BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Douglas Smith	:	
	:	
v.	:	C-2024-3046013
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Gail M. Chiodo
Administrative Law Judge

INTRODUCTION

The Complaint filed in this case is comprised of two issues: a billing complaint, and a complaint with respect to the quality of service provided by the utility. This decision denies the customer's incorrect billing claim but sustains the customer's unreasonable service claim. This decision finds that the utility properly charged the customer in accordance with its tariff the non-residential rate for electric service to the customer's detached garage. However, this decision finds that the customer met his burden of proof that the utility provided him unreasonable service by not informing him that he would be charged the non-residential rate prior to the customer having his garage electrified and service connected. For this infraction of the Public Utility Code, this decision imposes a civil penalty of $1,000 on the utility.[1]

[1] It should be noted that the civil penalty is paid to the Commonwealth's General Fund, not to a complainant.

<u>HISTORY OF THE PROCEEDING</u>

On February 5, 2024, the Complainant, Douglas Smith, filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission or PUC) against PPL Electric Utilities Corporation (PPL or Company) and checked the box "other" as the reason for his Complaint. Mr. Smith avers that he receives residential electric service from PPL to a residence he owns in Cumberland County, Pennsylvania. Mr. Smith further avers that in May 2022, he called PPL to inquire about starting the process of having his detached garage, which is located 136 feet from his residence, electrified and service connected to it so that he could charge his plug-in hybrid electric vehicle and a future full electric vehicle (EV) which he intended to purchase.

Mr. Smith further avers that after his discussions with several PPL customer service representatives and a meeting in his garage with a PPL technician, he hired and paid an electrician approximately $4,000 to have his garage electrified, following which PPL connected service to his garage. However, Mr. Smith alleges that he cannot afford to charge his vehicle because PPL bills him a commercial rate –i.e., $4.36125 per kW (demand charge), for service to his garage, which is a much higher rate than the residential rate PPL charges him for service to his home. Mr. Smith alleges that PPL never informed him he would be charged a commercial rate, and had he known this he would not have spent thousands of dollars to have his garage electrified or requested connection. Mr. Smith also avers that PPL's "splashy" webpage about how PPL "is [concerned] about the environment" is misleading. (Complaint ¶ 5).

As relief, the Complainant states that he would pay a "reasonable rate" for service to his garage, which should be the residential rate, or an EV rate, but not the commercial rate. Alternatively, the Complainant wants reimbursed by PPL for the monies he paid to the electrician to have his garage electrified. (Complaint ¶ 5).

On February 26, 2024, PPL timely filed an Answer as well as a Preliminary Objection. In its Answer, PPL denied the material factual allegations and conclusions of law in the Complaint. In its Preliminary Objection, the Company requested that the portion of the Complaint pertaining to a request for monetary damage be summarily dismissed since the Commission does not have the authority to award such damages.

On March 1, 2024, in response to PPL's Preliminary Objection, the Complainant filed a Reply. In his Reply, Mr. Smith provides more details as to the number, dates, and substance of his contacts with PPL over the approximately four- to five-month period concerning his request for electric service to his garage. He also made several arguments why the garage should be eligible for the residential rate.

On April 3, 2024, a Motion Judge Assignment Notice was issued informing the parties that I was responsible for resolving any issues which may arise during the preliminary phase of this proceeding.

By Order dated April 29, 2024, I granted the Company's Preliminary Objection to the extent that Mr. Smith seeks compensatory damages of $4,000 for reimbursement to have his garage electrified, explaining that the Commission does not have the authority to award monetary damages. That Order also directed that a hearing would be scheduled by a separate Hearing Notice on the claims raised in the Complaint—namely, incorrect billing and unreasonable service, and over which remedies the Commission does have the authority to grant.

On May 1, 2024, a Hearing Notice was issued scheduling a hearing on June 10, 2024. On May 9, 2024, my Prehearing Order was issued explaining the various procedures that would apply to the hearing.

