

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

Public Meeting held May 23, 2024

Commissioners Present:

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

Paulos Ibrahim

C-2023-3042066

v.

PPL Electric Utilities Corporation

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Initial Decision (Initial Decision or I.D.) of Administrative Law Judge (ALJ) Chad L Allensworth, issued on March 7, 2024, in the above-captioned proceeding. No Exceptions have been filed. However, we have exercised our right to review the Initial Decision pursuant to Section 332(h) of the Public Utility Code (Code), 66 Pa. C.S. § 332(h). For the reasons stated below, we shall vacate the Initial Decision, consistent with this Opinion and Order.

I. History of the Proceeding

On August 7, 2023, Paulos Ibrahim (Complainant or Mr. Ibrahim) filed a Formal Complaint (Complaint) with the Commission against PPL Electric Utilities Corporation (PPL or Company). The Complainant alleged that PPL is threatening to shut off his electric service due to his failure to pay bills he believes contain incorrect or higher-than-normal usage and charges (Complaint ¶¶ 4-6). As relief, the Complainant requested that the amount billed to him be corrected and that PPL test his meter. (Complaint ¶ 6). The Commission served the complaint on PPL on August 7, 2023.

On August 28, 2023, PPL filed its Answer in which it admitted and denied various allegations in the Complaint. In its Answer, PPL admitted that it provides the Complainant's electric and admitted to issuing a termination notice to Complainant. (Answer ¶¶ 4-5). PPL also averred that the Complainant owes a total of \$2,903.79 with \$2,839.94 of that amount being arrearages. (Answer ¶ 5). PPL denied that the termination notice violated the Code, Commission Regulations, or the approved tariff and also denied that there were any incorrect charges on the Complainant's bill for the December 2022 and January 2023 billing periods. (Answer ¶ 5).

On August 30, 2023, the Commission issued an Initial Call-In Telephonic Hearing Notice scheduling a telephone hearing for October 31, 2023 and a Prehearing Order addressing various procedures that would govern the hearing.

On October 31, 2023, the hearing was held as scheduled. Paulos Ibrahim appeared and represented himself at the hearing. Mr. Ibrahim did not present any exhibits.

PPL was represented by Attorney Megan E. Rulli at the hearing, who presented Tami Roland – Senior Customer Service Representative at PPL and Alicia

Watkinson – Customer Contact Center Supervisor as witnesses. The witnesses sponsored the following eight exhibits, which were admitted without objection: (1) PPL Electric Exhibit 2 – Account Contact History; (2) PPL Electric Exhibit 3 – Informal Case View; (3) PPL Electric Exhibit 4 – Usage Details for Complainant; (4) PPL Electric Exhibit 6 – Daily Collection November 2022-December 2022; (5) PPL Electric Exhibit 7 – Daily Collection December 2022-January 2023; (6) PPL Electric Exhibit 8 – Account Activity Statement; (7) PPL Electric Exhibit 9 – Meter Reading History; and (8) PPL Electric Exhibit 10 – Service Termination Notice. PPL Electric Exhibits 2, 3, 4 and 6-10 were admitted without objection.

The record closed on January 10, 2024.

On March 7, 2024, the ALJ issued an Initial Decision dismissing the Complaint on the grounds that the Complainant failed to sustain his burden of proof.

II. Discussion

A. Legal Standards

1. Burden of Proof

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Code, 66 Pa. C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the Complainant must show that the Company is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). Such a 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*, 602 A.2d 863 (Pa. 1992). That is, the Complainant's evidence must be

more convincing, by even the smallest amount, than that presented by the Company. *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. *Mill v. Pa. PUC*, 447 A.2d 1100 (Pa. Cmwlth. 1982). More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence, also referred to as the burden of persuasion, to rebut the evidence of the customer shifts to the Company. If the evidence presented by the Company is of co-equal value or “weight,” the burden of proof has not been satisfied. The Complainant now has to provide some additional evidence to rebut that of the Company. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983) (*Burleson*).

While the burden of going forward with the evidence 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. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001) (*Milkie*).

