

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Charisa Bensinger	:	
	:	
v.	:	F-2023-3042674
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Gail M. Chiodo
Administrative Law Judge

INTRODUCTION

This decision denies in part and grants in part the customer’s Formal Complaint. The customer’s allegation that the electric utility company overbilled her is dismissed because the customer failed to meet her burden of proving that the company violated the Public Utility Code (Code) or a Commission order or regulation. This decision grants the customer’s oral request made at the hearing for a Commission payment arrangement because the customer met her burden of proving that she is eligible for one under Chapter 14 of the Code.

HISTORY OF THE PROCEEDING

On August 30, 2023, Charisa Bensinger filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL, Company or Respondent), averring that the Company has been overcharging her since January 2023. Ms. Bensinger also complained that after she contacted the Company in January 2023 about the charges, that the Company said it would correct the billing, but instead in July 2023, the Company threatened to turn off her service for the nonpayment of bills. As relief,

the Complainant wants her bills corrected. She also wants the electric meter removed from her property since it must not be working, and replaced with one that is working properly.

The Complaint is a timely appeal from the determination of the Commission's Bureau of Consumer Services (BCS) at Case No. 3926035, in response to the Complainant's informal complaint. The BCS granted Ms. Bensinger a level-2 payment arrangement.¹ A timely BCS appeal is subject to *de novo* review, which means that it will be based on the evidentiary record created at the hearing. 52 Pa. Code § 56.173(a).

On September 25, 2023, the Company filed an Answer denying the material allegations in the Complaint and requesting that the Complaint be denied. The Company averred, *inter alia*, that the Complainant was billed accurately based on actual metered usage obtained from a properly working meter, and denied that the Company advised Ms. Bensinger it would "correct" her bills. (Answer at ¶ 6).

On September 27, 2023, a Hearing Notice was issued scheduling a hearing for November 28, 2023, and the matter was assigned to me. On September 29, 2023, a Prehearing Order was issued detailing various procedures that would apply to this proceeding.

November 2023 hearing

On November 28, 2023, the hearing convened. Ms. Bensinger represented herself, testified on her own behalf, and did not offer any exhibits. During her testimony, Ms. Bensinger also requested a Commission payment arrangement. (Tr. at 13). Following brief cross-examination by counsel for the Company, Garrett P. Lent, Esquire, the Company began to present its case by calling a witness to testify. However, during this witness' direct testimony and less than an hour into the hearing, Ms. Bensinger asked how long the proceeding would take because she "just can't listen to this going on and going on" (Tr. at 32).

¹ A level-2 customer is defined as a customer with a gross monthly household income level exceeding 150% and not more than 250% of the Federal poverty level, and may be eligible for no more than a three-year payment arrangement to resolve an unpaid balance. 66 Pa.C.S. § 1405(b)(2).

Following some on- and off-the-record discussion with the parties, Ms. Bensinger requested a further hearing be scheduled. (Tr. at 32- 34). Over PPL’s objection, I verbally granted this request. (Tr. at 34). The reasons for this ruling were memorialized and discussed in detail in my written Order dated January 12, 2024.²

On December 8, 2023, a Further Call-in Telephone Hearing Notice was issued scheduling a further telephone hearing on February 9, 2024. On February 8, 2024, Ms. Bensinger via email requested a continuance of this hearing due to her illness. Over no objection from PPL, I granted the Complainant’s continuance request.

On February 8, 2024, a Cancelled/Reschedule Further Telephone Hearing Notice was issued rescheduling the hearing for March 18, 2024.

March 2024 further hearing

On March 18, 2024, the further hearing convened. Ms. Bensinger represented herself and the Company was represented by Megan E. Rulli, Esquire. The Company concluded its case by completing the testimony of its witness, Holly Hankerson, a PPL customer service representative. Ms. Hankerson sponsored eight exhibits, all admitted into the record. They are:

- PPL Exhibit 1 – Account Activity (11/27/2019 – 11/6/2023)
- PPL Exhibit 3 – Payment Agreement History
- PPL Exhibit 4 – BCS No. 3926035 (opened 7/20/2023, closed 7/28/2023)
- PPL Exhibit 5 – Meter testing letter/results dated 9/22/2023
- PPL Exhibit 6 – Usage detail (11/7/2019 – 11/6/2023)
- PPL Exhibit 7 – OnTrack program correspondence dated 7/1/2020

² The reader is directed to this Order which also details the conduct of the Complainant at the November 2023 hearing including her unresponsiveness to questions asked by counsel, inappropriate commentary about PPL in general, and repeated interruption of counsel’s questioning to argue her case. Further, Ms. Bensinger talked over the undersigned despite being instructed more than once not to do so. (Tr. at 26-27). Therefore, this Order also highlighted the various procedures from the Prehearing Order that would again apply to the further hearing in order that continued litigation could proceed in an orderly and appropriate manner.