On June 10, 2024, an evidentiary hearing convened. Mr. Smith represented himself and testified on his own behalf. Mr. Smith offered seven exhibits, five of which were admitted into the record.[2] They are:

Exhibit C-1 – Screenshot PPL website (new/upgraded residential service)
Exhibit C-2 – Screenshot PPL Rule 1 (electric meter & service installation)
Exhibit C-4 – Screenshot of two bills (one residential, one commercial)
Exhibit C-5 – PPL Electric Tariff, Rule 4
Exhibit C-7 – Email from PPL technician to Complainant dated 5/11/2022

The Company was represented at the hearing by Peter J. Kramer, Esquire. The Company presented the testimony of one witness, Dana Brunner, a PPL senior customer service representative. Ms. Brunner sponsored the following six exhibits which were admitted into the record:

PPL Exhibit 1 – Account Activity Statement (for garage)
PPL Exhibit 2 – Customer Contact History (for garage)
PPL Exhibit 5 – Summary of BCS No. 3961812 (closed 1/25/2024)
PPL Exhibit 6 – Screenshot PPL website (how to calculate EV charges)
PPL Exhibit 7 – PPL Electric Tariff, Rules 1 – 11
PPL Exhibit 8 – PPL Electric Tariff, Rate Schedules

On June 28, 2024, an 84-page hearing transcript and the exhibits were filed with the Commission. The record closed on this same date.

FINDINGS OF FACT

1. The Complainant is Douglas Smith, a PPL customer.

[2] Mr. Smith withdrew proposed Exhibit C-3. (Tr. at 71). The Company objected on the basis of relevancy to the admission of proposed Exhibit C-7, which was a one-page summary of Section 5 of the Federal Trade Act (relating to unfair or deceptive acts or practices). I sustained this objection and it was not admitted. (*Id.* at 73-74).

2. The Respondent is PPL Electric Utilities Corporation, a Commission jurisdictional utility.

3. Mr. Smith receives electric service from PPL at the property he owns at 140 West Pomfret Street, Carlisle, Pennsylvania (service address).

4. Situated on Mr. Smith's property is his residence, which is a two-and-three-quarter stories townhouse, where he resides with his spouse. (Tr. 20-21).

5. Also situated on Mr. Smith's property is a detached garage, which is located 136 feet from his townhouse. (Tr. at 20-21).

6. The townhouse and garage are located in the historical district of Carlisle, Cumberland County, and were built during the Civil War. (Tr. at 20).

7. Mr. Smith has had residential electric service at his townhouse for more than twenty-four years. (Tr. at 17).

8. In May 2022, Mr. Smith called the Company to inquire about the process of having his garage electrified and electric service connected to his garage. (Tr. at 10, 12).

9. During the above May 2022 conversation, Mr. Smith explained to the PPL customer service representative (CSR) that he is retired, and wanted to have his garage electrified and connected to PPL electric service so that he would be able to charge his plug-in hybrid electric vehicle and eventually a full electric vehicle (EV) that he intended to purchase. (Tr. at 13).

10. During the above May 2022 conversation, the CSR asked Mr. Smith a series of questions concerning his residential account and garage including, among other items, his residential account number, the intended use of the garage, and ownership of the property. (Tr. at 13; *See also* PPL Exhibit 2 at 3, entry for "connect questions").

11. During Mr. Smith's May 2022 conversation, the CSR advised him that a PPL technician would need to conduct an evaluation of the property. (Tr. at 13).

12. In May 2022, Brian Siegrist, a PPL Distribution Technician, met Mr. Smith at his garage to evaluate it for the feasibility of electric connection; Mr. Siegrist deemed the project feasible, conditioned on obtaining a neighbor's right-of-way. (Tr. at 13).

13. Exhibit C-7 is an email dated May 11, 2022, from Mr. Siegrist to the Complainant, requesting Mr. Smith provide him with the contact information for the Complainant's neighbor so the right-of-way papers could be processed by PPL's right-of-way agent; Mr. Smith subsequently provided this information. (Tr. at 13-14; Exhibit C-7).

14. On August 22, 2022, the electrician/contractor that Mr. Smith hired electrified his garage for approximately $4,000. (Tr. at 14, 16, 18).

15. On August 22, 2022, PPL established a service account for the garage in Mr. Smith's name, and PPL assigned a different account number to it than the account number assigned to service to Mr. Smith's townhouse. (Tr. at 16; PPL Exhibits 2, 5).