2. Section 1501

In this case, the Complainant makes an allegation of overbilling. 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 Code, which states in pertinent part:

Character 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, Section 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 Code nor the Commission's Regulations require public utilities to provide constantly flawless service. Section 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 December 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*, 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 1219-20 (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 November 15, 2011) (*Thomas*), the Commission explained that:

consistent 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, Initial Decision at 6 (Final Order entered November 16, 2006).

B. ALJ's Initial Decision

The ALJ made twenty-eight (28) Findings of Fact and reached fourteen (14) Conclusions of Law. I.D. at 3-7, 16-18. We shall adopt and incorporate herein by reference the ALJ's Findings of Fact and Conclusions of Law, unless they are reversed or modified by this Opinion and Order, either expressly or by necessary implications.

The ALJ dismissed the Complaint for failure of the Complainant to meet his burden of proof. Based on the evidence presented, the ALJ found that Mr. Ibrahim did not present sufficient credible testimony to establish a *prima facie* case for overbilling under the *Waldron* Rule as clarified by the Commission in *Bennet* and *Thomas*. Specifically, the ALJ opined that Mr. Ibrahim failed to demonstrate that the potential for energy utilization was low or that the billing history demonstrated a dramatic increase in his usage.

The ALJ noted that Mr. Ibrahim alleged that PPL overbilled him for electricity based on higher-than-normal kWh usage for usage between December 2022 and March 2023, including one-month bills of approximately \$1,500, \$800, and \$700. (Tr. 10-13). In support of his claim, Mr. Ibrahim testified that two adults, including himself, have resided at the service property since October 2022 and the service property is a townhouse with three bedrooms, two bathrooms, a living room, and a kitchen. (Tr. 10, 13-15). Mr. Ibrahim further testified that the service property uses electric baseboard heat as the sole heat source, the thermostat is kept between 65° F and 68° F and the service property has a washer and hot water heater that run on electric. (Tr. 10-11, 14-15). Mr. Ibrahim also provided that he and his father previously lived in a different townhouse across the street from the service property that was supplied by PPL and the electric bills were not as high. (Tr. 11, 13-14). I.D. at 11-12.

The ALJ stated that in opposition, PPL presented eight exhibits as well as testimony from Alicia Watkinson, a customer contact center supervisor, and Tami Roland, a senior customer service representative. PPL Electric exhibits along with testimony from Ms. Watkinson described Mr. Ibrahim's kWh usage at the service property between September 2022 and December 2022, the reason for PPL issuing an estimated bill in December 2022, the fact that the December 2022 bill was underestimated and the inclusion of the underestimated kWh usage on the January 2023 bill. (Tr. 25-28; PPL Electric Exhibits 6-8). I.D. at 12.

Furthermore, in opposition to Mr. Ibrahim's claims, Ms. Roland testified PPL has communicated with Mr. Ibrahim regarding the high bill claims several times, that Mr. Ibrahim owed \$2,837.42, and that Mr. Ibrahim was not eligible for the "On Track" assistance program based on his income. (Tr. 47-48, 52-53; PPL Exhibits 2, 8). Ms. Roland further testified that PPL did issue a termination notice and that service was not terminated due to Mr. Ibrahim filing a complaint. (Tr. 49, 51-53). I.D. at 12.

According to the ALJ, although Mr. Ibrahim provided uncontradicted testimony establishing that the number of people residing at the service property did not change, he failed to establish that the potential for energy use was low. The ALJ averred it is uncontested that the service property relies on electric baseboard heat as its sole heat source so the simple fact that kWh use increased in the colder months does not support Mr. Ibrahim's claim. The ALJ further noted that Mr. Ibrahim's arguments that he keeps the heat set between 65° F and 68° F and that his electric bills were lower when they lived in a townhouse across the street are not persuasive on this issue because neither factor shows that the potential energy use for the current service property would necessarily be low in the colder months. Specifically, the ALJ opined that while keeping the thermostat set lower may decrease potential energy use, it does not eliminate the overall additional energy use needed to keep the temperature at the set range during colder months. The ALJ further noted that there was no evidence presented to

demonstrate that the previous townhouse that Mr. Ibrahim resided at was comparable to the current service property in terms of size, insulation, energy efficiency, heat source, etc. I.D. at 12-13.