Further, Ms. Bensinger was instructed in this Order to be prepared at the next hearing to testify to her gross monthly household income, since she did not testify with certainty to such at the November 2023 hearing. However, as discussed in this decision, her later testimony was also not precise.

PPL Exhibit 8 – WRAP program follow-up letter dated 4/9/2020
PPL Exhibit 11– Account contact history (2020-2024)

On April 9, 2024, the hearing transcript of the March 2024 further hearing and exhibits were filed.³ On June 4, 2024, a corrected transcript of the further hearing was filed.⁴ The transcript of the hearing held on both days generated a 103-page transcript.

FINDINGS OF FACT

1. The Complainant is Charisa Bensinger, who receives electric service from the Respondent at her residence in Auburn, Pennsylvania (service address). (Tr. at 8).
2. The Respondent is PPL Electric Utilities Corporation.
3. Ms. Bensinger is the account holder for the electric service, which was activated on September 30, 2016, and was on at the time of the hearing. (Tr. at 24).
4. Ms. Bensinger described the service address as approximately 800 square feet, although she was not certain. (Tr. at 10, 17).
5. The service address is heated with electric heat, and also has an electric hot water heater, a refrigerator with a freezer, washer, dryer, stove and television. (Tr. at 17-18).
6. Ms. Bensinger testified that at some point she got rid of her microwave and used her computer less in 2023 than in 2022 since she was working less in 2023. (Tr. at 13, 94-95).
7. PPL Exhibit 1 is an account activity statement from November 27, 2019 through November 6, 2023, which details the account's billing and payment history, as well as

³ On December 27, 2023, the hearing transcript of the November 2023 hearing was filed.

⁴ The June 4, 2024, transcript filing corrected two blank and two missing pages from the April 9, 2024, transcript filing.

the meter read date and the number of kilowatt hours (kWh) used during each billing period. (Tr. at 21, 23-24; PPL Exhibit 1).

8. Ms. Hankerson testified to the billing history of the dates in dispute—i.e., from January 2023 to end of August 2023, which information is reflected in both PPL Exhibits 1 and 6. (Tr. at 24-29; PPL Exhibits 1, 6).

9. The following table shows the usage and billing history for the 2023 periods in dispute:

Billed	Days in bill	Total KWh Used	Avg. kWh/day	Electricity costs	Avg. Temperature
09/07/2023	30	1022	34	\$189.50	71
08/08/2023	29	1075	37	\$195.70	73
07/10/2023	32	1166	36	\$209.83	70
06/08/2023	30	1089	36	\$216.68	63
05/09/2023	29	1384	48	\$280.31	55
04/10/2023	32	1378	43	\$279.23	43
03/09/2023	30	1465	49	\$295.93	38
02/07/2023	29	1564	54	\$314.87	34

Tr. at 24-29; PPL Exhibits 1, 6.

10. All of the 2023 bills were based on actual electric usage. (Tr. at 70; PPL Exhibit 1).

11. Ms. Bensinger’s account was not affected by PPL’s “system issues,” which refers to PPL’s billing malfunction that resulted in PPL sending out estimated bills to hundreds of customers between December 2022 and May 2023 because of an issue with the technical metering system in which customer data was not transferring from PPL’s command center to its meter data management system. (Tr. at 70).

12. The following table shows the usage and billing history for the comparable billing periods in 2022:

Billed	Days in bill	Total KWh Used	Avg. kWh/day	Electricity costs	Avg. Temperature
09/08/2022	30	736	25	\$136.52	72
08/09/2022	29	794	27	145.33	77
07/11/2022	32	764	24	140.67	72
06/09/2022	30	678	23	110.51	67
05/10/2022	32	1659	52	231.04	52
04/08/2022	29	1591	55	222.41	44
03/10/2022	29	1282	44	182.35	35
02/09/2022	29	1582	55	221.34	23

Tr. at 45-47; PPL Exhibit 6.