16. PPL Exhibit 1 is the account activity for service to the garage. (Tr. at 29; PPL Exhibit 1).

17. PPL billed Mr. Smith for service to the garage at its tariff small general service (GS-1) rate, beginning with the first bill issued on October 6, 2022 through the final bill issued on January 16, 2024. (Tr. at 29-30; PPL Exhibit 1).

18. The account activity for the garage is reflected in the following table:

Billed	Days used	kWh*	Billed kW**	Transaction Amount
10/06/2022	45	--	--	$41.14
11/04/2022	29	--	--	$25.53
12/06/2022	32	--	--	$25.53
01/11/2023	35	--	--	$26.64
02/06/2023	27	--	--	$26.58
03/08/2023	30	6	--	$27.54
04/06/2023	29	1	--	$26.71
05/08/2023	32	--	--	$26.41
06/07/2023	30	--	--	$26.41
07/07/2023	30	2	--	$26.64
08/07/2023	31	4	--	$26.82
09/06/2023	30	--	--	$26.31
10/05/2023	29	1	--	$26.42
11/03/2023	29	10	1.0000	$31.93
12/12/2023	33	58	8.0000	$69.15
01/09/2024	34	22	8.0000	$64.86
01/16/2024	04	--	--	$68.36

* kWh (kilowatt hours) measures consumption
** kW (kilowatts) measures demand

Tr. at 50; PPL Exhibit 1.

19. The "Billed kW" (demand charge) is the average number of kilowatts supplied during the 15-minute period of maximum use during the current billing period. (Tr. at 36; PPL Exhibit 8 at 6, Rate Schedule GS-1).

20. Residential customers are not billed a demand charge but a business including a GS-1 customer may, which will impact the customer's total bill. (Tr. at 50).

21. Pursuant to the GS-1 rate, the net monthly rate is determined by a distribution charge, which consists of a customer charge of $22 per month plus a demand charge of $4.361 per kilowatt for all billing kW. (Tr. at 36).

22. Mr. Smith set up his accounts with PPL on autopay. (Tr. at 25).

23. Mr. Smith realized for the first time that he was being billed a non-residential rate for service to his garage when "the real big bill which showed up that was $67" in December 2023, and he called PPL for an explanation and was advised he was being billed a commercial rate. (Tr. at 23, 25).

24. Prior to the December 2023 bill, when Mr. Smith's bills were around $20, he did not look closely or question these bills since he expected to pay a "few bucks more" for residential service to his garage. (Tr. at 25).

25. On January 10, 2024, Mr. Smith called PPL regarding the nearly tripled increased amount of the December 2023 bill; a CSR explained to him he was being billed a small business rate (GS-1) because he did not have permanent water and living quarters in the garage; and that on this bill he was charged the high demand rate which was calculated by multiplying 8kW (demand charge) at $4.36125 per kW, in addition to his generation charge of 11.384₵ per kWh. (Tr. at 36-38; PPL Exhibit 2).

26. On January 11, 2024, at the request of Mr. Smith, a CSR supervisor contacted Mr. Smith who explained to him why he is being billed the GS-1 rate, what the demand charges refer to, and that the demand charge does not apply to residential accounts including the residential account for his townhouse. (Tr. at 37-38; PPL Exhibit 2).

27. On January 11, 2024, another CSR supervisor also contacted Mr. Smith and explained to him that he could switch suppliers but that would only change the supply or generation charges (not the demand charge), and that the commercial price-to-compare rate at that time was 11.386 cents per kWh. (Tr. at 52-53; PPL Exhibit 2).

28. During one of his conversations with a CSR on January 11, 2024, a CSR explained to him that "all garages are billed on a commercial rate" unless they are designed as a living space, and "no one told [you] to buy an electric vehicle." (Tr. at 19; PPL Exhibit 2).

29. On January 12, 2024, Mr. Smith called PPL and said he wanted to discontinue service to his garage if the Company would continue to charge him the commercial rate. (Tr. at 38; PPL Exhibits 1, 2).