The ALJ found the testimony presented by Mr. Ibrahim was insufficient. According to the ALJ, while Mr. Ibrahim contested billing for use between December 2022 and March 2023, he failed to provide any specific testimony or evidence to support that the kWh usage during the current period was abnormally higher than in prior years during the same period. The ALJ further indicated that the only evidence that Mr. Ibrahim provided was a general statement that his electric bills were lower when he resided in a different property in the same area. And that this is insufficient to support his claim. I.D. at 13.

The ALJ noted that, PPL, on the other hand, provided documentation along with testimony from Ms. Watkinson at the hearing showing that Mr. Ibrahim's kWh usage between December 2022 and March 2023 was not abnormal for the service property. The ALJ highlighted Ms. Watkinson's testimony that Mr. Ibrahim's actual kWh usage for the December 2022 billing period was 6134 kWh. (Tr. 26). And that because he was initially underbilled for this usage by an estimated bill for 2699 kWh, the remaining 3435 kWh were added on to his January/February bill. (Tr. 27). According to the ALJ, those numbers have been adjusted in the below chart to give an accurate reflection of kWh usage in the service property for each month in the contested period in order to better compare kWh usage before and during Mr. Ibrahim's time in the service property. I.D. at 13.

	kWh usage prior to Complainant in 2021/2022	Complainant's kWh usage in 2022/2023
Nov. – Dec.	4306 kWh	6134 kWh
Dec. – Jan.	6179 kWh	4290 kWh
Jan. – Feb.	6111 kWh	4303 kWh
Feb. – March	4159 kWh	4039 kWh
March – Apr.	4157 kWh	2510 kWh

(Tr. 26-29, 33-36; PPL Electric Exhibits 8 and 9).

The ALJ concluded that the documentation and testimony presented supports that Mr. Ibrahim's kWh usage at the service property was consistent with prior kWh usage at the service property. According to the ALJ, this is evident by the fact that there are several months where Mr. Ibrahim's kWh usage at the service property during the contested period was higher than the same period the prior year, but there are also several months where Mr. Ibrahim's kWh usage was lower compared to the same period the prior year. Thus, there is no clear pattern to support that Mr. Ibrahim's kWh usage was abnormal or constituted a dramatic increase. I.D. at 14.

C. Disposition

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

Upon review of the pleadings and applicable law, we shall vacate the Initial Decision and remand the matter to the Office of Administrative Law Judge, consistent with this Opinion and Order.

After viewing the record, we disagree with the ALJ's decision. Here, Mr. Ibrahim is disputing electric bills from December 2022 to March 2023. The Complainant testified that he lives with his father in a three-bedroom, two-bathroom townhouse with a living room, and a kitchen.¹ The property has a washer and hot water heater that runs on electricity.² Although the property uses electric baseboard heat as its sole source of heat, the Complainant stated that he keeps the thermostat at the property between 65° F and 68° F regardless of how cold the weather gets.³

On December 28, 2022, PPL issued Mr. Ibrahim an estimated bill of 2699 kWh based upon an average daily usage of 74.97 kWh over a 36-day period from November 2022 to December 2022. At the time, the Complainant had been living at the property for only a few months.⁴ PPL indicated that it issued an estimated bill for November 2022 usage due to meter data transfer system errors in December of 2022.⁵

However, in the January 24, 2023 bill, PPL indicated the Complainant's actual usage for the November-December 2022 billing period was 6134 kWh and charged

¹ Tr. at 14.

² Tr. at 13-14.

³ Tr. at 10-11, 15.

⁴ Complainant moved to the property in October 2022. He previously lived in a different townhouse across the street from the property, which was also supplied electricity by PPL, but he did not have bills as high as the current property. Tr. at 9-10.