13. PPL’s electric rates increased from 2022 to January 2023. (Tr. at 47).

14. PPL Exhibit 6 is a summary in a table format of the usage and billing history which compares the total kWh usage at the service address for approximately four years—i.e., from November 7, 2019 through November 6, 2023. (Tr. at 46; PPL Exhibit 6).

15. No payments were made on Ms. Bensinger’s account from January through May 2023. (Tr. at 29-30; PPL Exhibit 1).

16. Partial payments were made on the account on June 21, 2023 for \$250.00; on August 17, 2023 for \$195.70; on September 22, 2023 for \$189.50; on October 24, 2023 for \$100.00; and on October 31, 2023 for \$54.56. (Tr. at 29; PPL Exhibit 1).

17. PPL Exhibit 11 is Account Contact History from February 11, 2020 through January 29, 2024, which contains any contacts the customer had with the Company, whether the

customer spoke with a customer service representative, used PPL's automated voice system, or used PPL's on-line self-service system. (Tr. at 48-49; PPL Exhibit 11).

18. PPL has no record of the Complainant's alleged call in January 2023, in which Ms. Bensinger testified she first called PPL customer service to complain about her billing. (Tr. at 78-79; PPL Exhibit 11).

19. PPL has no record of any PPL representative advising the Complainant that PPL would "correct" the Complainant's bills. (Tr. at 78-79; PPL Exhibit 11).

20. PPL has a record that, on March 3, 2023, Ms. Bensinger called PPL and complained of a high bill; Ms. Bensinger was informed that her bills were based on actual, not estimated, meter readings and not affected by PPL's system issues; Ms. Bensinger was referred to PPL's Energy Education Department to discuss her bill further. (Tr. at 50; PPL Exhibit 11).

21. On March 13, 2023, Ms. Bensinger called PPL and asked to speak with a billing specialist. (Tr. at 50; PPL Exhibit 11).

22. On March 18, 2023, PPL called Ms. Bensinger, but Ms. Bensinger stated she would call back. (Tr. at 50; PPL Exhibit 11).

23. On July 3, 2023, Ms. Bensinger called PPL complaining of high bills; PPL advised her that account was not affected by PPL's system issues and her billing was based on actual usage; Ms. Bensinger requested a call back from a supervisor. (Tr. at 50; PPL Exhibit 11).

24. On July 3, 2023, a PPL supervisor returned Ms. Bensinger's call during which Ms. Bensinger said that her meter must be wrong; Ms. Bensinger declined a meter test for a fee of \$35. (Tr. at 51; PPL Exhibit 11).

25. On July 19, 2023, PPL issued a ten-day shut off notice, to be effective on or after August 2, 2023, due to an account arrearage of \$1,541.91. (Tr. at 52; PPL Exhibit 11).

26. On July 20, 2023, PPL ceased termination efforts when it was notified that same day that the Complainant submitted an informal complaint to BCS. (Tr. at 53).

27. On July 28, 2023, BCS awarded the Complainant a level-2 Commission payment arrangement on a balance of \$1,751.74; the terms called for a three-year repayment of her arrearage resulting in a monthly payment amount of \$292 (regular budget amount of \$243 and \$49 towards arrears), effective with her August 2023 bill due date. (Tr. at 58; PPL Exhibit 4).

28. On September 8, 2023, Ms. Hankerson spoke with Ms. Bensinger, who insisted that her meter was wrong and wanted a new meter installed; Ms. Bensinger declined a free meter test and declined PPL's suggestion that she shop around for a different supplier. (Tr. at 58-59; PPL Exhibit 11).

29. On September 19, 2023, in response to Ms. Bensinger's billing complaints, PPL removed the meter at the service property and tested it for free.⁵ (Tr. at 60-61, 75-76; PPL Exhibit 5).

30. On September 19, 2023, the meter tested 100.01% accurate at full load, 100.05% accurate at light load and 100.02% average accuracy. (Tr. at 61; PPL Exhibit 5).

31. Ms. Bensinger was enrolled in the Company's OnTrack program⁶ from October 9, 2018 through May 15, 2020, but she is not currently eligible because her household income exceeds the applicable program income criteria. (Tr. at 62-63; PPL Exhibit 7).

32. On July 3, 2023, PPL referred Ms. Bensinger to PPL's Operation HELP, a program that provides cash grants to help income-eligible customers with their home heating bills. (Tr. at 64).