30. On January 13, 2024, service to Mr. Smith's garage was discontinued, and he was issued a final bill on January 16, 2024 for $68.36. (Tr. at 39; PPL Exhibits 1, 2).

31. Mr. Smith made full payments on his garage service account from October 2022 through January 2024; there is no outstanding balance and the account is closed. (Tr. at 27, 30; PPL Exhibit 1).

32. Mr. Smith has not purchased a full EV as he originally intended when he had his garage electrified due to being charged the commercial rate, and he takes his hybrid plug-in EV to a public charging station. (Tr. at 22, 79).

33. PPL Exhibit 8 is a copy of the PPL tariff for Rate Schedule RS Residential Service and Rate Schedule GS-1 Single Phase General Service. (Tr. at 33; PPL Exhibit 8).

34. The Company's commercial rates are different from the residential rates, and the Company presently does not have an EV specific tariff rate. (Tr. at 33; PPL Exhibit 8).

35. Residential service (RS) is for single-phase residential service. (Tr. at 33; PPL Exhibit 8).

36. The RS rate applies to a single-family dwelling and detached buildings which are served through the same meter as the single-family dwelling. (Tr. at 34; PPL Exhibit 8).

37. A "dwelling" is defined in PPL's tariff as a living space consisting of at least permanent provisions for shelter, dining, sleeping and cooking with provisions for permanent electric, water, and sanitation services. (Tr. at 34-35; PPL Exhibit 8).

38. Mr. Smith's garage is served through a second meter—i.e., not the same meter which serves his townhouse. (Tr. at 28, 36).

39. Mr. Smith's garage does not have a living space consisting of at least permanent provisions for shelter, dining, sleeping and cooking with provisions for permanent electric, water, and sanitation services. (Tr. at 34, 36).

40. The GS-1 rate applies to single phase, non-residential service at secondary voltage and other applications outside the scope of the residential rate schedule. (Tr. at 36; PPL Exhibit 8).

41. Mr. Smith is billed the RS rate for service to his townhouse and was billed the GS-1 rate for service to his garage. (Tr. at 17, 34, 36, PPL Exhibit 1).

42. PPL Exhibit 7 is PPL's Tariff Rules for Electric Meter and Service Installation (REMSI), Rules 1 through 11. (Tr. at 39-40; PPL Exhibit 7).

43. REMSI Rule 2(B)(1) (relating to service contracts) provides that every *non-residential applicant* for service *may* be required to sign a contract specifying the intended use of service, *the applicable rate schedule* and other service conditions, and a contract between the Company and a customer is only valid when accepted in writing by the Company. (Tr. at 40; PPL Exhibit 7 at 12 (emphasis added)).

44. There was no written contract between PPL and Mr. Smith specifying the intended use of service, the applicable rate schedule and other service conditions. (Tr. at 9).

45. REMSI Rule 2(B)(3) provides that the acceptance or use of the service is deemed a request for the supply of such service and constitutes a contract to pay for the service under the applicable rate schedule. (Tr. at 40; PPL Exhibit 7 at 12).

46. PPL Exhibit 6 is a screenshot from PPL's website about how to calculate the impact of charging an EV and refers to kilowatt hours (kWh); there is no reference to demand charges (kW). (Tr. at 44; PPL Exhibit 6).

47. The kW or demand charge is set by tariff and at all relevant times herein was $4.361 per kW. (Tr. at 36, 54; PPL Exhibit 8).

48. The kWh or kilowatt hour charge gets reviewed and adjusted every six months on June 1 and December 1. (Tr. at 52, 55).

49. The kWh rate that Complainant was charged for the period of November through December 2023, was 11.689 cents per kWh; and for the period in January 2024, was 11.386 cents per kWh. (Tr. at 52-53).

50. There is no business or commercial activity at the garage. (Tr. at 9).

51. At no time during the electrification process, from his initial call in May 2022, to having service connected on August 22, 2022, and during his multiple contacts with CSRs and meeting with the PPL technician, did any CRS, technician, or other PPL employee or representative advise Mr. Smith that he would be charged a non-residential rate for service to his garage. (Tr. at 22, 78).