⁵ Tr. at 25-26.

him approximately \$1,500 for a total usage of 7725 kWh.⁶ PPL claims it underbilled Mr. Ibrahim in its estimated billing and argues that the Complainant's usage is similar to prior years' usage (albeit, not the Complainant's) at the property. PPL further compared the Complainant's usage with prior years' usage for the following months: Dec. - Jan. - 4290 kWh (prior - 6179 kWh); Jan. - Feb. - 4303 kWh (prior - 6111 kWh); Feb. - Mar. - 4039 kWh (prior - 4159 kWh); Mar. - Apr. - 2510 kWh (prior - 4157).⁷ As mentioned above, the ALJ dismissed the Complaint after finding the Complainant had not presented a *prima facie* case for overbilling and failed to establish a customer service violation after PPL failed to perform a meter test.⁸

First and foremost, while we agree with the ALJ that the Complainant presented no evidence to demonstrate that the previous townhouse he resided was comparable to the current property in terms of size, insulation, energy efficiency, heat source, etc., we disagree with the ALJ's overall conclusion in this matter.⁹ There is enough evidence to demonstrate that the usage billed by PPL is relatively high for a property with a household of two and the usage pattern described by the Complainant. The Complainant presented uncontroverted testimony that he and his father use minimum electricity as they are infrequently home because his father works full-time and the Complainant is a student who also works part-time.¹⁰ While there is nothing in the record about size, insulation or energy efficiency at the property, the property is a three-bedroom townhouse. The fact that the Complainant keeps the thermostat at the

⁶ This charge also includes Complainant's usage from December 2022 to January 2023. Tr. at 26-28.

⁷ Tr. at 26-29, 33-36; PPL Exhibits 8, 9.

⁸ The ALJ found that Mr. Ibrahim failed to establish a customer service violation for PPL's failure to perform a meter test, noting that the record evidence did not support he requested a meter test. I.D. at 14, 16.

⁹ I.D. at 13.

¹⁰ Tr. at 10-11.

property between 65° F and 68° F makes us question the 4000 to 6000 kWh average usage meter readings for the period in question.¹¹

Further, PPL issued the Complainant an estimated bill based on 2699 kWh usage from November 2022 to December 2022. However, according to PPL, the Complainant's actual usage for the November-December 2022 billing period was 6134 kWh.¹² This means PPL underbilled the Complainant by approximately 127.3%, which is a significant variation from the Complainant's actual usage. This significant variation between estimated and actual usage by PPL may be an issue.

Also, we believe adequate meter reading data is now available to make a more informed comparison of the Complainant's usage history. Therefore, we believe PPL should provide any updated comparative meter reading for the Complainant subsequent to the December 2002 to March 2023 billing period or any other relevant information, for further review by the ALJ. As such, the ALJ's Initial Decision shall be vacated, and this matter should be remanded to the Office of Administrative Law Judge for further action as necessary and the issuance of an Initial Decision on Remand.

III. Conclusion

Based on our review of the ALJ's Initial Decision, the pleadings, and the applicable law, we shall vacate the ALJ's Initial Decision, and remand the matter to the Office of Administrative Law Judge, for such further action as deemed necessary and for

¹¹ According to the U.S. Energy Information Administration (EIA), the average residential customer uses 887-1000 kWh of electricity per month. [Average monthly electricity bill for U.S. residential customers declined in 2019 - U.S. Energy Information Administration \(EIA\).](#)

¹² Tr. at 26.

the issuance of an Initial Decision on Remand consistent with this Opinion and Order;
THEREFORE,

IT IS ORDERED:

1. That the Initial Decision of Administrative Law Judge Chad L. Allensworth, issued on March 7, 2024, at Docket No. C-2023-3042066, is vacated, consistent with this Opinion and Order.
2. That the matter is remanded to the Office of Administrative Law Judge for such further action as deemed necessary and for the issuance of an Initial Decision on Remand consistent with this Opinion and Order.
3. That PPL Electric Utilities Corporation is directed to provide to the Office of Administrative Law Judge for review, updated comparative meter readings for Paulos Ibrahim subsequent to the December 2022 to March 2023 billing period along with any other relevant information.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: May 23, 2024

ORDER ENTERED: June 25, 2024