⁵ Ms. Hankerson pointed out that PPL Exhibit 5 refers to a meter testing fee of \$35. However, Ms. Hankerson explained that this reference is an error as the meter testing fee was waived. (Tr. at 60).

⁶ OnTrack is a program for income-eligible customers that offers reduced monthly payments, protection from shutoffs, and debt forgiveness.

33. By letter dated April 9, 2020, PPL informed Ms. Bensinger that her participation in 2018 in its Winter Relief Assistance Program (WRAP), a weatherization program provided by the Company to help customers make their residence more energy efficient, did not decrease her electric usage as much as would be expected, and the letter listed several possible reasons for this result. (Tr. at 64, 69-70; 84; PPL Exhibit 8).

34. Ms. Besinger has a bachelor's degree in nursing, does not currently work due to a disability but receives a "retirement disability income." (Tr. at 14, 16).

35. Ms. Bensinger's current household size totals six individuals consisting of herself, another adult, and their four minor children. (Tr. at 13, 92).

36. Ms. Bensinger's gross monthly household income totals \$5,637, which is comprised of her monthly retirement/disability income of \$1,737 and the other adult's gross employment income of \$3,900. (Tr. at 14-15; 89-91).⁷

37. At the time of the November 23, 2023, hearing, the Complainant's outstanding account balance was \$2,148.68, with a past due balance of \$1,933.78. (Tr. at 29; PPL Exhibit 1).

DISCUSSION

Burden of Proof

As the party seeking affirmative relief from the Commission, a complainant 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

⁷ As discussed later in this decision, although the Complainant's testimony was inconsistent as to hers and the other adult's gross monthly income, as well as inconsistent with the BCS determination, there is sufficient evidence to find that Ms. Bensinger is a level-2 customer with a gross monthly household income of \$5,637.

presented by the opposing party. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950). 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 and that the offense is a violation of the Code, the Commission’s regulations, or order. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. P.U.C. 196 (1990); 66 Pa.C.S. § 701.

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 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. Pub. Util. Comm’n*, 443 A.2d 1373 (Pa. Cmwlth. 1982) (*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. Pub. Util. Comm’n*, 768 A.2d 1217 (Pa. Cmwlth. 2001) (*Milkie*).

Additionally, any decision of the Commission 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. Pub. Util. Comm’n*, 413 A.2d 1037 (Pa. 1980). As the Commission explained, “[O]pinions and conclusions cannot be relied upon as substantial evidence in a decision by this agency.” *Norman v. Phila. Gas Works*, Docket No. C-2018-2640719, at 30 (Opinion and Order entered Oct. 7, 2021).

Incorrect charges dispute

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. P.U.C. 528 (1980). Once the complainant shows a *prima facie* case, the burden of proof shifts to the utility; 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."

Thomas v. PECO Energy Co., Docket No. C-2010-2187197, at 5 (Opinion and Order entered Nov. 15, 2011) (citations omitted).

The Commission's Regulations provide tolerance standards for recording electricity usage within an error variance of 2.0% or less as follows:

§ 57.20. Watthour Meter Testing.

(c) No watthour meter which has an error in registration of more than 2.0% at light load or heavy load may be placed in service or allowed to remain in service without adjustment. If, upon installation, period or other tests, a watthour meter is found to exceed these limits, it shall be adjusted or removed from service.

52 Pa. Code § 57.20(c).

In the instant case, Ms. Bensinger disputes PPL's bills for the billing periods of January 2023 up until the filing of her Complaint in August 2023. Ms. Bensinger contends: (1) that PPL's meter must be wrong because she has done everything she can to keep her bills lowered including participating in the Company's WRAP program in 2018, using energy efficiency appliances, and not putting up Christmas lights; (2) that her 2023 bills are approximately \$120 higher than her 2022 bills for the same months; and (3) that her usage pattern changed from 2022 to 2023 in that she got rid of her microwave and had less computer usage between 2022 and 2023 since she was not working for most of 2023. (Tr. at 74, 94-95). Ms. Bensinger contends that PPL is "inflating" her electric usage. (Tr. at 12, 74, 94-95).

PPL argues that the Complainant has failed to meet her burden of proof. PPL contends that Ms. Bensinger was billed based on her actual usage at her residence, and that the meter testing results showed that the meter servicing her residence was working properly. PPL also contends that Ms. Bensinger did not present evidence that her billing is incorrect and that PPL presented ample evidence that she was billed correctly. (Tr. at 96-98).