52. If Mr. Smith had known that he would be charged a commercial rate for service to his garage, he would not have had his garage electrified; rather, he would have "killed the project." (Tr. at 11, 19).

DISCUSSION

Burden of Proof

As a matter of law, to establish a legally sufficient claim, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.,* 72 Pa. P.U.C. 196

(1990) (*Patterson*). The offense must be a violation of the Public Utility Code (Code), a Commission regulation or order or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701.

As the proponent of a rule or order, a complainant bears the burden of proof by a preponderance of the evidence-i.e., by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. 66 Pa.C.S. § 332(a); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). The "burden of proof" is composed of two distinct burdens: the burden of production and the burden of persuasion. *Hurley v. Hurley,* 754 A.2d 1283 (Pa. Super. 2000). The burden of production, also called the burden of producing evidence or the burden of coming forward with evidence, determines which party must come forward with evidence to support a particular proposition. Once the party with the initial burden of production introduces sufficient evidence to make out a *prima facie* case, the burden of going forward with the evidence to rebut the evidence of the complainant shifts to the respondent utility. If the evidence presented by the respondent is of co-equal weight, the complainant has not satisfied his burden of proof. The complainant would be required to provide additional evidence to rebut the evidence of the respondent. *Burleson v. Pa. PUC*, 461 A.2d 1234 (Pa. 1983).

This shifting of burdens between parties is referred to as the burden of persuasion. While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the parties seeking affirmative relief from the Commission. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001). It is entirely possible for a party to carry the burden of production but not be entitled to a favorable ruling because the party did not carry the burden of persuasion. *Moore v. Nat'l Fuel Gas Distr.*, No. C-2014-2458555 (Final Order entered Aug. 25, 2015). In determining whether a complainant has met the ultimate burden of persuasion, the factfinder may engage in determinations of credibility, may

accept or reject testimony of any witness in whole or in part, and may accept or reject inferences from the evidence. *Id.* (*citing Suber v. Pa. Comm'n on Crime & Delinquency*, 885 A.2d 678 (Pa. Cmwlth. 2005)).

Additionally, the Commission's decision must be supported by substantial evidence. 2 Pa.C.S. § 704; *Mill v. Pa. PUC*, 447 A.2d 1100 (Pa. Cmwlth. 1982). Substantial evidence has been defined to mean such relevant evidence that a reasonable mind may accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Id., Norfolk & West. Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

Mr. Smith, as the proponent of a rule or order, bears the burden of proof in this proceeding. Mr. Smith raises two claims, an incorrect billing claim and an unreasonable service claim. Each claim is discussed separately below.

<u>Billing Rate</u>

<u>Complainant's position</u>. Mr. Smith challenges the application of PPL's tariff commercial rate provision to his circumstances since there is no commercial or business activity in his garage. Mr. Smith receives electric service at his residence and has been charged the residential (RS) rate for over twenty-four years. When service was connected to his garage, the Company charged him the small general service (GS-1) rate. In Mr. Smith's view, it does not make sense, and it should be deemed illegal, for the Company to be able to charge him a commercial rate to his garage, which is only 136 feet from his residence and which was used, and intended to be used, solely for his personal benefit to charge his hybrid plug-in EV, not for any commercial activity.

In support of his position, Mr. Smith references the definitions of "residence" or "dwelling" in other state or federal agency law. For example, Mr. Smith

argues that, according to the Federal Emergency Management Agency (FEMA), a "residential structure" may have a detached garage and can be considered an accessory to it. Mr. Smith also argues that under the Uniform Construction Code (UCC), detached garages less than 1,000 feet built on the same property as a single-family home are exempt from building permits. Therefore, Mr. Smith contends it is reasonable to consider his garage as residential since it is an accessory to his townhouse and is only 136 feet away from it. (*See* Reply).

PPL's position. PPL contends that the Complainant has failed to meet his burden of proof that the Company has violated any provision of the Code, Commission regulation or order, or its Commission-approved tariff. The Company contends that Mr. Smith was billed correctly for service to his garage, the GS-1 rate, in accordance with its approved tariff. (Tr. at 44, 76). PPL contends that two meters currently serve the property and the second meter which serves the garage does not qualify as a "residential dwelling" under the Company's REMSI rules. Specifically, the garage is not a living space as defined in its tariff which requires "a living space consisting of at least permanent provisions for shelter, dining, sleeping, cooking and sanitation when all such amenities are served through the same meter." (Tr. at 76-77).

