reliance on the Proposed Joint Settlement at Docket No. M-2023-3038060. PPL asks the Commission to reject these arguments by Ms. Lloyd as they are not evidence PPL violated the law or overbilled Ms. Lloyd in this matter. R. Exc. at 5. Pointing to specific language within the Proposed Joint Settlement, which has not yet been considered by the Commission, PPL states it has "made no admission of fact or law and may dispute all issues of fact and law..." *Id.*, citing Proposed Joint Settlement at ¶ 45.

### **III. Disposition**

We note that any argument or Exception not specifically addressed shall be deemed to be considered and denied without further discussion or consideration. The Commission is not required to consider expressly, or at length, each contention or argument made by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

For the reasons set forth below, we shall deny Ms. Lloyd's Exceptions and adopt the Initial Decision of ALJ Coogan issued on November 28, 2023.

We find that the ALJ in his Initial Decision properly considered, weighed, and applied the evidence that the Parties presented and correctly found that Ms. Lloyd failed to carry her evidentiary burden. We agree with ALJ Coogan that Ms. Lloyd submitted a *prima facie* case of overbilling by showing the number of occupants had not changed; that her usage patterns had not changed; and that her bill for December 2022 was higher than her previous months' bills.

However, the evidence submitted by PPL credibly refutes Ms. Lloyd's evidence and is, therefore, deemed to outweigh the assertions made in the Complaint. PPL submitted testimony and exhibits reflecting that, despite the issues with data transfer which required the issuance of an estimated bill in December 2022, PPL had access to the daily readings for Ms. Lloyd's meter for the billing period in question. I.D. at 8; Transcript at 41-42, 42-46. PPL initially issued an estimated bill, as allowed pursuant to 52 Pa. Code § 56.12(3), which estimated Ms. Lloyd's December 2022 usage - based on her usage in November 2022 - as 1,016 kilowatt hours. I.D. at 8; Tr. 42-46; PPL Exhibit 1. However, the daily readings showed an actual usage of 2,107 kilowatt hours during the December 2022 billing period, an underbilling of 1,091 kilowatt hours. I.D. at 8; Tr. 50, 54.

In January 2023, PPL issued a bill for Ms. Lloyd's January usage of 2,010 kilowatt hours and trued up the underbilled 1,091 kilowatt hours from December 2022. I.D. at 8; Tr. 50, 54. This resulted in a bill of \$414.39 for the January 2023 billing period, which included the underbilled 1,091 kilowatt hours from December 2022 and the actual metered usage of 2,010 kilowatt hours in January 2023. I.D. at 9; Tr. 48-50; PPL Exhibit 12. While the amount of usage and billed amounts were higher than previous bills, the 2,107 kilowatt hours billed to Ms. Lloyd in December 2022 were comparable to the 2,010 kilowatt hours metered and billed in January 2023. I.D. at 9, citing Tr. 49-50; PPL Exhibit 5. These billing periods took place during the coldest months of the year and the longest billing periods for Ms. Lloyd's account at the service address, which Ms. Lloyd testified she heated with electric heat at a consistent 69 degrees. I.D. at 9, citing PPL Exhibit 4. Moreover, Ms. Lloyd did not present any evidence indicating that the actual usage for the December 2022 or January 2023 bill periods were incorrect. I.D. at 9. We, therefore, find that Ms. Lloyd failed to prove by a preponderance of the evidence that PPL's actions violated the Code, a Commission Order or Regulation, or a Commission-approved tariff, or that she was overbilled in this matter.

Second, we find no support for Ms. Lloyd’s assertion that PPL “spoliated evidence” or deliberately disposed of evidence in this matter. PPL presented testimony explaining that PPL does not retain hard copies of the bills mailed to customers but does retain account statements that include customer usage and payment information. I.D. at 10, citing Tr. 60; PPL Exhibit 1. Ms. Lloyd makes no credible claim that PPL refused to provide bills to her at appropriate times, nor does she present evidence that PPL acted deliberately to destroy or hide evidence. As we stated above, citing *Norman*, “[o]pinions and conclusions cannot be relied upon as substantial evidence in a decision by the Commission.” Based on this lack of evidence, we must deny Ms. Lloyd’s Exceptions as they relate to retention of hard copies of bills.

Finally, we find that Ms. Lloyd’s arguments referring to PPL’s Proposed Joint Settlement at Docket No. M-2023-3038060 are without merit and an attempt to introduce extra-record evidence. Noting the language of the Proposed Joint Settlement, PPL is correct to argue it “has made no concession or admission of fact or law and may dispute all issues of fact and law for all purposes in all proceedings that may arise as a result of the circumstances described in this Settlement Agreement.” Proposed Joint Settlement Agreement at ¶ 45. While the circumstances of Ms. Lloyd’s Complaint may be similar in nature to those involved in the Proposed Joint Settlement, we note Ms. Lloyd failed to present evidence that the Proposed Joint Settlement was applicable to her Complaint and failed to counter the evidence presented by PPL that the Company had access to the daily readings of Ms. Lloyd’s meter. Thus, for the reasons set forth above after considering the weight of the evidence and our analysis of Ms. Lloyd’s Exceptions, we shall deny Ms. Lloyd’s Exceptions as they pertain to the Proposed Joint Settlement.

#### **IV. Conclusion**

Based on the foregoing discussion and our review of the applicable law, the record and the filings in this proceeding, we shall deny the Exceptions filed by Susan Lloyd, and

adopt the Initial Decision issued by ALJ John M. Coogan on November 28, 2023, consistent with this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

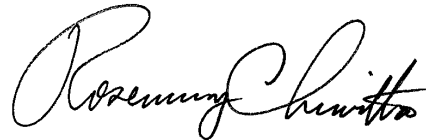
1. That the Exceptions of Susan Lloyd filed on November 28, 2023, to the Initial Decision issued by Administrative Law Judge John M. Coogan at Docket No. F-2023-3041339 on November 28, 2023, are denied, consistent with this Opinion and Order.

2. That the Initial Decision issued by Administrative Law Judge John M. Coogan on November 28, 2023, is adopted, consistent with this Opinion and Order.

3. That the Formal Complaint filed by Susan Lloyd on June 13, 2023, against PPL Electric Utilities Corporation at Docket No. F-2023-3041339, is denied and dismissed, consistent with this Opinion and Order.

4. That this proceeding be marked closed.

**BY THE COMMISSION,**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: April 25, 2024

ORDER ENTERED: April 25, 2024