After a careful and exhaustive review of the record, for the reasons discussed below, I find that even assuming *arguendo* that Ms. Bensinger may have made a *prima facie* case of overbilling, that the Company clearly rebutted the Complainant's evidence. *Burleson*. Hence,

dismissal of the Complaint is required, since the burden of proof always remains on the party seeking affirmative relief, which is Ms. Bensinger in the instant case. *Milkie*.

First, although Ms. Bensinger argues that her meter must be not working, the evidence shows that the meter at the service address was shown to be accurate within the 2.0% margin of error permitted by the Commission's regulation at 52 Pa. Code § 57.20(c). On September 19, 2023, the meter tested 100.01% accurate at full load, 100.05% accurate at light load and 100.02% average accuracy. (Tr. at 61; PPL Exhibit 5). However, pursuant to *Waldron* and its progeny, the results of a meter test can be overcome through other circumstantial evidence which would support a finding that the metered usage exceeded the actual usage. *Lloyd v. PPL Elec. Utils. Corp.*, Docket No. F-2023-3041339 (Opinion and Order entered Apr. 25, 2024).

Second, I find that Ms. Bensinger did not provide sufficient circumstantial evidence that could lead to a finding that the metered usage exceeded the actual usage at the service address. Although Ms. Bensinger argues that her 2023 bills are approximately \$120 higher than her 2022 bills for the same billing period, a comparison of these billing years shows that the difference is between \$49 and \$113. (See PPL Exhibit 6). However, PPL also explained that PPL's electric rates increased from 2022 to 2023, which can account for the Complainant's higher bills. For example, in some instances, the Complainant's 2023 bills were higher than her 2022 bills for the same billing period, even though she used less kWh in 2023 than in 2022. These instances include:

- the February 2023 bill (\$314.87 for 1564 kWh) is \$93.53 higher than the February 2022 bill (\$221.34 for 1582 kWh), even though the Complainant used less kWh in 2023;
- the April 2023 bill (\$279.23 for 1378 kWh) is \$56.82 higher than the April 2022 bill (\$222.41 for 1591 kWh), even though the Complainant used less kWh in 2023; and
- the May 2023 bill (\$280.31 for 1384 kWh) is \$49.27 higher than the May 2022 bill (\$231.04 for 1659 kWh) even though the Complainant used less kWh in 2023.

PPL Exhibit 6.

As to the months in which the Complainant’s 2023 kWh usage was more than her 2022 usage, her 2023 bills are higher. These instances include:

- the March 2023 bill (\$295.93 for 1465 kWh) is \$113.58 higher than the March 2022 bill (\$182.35 for 1282 kWh);
- the June 2023 bill (\$216.68 for 1089 kWh) is \$106.17 higher than the June 2022 bill (\$110.51 for 678 kWh); and
- the July 2023 bill (\$209.83 for 1166 kWh) which is \$69.16 higher than the July 2022 bill (\$140.67 for 764 kWh).

PPL Exhibit 6.

Therefore, in light of the rate increase from 2022 to 2023, in comparing usage, it is more helpful to look at the kilowatt hours used, not necessarily the dollars billed. PPL Exhibit 6 is a summary of the customer usage history which compares the total kWh usage at the service address for approximately four years – from 2019 through 2023. For ease of reference and comparison, since Ms. Bensinger complains of a billing increase from 2022 to 2023, the following data in the two tables below reflects the usage for the disputed periods from 2023 to the same periods from the prior year, 2022:

Billed	Days in bill	Total KWh Used	Avg. kWh/day	Electricity costs	Avg. Temp.
09/07/2023	30	1022	34	\$189.50	71
08/08/2023	29	1075	37	\$195.70	73
07/10/2023	32	1166	36	\$209.83	70
06/08/2023	30	1089	36	\$216.68	63
05/09/2023	29	1384	48	\$280.31	55
04/10/2023	32	1378	43	\$279.23	43
03/09/2023	30	1465	49	\$295.93	38
02/07/2023	29	1564	54	\$314.87	34

Billed	Days in bill	Total KWh Used	Avg. kWh/day	Electricity costs	Avg. Temp.
09/08/2022	30	736	25	\$136.52	72
08/09/2022	29	794	27	145.33	77
07/11/2022	32	764	24	140.67	72
06/09/2022	30	678	23	110.51	67
05/10/2022	32	1659	52	231.04	52
04/08/2022	29	1591	55	222.41	44
03/10/2022	29	1282	44	182.35	35
02/09/2022	29	1582	55	221.34	23

PPL Exhibit 6.