Disposition. I agree with the Company that Mr. Smith has not met his burden of proof that the Company has violated any provision of the Code, Commission regulation or order, or its Commission-approved tariff. I find that the evidence shows that PPL correctly billed Mr. Smith the non-residential rate for service to his garage, in accordance with its approved tariff. Further, the Complainant failed to prove that the Company's approved tariff should not be applied to his circumstances.

Commission-approved tariffs have the force and effect of law. *PPL Elec. Utils. Corp. v. Pa. PUC,* 912 A.2d 387, 402 (Pa. Cmwlth. 2006); *Pa Elec. Co. v. Pa. PUC,* 663 A.2d 281, 284 (Pa. Cmwlth. 1994); *Brockway Glass Co. v. Pa. PUC,* 437 A.2d

1067, 1070 (Pa. Cmwlth. 1981). The Commission is not empowered to grant exceptions but must find that the tariff provisions in question are in some way discriminatory either on their face or in application. 66 Pa.C.S. § 1304. The proponent of a finding of discrimination of an existing, approved tariff bears a heavy burden because tariff provisions are *prima facie* reasonable. *Kossman v. Pa. PUC*, 694 A.2d 1147 (Pa. Cmwlth. 1997).

The Company's tariff provides the following as to the applicability of the RS Rate Schedule:

> For purposes of the application of this [RS] Rate Schedule, a dwelling is defined as a living space consisting of at least permanent provisions for shelter, dining, sleeping, and cooking, with provisions for permanent electric, water and sanitation services.
>
> (1) This Rate Schedule is for single phase electric service for:
>
> (a) A single family dwelling and detached buildings when the detached buildings are served at the customer's expense through the same meter as the single family dwelling.

PPL Tariff Electric – Pa. PUC. No. 201, 120th Revised Page No. 20. (*See* PPL Exhibit 8).

In the instant case, there is no dispute in this matter that the garage is served by a second meter—i.e., not the same meter serving the Complainant's townhouse. Further, there was no evidence presented that there are any permanent provisions in the garage for shelter, dining, sleeping, cooking and sanitation. Thus, the garage meter is not serving a residential living space as defined by the Company's tariff, which is controlling.

Mr. Smith's argument is based on the actual use of garage, and there is no dispute that the garage is used for personal and not commercial or business-related

activity. However, actual use is not the factor relied upon for rate schedule classification. It has long been accepted that customer classifications and attending rate differences may be justified by a variety of considerations, including the cost of providing the service and the different facilities used by the utility. *Hulber v. PPL Elec. Utils. Corp*. No. C-2014-2418167, Initial Decision, Mar. 27, 2015 at 8 (Final Order entered May 19, 2015) (*Hulber*); *U.S. Steel Corp. v. Pa. PUC*, 390 A.2d 849 (Pa. Cmwlth. 1978).

Commission precedent involving similarly situated property owners who raised the same issue supports the foregoing analysis and conclusion. For example, in *Seth McHenry v. PPL Electric Utilities Corp*, No. F-2015-2474707 (Final Order entered Nov. 20, 2015), the Commission held that the property owner was properly charged the commercial rate for a detached shed on his property which was served by a separate meter, did not meet the definition of a "dwelling" under the Company's tariff, and at which no commercial activity took place. *See also, Hulber*, where the Commission held that those property owners were properly charged the commercial rate for a separately metered detached garage and small greenhouse located on the property about 500 feet from their house, where no commercial activity took place.

Accordingly, having found that the Complainant did not meet his burden of proof that he was billed incorrectly, that part of the Complaint will be dismissed.

<u>Unreasonable service</u>

<u>Complainant's position</u>. Alternatively, it is the Complainant's position that if indeed the GS-1 rate is properly applicable to his garage account, then the Company should have advised him so prior to having his garage electrified and PPL's service connection completed. In other words, Mr. Smith argues that the Company should have informed him sometime during the process that he would be charged the commercial rate, not the residential rate, so that he could have made an informed decision whether to incur

the costs of hiring an electrician to have his garage electrified, and whether to incur the costs of charging an EV in his garage at the commercial rate.