As explained by Ms. Hankerson, the numbers of kilowatt hours usage for the January 2023 through the April 2023 periods are in line with, or similar to, the numbers of kilowatt hours usage for the same periods in 2022. (Tr. at 46-47). For example, in February 2023, Ms. Bensinger was billed for 1564 kWh compared to 1582 kWh in February 2022 (which is higher than 2023 usage); in March 2023, the billed usage was for 1465 kWh compared to 1282 kWh in March 2022; in April 2023, the billed usage was for 1378 kWh compared to 1591 kWh in April 2022 (which is higher than 2023 usage); and in May 2023, the billed usage was for 1384 kWh compared to 1659 kWh in May 2022 (which is higher than 2023 usage). Thus the evidence shows that out of these four billing periods, Ms. Bensinger in fact consumed more kWh in 2022 than in 2023.

The remaining four billing periods show a somewhat increased usage in 2023. For example, compare the June 2023 usage of 1089 kWh with the June 2022 usage of 678 kWh; the July 2023 usage of 1166 kWh with the July 2022 usage of 764 kWh; the August 2023 usage of 1075 with the August 2022 usage of 794 kWh; and the September 2023 usage of 1022 kWh with the September 2022 usage of 736 kWh. However, even though the June through September 2023 usage is somewhat higher than June through September 2022 usage, I do not find the increase significant enough or abnormally high to lead to a finding that the metered usage exceeded the actual usage of the home at the service address, especially combined with the other evidence.

(*See, Thomas*, which allows a customer 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).

Next, there is insufficient evidence of any change in usage patterns, such as a change in the number of occupants residing in the household or potential energy utilization, or any other relevant facts or circumstances that come to light during the proceeding, to lead to a finding that the metered usage exceeded the actual usage. For example, there is no evidence that the number of occupants had changed from 2022 to 2023. At both hearings in November 2023 and March 2024, Ms. Bensinger testified that her household size consists of six individuals. (Tr. at 13, 92). Although Ms. Bensinger testified that she no longer uses a microwave and used her computer less than in 2023, there is no evidence that these circumstances lead to a conclusion the meter is incorrect. Also, this usage is not abnormally high when compared to her 2021 and 2019 usage. (*See, PPL Exhibit 6*).

Thus the evidence submitted by PPL credibly refutes Ms. Bensinger’s evidence and therefore, must be deemed to outweigh the assertions made in the Complaint. Accordingly, the Complainant’s allegation that PPL overbilled her will be dismissed because she failed to meet her burden of proving that the Company violated the Code or a Commission order or regulation.

Payment arrangement

Although not raised in her Complaint, during the hearing Ms. Bensinger orally requested an affordable payment arrangement. (Tr. at 13). PPL did not oppose “extending” her BCS payment arrangement. (Tr. at 55-56). Chapter 14 of the Code, the Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1419 (Chapter 14 or Act), applies to customers seeking a Commission payment arrangement. However, Chapter 14 provides strict guidelines that the Commission must follow, including the number and length of payment arrangements it is authorized to issue, and which account balances cannot be subject to payment arrangements. 66 Pa.C.S. § 1405(b)-(d).

Regarding the number of payment arrangements the Commission may issue, the Act makes explicit that the Commission has authority to establish at least one payment arrangement per customer subject to the limitations of the Act. 66 Pa.C.S. § 1405(a). In the instant case, there is no evidence that Ms. Bensinger has been previously awarded a Commission payment arrangement. Further, since the instant matter is a timely appeal from the BCS decision which issued the Complainant a payment arrangement, Ms. Bensinger cannot be deemed in default of the BCS payment arrangement until the within Complaint on appeal is fully adjudicated and a final order is entered. *Harnett v. PPL Elec. Utils. Corp.*, Docket No. F-2012-2329578 (Opinion and Order entered Nov. 14, 2013). Therefore, Ms. Bensinger is eligible for a payment arrangement on this basis.

Regarding which account balances cannot be subject to payment arrangements, Section 1405(c) prohibits the Commission from issuing payment arrangements on customer assistant program (CAP) rates. 66 Pa.C.S. § 1405(c). In the instant case, Ms. Bensinger's arrearage does not consist of any CAP rates. (Tr. at 88). Therefore, she is not precluded from a receiving a payment arrangement on this basis.

Regarding the length of a payment arrangement that the Commission may issue, Chapter 14 limits the length of time for a customer to resolve an unpaid balance based upon a customer's household income in relation to where the customer falls on the Federal poverty level. In addition, "household income" is defined as "[t]he combined gross income of all adults in a residential household who benefit from the public service." 66 Pa.C.S. § 1403 (definition of "Household income"). Specifically, Chapter 14 provides for repayments terms of either six months, one year, three years or five years based upon income level as follows:

§ 1405. Payment arrangements

- b) Length of payment arrangements.--The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment arrangement that is investigated by the [C]ommission and is entered into by a public utility and a customer shall not extend beyond:

- (1) Five years for customers with a gross monthly household income level not exceeding 150% of the Federal poverty level.
- (2) Three years for customers with a gross monthly household income level exceeding 150% and not more than 250% of the Federal poverty level.
- (3) One year for customers with a gross monthly household income level exceeding 250% of the Federal poverty level and not more than 300% of the Federal poverty level.
- (4) Six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level.

66 Pa.C.S. § 1405(b).

Ms. Bensinger testified about her household size and income. Ms. Bensinger's current household size totals six individuals, consisting of herself, another adult, and their four minor children. (Tr. at 13, 92). However, Ms. Bensinger testified inconsistently as to her gross monthly household income. Notwithstanding these inconsistencies, I find that Ms. Bensinger presented sufficient evidence that it can be determined that her gross monthly household income is \$5,637, thereby making her a level-2 customer and eligible for a three-year payment arrangement to extinguish her arrearage.

At the November 2023 hearing, Ms. Besinger testified that she receives a retirement disability income of \$1,700 per month. (Tr. at 14). As to the other adult's income, at this same hearing, Ms. Bensinger testified that, although she did not have a paycheck to review in front of her, that she believed that the other adult earns approximately "\$1,800 every two weeks or thereabout. It is usually a little less than \$2,000." (Tr. at 15). Although Ms. Bensinger explained she was not certain about these amounts, "I know his base income is "\$23 something an hour" for 37.5 hours per week, with occasional overtime in the winter months, since the other adult plows snow when needed as part of his job duties. (Tr. at 14-15).

By Order dated January 12, 2024, Ms. Bensinger was directed to be prepared at the next hearing to testify to her gross monthly household income, since she did not testify with certainty to such at the November 2023 hearing. Specifically, this instruction provided:

You [Ms. Bensinger] must be prepared to testify about the total gross monthly income of the household. A household includes all adults living at the service address and benefiting from the utility service. The “total gross monthly household income” includes, but is not limited to, the following: (a) the “before taxes or other deductions” pay from salaries, wages, tips or other compensation; (b) pension, retirement or social security benefits; (c) Supplemental Security Income (SSI); (d) unemployment compensation benefits; (e) workers’ compensation benefits; (f) alimony; and (g) any other source(s) of income.

See, Order Granting Complainant’s Request for a Further Hearing, dated Jan. 12, 2024, at 1, 2, and attached Prehearing Order to the Order, referencing ¶ 12.

At the March 2024 hearing, Ms. Bensinger testified that she receives “\$1,737 or something a month.” (Tr. at 89). As to the other adult’s income, Ms. Bensinger testified that she did have the other adult’s paycheck to refer to during her testimony, albeit an “old December 15, 2023, paystub.” (Tr. at 90). Referring to this paystub, Ms. Bensinger testified that “[h]is gross [income] was \$1,898.76, \$24 per hour, 37.5 hours” per week, with occasional overtime during the winter months. (Tr. at 90). However, Ms. Bensinger also testified that “his base salary is \$2,443. . . every two week[s] biweekly pay.” (Tr. at 91).

Notwithstanding Ms. Bensinger’s inconsistencies regarding her household income, I find that there is sufficient evidence to conclude that Ms. Bensinger’s gross monthly household income is \$5,637. This is determined by adding Ms. Bensinger’s gross monthly income of \$1,737, to the other adult’s gross monthly income of \$3,900. This amount—i.e., \$3,900, was calculated by multiplying the other adult’s hourly wage (\$24 per hour) by the number of his normal hours worked per week (without considering seasonal overtime) of 37.5 hours, to determine his annual gross income, which was divided by twelve to find his monthly gross income amount. This calculation can be shown as follows: $(\$24 \text{ per hour}) \times (37.5 \text{ hours per week}) = (\$900 \text{ per week}) \times (52 \text{ weeks}) = (\$46,800 \text{ year}) / 12 \text{ months} = \$3,900 \text{ per month}$.