Further, Mr. Smith contends that it was reasonable for him, as a residential customer who intended to use his garage solely for his personal, not commercial, use that he would be charged the residential rate for service to his garage. In Mr. Smith's view, there was a complete lack of transparency on the part of PPL as to the applicable rate schedule during the months-long electrification process. Mr. Smith contends that because of this lack of transparency, PPL misled him into believing that the residential rate would be applied to his garage as it is applied to his townhouse in his residential neighborhood. Mr. Smith argues, "This is information [applicable rate schedule] I would like to have known prior to the actual electrification process. We would have killed the project had we known this information." (Tr. at 11).

In support of his position, Mr. Smith cited to the Company's tariff rules, Pennsylvania Consumer Protection Law, and general business ethics principles regarding transparency. For example, Mr. Smith argues that under REMSI Rule 2(B)(1), the Company was required to present a written contract specifying, among other provisions, the applicable rate schedule. PPL did not. As Mr. Smith argues, "[a written] contract would have provided the necessary information to make an informed decision that we could have either accepted or denied." (Tr. at 9). However, Mr. Smith also contends that he would have been satisfied and considered adequately informed if someone from PPL had verbally told him that PPL was going to charge him a commercial rate, but that information was not provided. (Tr. at 9).

Next, in support of his position, Mr. Smith argues that PPL's conduct is an unfair and deceptive trade practice under the Unfair Trade Practices and Consumer Protection Law, 73 P.S. 201-1 to 210-10 (CPL). He also cited to *Gregg v. Ameriprise Financial Inc.,* 245 A.3d 637 (Pa. 2021), contending that this case underscores the

importance of transparency in business practices and PPL's lack of information was unfair, deceptive, and misleading under the CPL. (Tr. at 9).[3] Mr. Smith also argues that according to Harvard Business School, a key component of any ethical business practice is transparency, which he did not experience in this matter. (Tr. at 16). Mr. Smith also contends that the Company's website is misleading because it states that PPL "will work with customers" that install charging stations to provide the electric service needed. According to Mr. Smith, "I never saw any evidence of that." (Tr. at 19).

PPL's position. The Company's position is that the Complainant did not meet his burden of proof that the Company has violated any provision of the Code, Commission regulation or order, or its Commission-approved tariff. Further, the Company argues that at all times it provided reasonable service during the electrification process and final connection to the Company's electric service. (Tr. at 76-77).

The Company counters Mr. Smith's argument that a written contract was required pursuant to its tariff, and that Mr. Smith misreads its tariff. The Company points to REMSI Rule 2(B)(1), as providing that every *non-residential applicant* for electric service *may* be required to sign a contract specifying, among other items, the applicable rate schedule. Further, the Company argues that since there was no written contract, then REMSI Rule 2(B)(3) applies which provides that the acceptance or use of the service constitutes a contract to pay for the service under the applicable rate schedule. The Company's argument continues that once Mr. Smith paid his first bill issued in October 2022, as well as all the subsequent bills up to January 2024, Mr. Smith accepted the contract for service including the commercial rate. (Tr. at 41, 78).

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[3] A review of this case shows that the Court pointed out under the CPL, it is well established that "an act or a practice is deceptive or unfair if it has the capacity or tendency to deceive, and neither the intention to deceive nor actual deception must be proved; rather, it need only be shown that the acts and practices are capable of being interpreted in a misleading way." 245 A.3d at 648 (citations omitted).