Next, whether applying the 2023 Federal poverty guidelines, consistent with the guidelines that were in place at the time that the Complaint was filed (August 2023) and the first hearing held (November 2023),⁸ or the 2024 Federal poverty guidelines, consistent with the time the further hearing was held (March 2024) and date of this decision, Ms. Bensinger can be deemed a level-2 customer. Pursuant to either guideline, for a household size of six, as in the instant case, a gross monthly household income of \$5,637 exceeds 150% but not more than 250% of the Federal poverty level.⁹ Therefore, pursuant to Chapter 14, the Complainant's gross monthly household income of \$5,637 makes her a level-2 customer, eligible for a three-year amortization period to repay her arrearage. 66 Pa.C.S. § 1405(b)(2).

Accordingly, consistent with Chapter 14 of the Code, as a level-2 customer, Ms. Bensinger will be granted a three-year payment arrangement to extinguish her outstanding balance.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 701.
2. The party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).

⁸ See, *Bongiorni v. W. Penn Power Co.*, Docket No. F-2022-3035093 (Opinion and Order entered June 5, 2023) wherein the Commission noted that it applied the 2022 Federal poverty guidelines since they “were in place at the time that the Complaint was filed.” (*Id.* at 8, n.6).

⁹ Pursuant to the 2024 Federal poverty guidelines, \$5,245 is 150% and \$8,741.67 is 250% of the Federal poverty level. See 89 Fed. Reg. 2961 (Jan. 17, 2024); also available at <http://aspe.hhs.gov/poverty>.

Pursuant to the 2023 Federal poverty guidelines, \$5,035 is 150% and \$8,392 is 250% of the Federal Poverty level. See, 88 Fed. Reg. 3424 (Jan. 19, 2023); also available at <https://aspe.hhs.gov/sites/default/files/documents/98087be2f7c9586ee24c35a011bc7ac8/guidelines-1983-2023.xlsx>.

3. "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).

4. In cases of alleged high billing, 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. Once the complainant makes out a *prima facie* case, the burden of proof then shifts to the utility; however, the ultimate burden of persuasion always remains with the complainant. *Waldron v. Phila. Elec. Co.*, 54 Pa. P.U.C. 98 (1980); *Repogle v. Pa. Elec. Co.*, 54 Pa. P.U.C. 528 (1980).

5. 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. *Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Opinion and Order entered Nov. 15, 2011).

6. The Complainant has failed to satisfy her burden of proof to demonstrate that her PPL bills were not accurate or that PPL violated the Public Utility Code, a Commission Order or Regulation or a Commission-approved tariff with regard to the bills rendered by it. 66 Pa.C.S. § 332(a).

7. The Responsible Utility Customer Protection Act applies to this proceeding. 66 Pa.C.S. §§ 1401-1419.

8. The Responsibility Utility Customer Protection Act permits the Commission to grant one payment agreement and dictates its terms. 66 Pa.C.S. § 1405(a).

9. The Complainant has met her burden of proof that she is eligible for a Commission payment arrangement. 66 Pa.C.S. § 1405(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That, after hearing held, the Formal Complainant filed by Charisa Bensinger against PPL Electric Utilities Corporation, at Docket No. F-2023-3042674, is denied in part and granted in part.

2. That the Formal Complaint is denied as to the allegations of the Complainant, Charisa Bensinger, that PPL Electric Utilities Corporation overbilled her.

3. That the Formal Complaint is granted as to the request of the Complainant, Charisa Bensinger, for a Commission payment arrangement.

4. That Charisa Bensinger shall make monthly payments consisting of her current bill plus one-thirty-sixth ($1/36^{\text{th}}$) of the balance accrued on her account, beginning with the first billing date following the entry of a final Commission Order in this case.

5. That as long as Charisa Bensinger keeps the payment schedule stated in this Order, PPL Electric Utilities Corporation shall not suspend or terminate her utility service except for valid safety or emergency reasons or assess late payments or finance charges against his account.

6. That, if Charisa Bensinger does not keep the payment schedule stated in this Order, PPL Electric Utilities Corporation is authorized to suspend or terminate her utility service in accordance with the Commission's statutes and regulations.

7. That the docket at Docket No. F-2023-3042674 be marked closed.

Dated: July 2, 2024

_____/s/
Gail M. Chiodo
Administrative Law Judge