The Company also counters Mr. Smith's lack of transparency argument by contending that its various rate schedules "are listed on the tariffs to explain the difference in the rates and how they are billed," which are available to the public for review. (Tr. at 47). The Company's witness, Ms. Brunner, a senior CSR, also explained that Mr. Smith could have asked a PPL representative the applicable rate schedule, although she could not testify personally to the substance of any conversations that took place prior to the completed connection. On these points, the following exchange took place between Mr. Smith and Ms. Brunner when Mr. Smith questioned her as to how PPL expected him to know that he would have been charged the commercial rate:

> Q. How am I, as a regular person, supposed to know these details?
>
> A. So those details are listed on the tariffs to explain the difference in the rates and how they are billed.
>
> Q. So it's your position that if I'm calling to connect or do anything, that I should do an exploration of all the tariffs and rules?
>
> A. Correct, or as well - but you can ask your questions as well, when you're calling, if you have questions about the installation of the service or how it is billed.
>
> Q. So the information should be presented at the time of the call?
>
> A. Discussions are had when you're calling in based on what questions you have, as well as a service technician comes out and assesses and assists with the engineering of the job. So I don't know what kind of conversation would have been had there as well. And I don't know - I can't speak for the conversation you had when you called in either. I don't know how the conversation went and what was asked or what was said.

Tr. at 47.

The Company also contends that Mr. Smith's reliance on Pennsylvania's CPL is not appropriate since the PUC only has jurisdiction to enforce the Code, Commission regulations or orders, or a Commission-approved tariff. Further, when asked whether it was the Company's position that the Company's conduct under the circumstances in this case constituted reasonable service under Section 1501 of the Code, 66 Pa.C.S. § 1501, counsel for the Company responded PPL's conduct was reasonable service because the Company responded to the Complainant's request for service, including a second meter, and responded to the connect appropriately. (Tr. at 77-78).

Disposition. After an exhaustive review of the record and applicable law, and carefully weighing the evidence presented, I find that the Complainant presented evidence sufficient to initially satisfy his burden of proof that the Company's service was unreasonable for failing to advise him prior to electrification and final connection that the non-residential rate of GS-1 would apply to service to his garage. Thereafter, the burden of going forward with evidence shifted to the Company. However, I find that PPL did not meet its burden of going forward with evidence that rebutted the evidence of the Complainant. Finally, when the evidence presented by both parties is viewed as a whole, I find that Mr. Smith met his ultimate burden of proof by a preponderance of the evidence that PPL violated Section 1501 of the Code, as discussed further below. Therefore, the Complainant must prevail on this claim. *Milkie, Burleson*.

Initially, I point out that I agree with the Company that the CPL is not applicable in this matter, as relied upon by the Complainant. The Commission does not have jurisdiction to enforce the CPL. *Torakeo v. Pa. Am. Water Co.,* C-2013-2359123 (Opinion and Order entered Apr. 3, 2014). However, to the extent that Mr. Smith relies upon the CPL to argue that the Company's actions were not transparent or misleading, the PUC has exclusive jurisdiction to determine the reasonableness, adequacy and

sufficiency of a public utility's services and facilities under Section 1501 of the Code, 66 Pa.C.S. § 1501; *Elkin v. Bell of Pa.,* 420 A.2d 371 (Pa. 1980).

Section 1501 of the Code imposes a duty on every public utility company, including PPL, to provide reasonable service to its customers and the public. Under the Code's broad definition of "service," a utility's service is not confined to the distribution of electrical energy, but includes "any and all acts" related to that function. 66 Pa.C.S. § 102 (definition of "service"). Customer service falls squarely within the PUC's jurisdiction and quality customer service is expected of all regulated utilities. *Lolly v. Duquesne Light Co*, No. C-2010-2167824 (Opinion and Order entered May 9, 2011).

Accordingly, the Complainant's claim which challenges the conduct of PPL in processing his request for electrification and service will be evaluated in accordance with the reasonable service standard required of the Company by Section 1501 of the Code.

Turning to the merits of Mr. Smith's claim, I find that the Complainant was a credible witness, and I accept his account of the communications between himself and PPL employees. But, the relevant facts are not in dispute. Both parties agree that at no time did any representative from PPL inform Mr. Smith, either in writing or verbally, that the GS-1 rate would apply to service to his garage. (Tr. at 77-78). Further, Mr. Smith did not testify that PPL quoted him an incorrect rate or rate schedule. *See, e.g*., *AT&T Comm's v. Pa. PUC,* 568 A.2d 1362 (Pa. Cmwlth. 1990) (affirming the Commission's holding that the quotation of an incorrect rate to a customer constituted a violation of Section 1501).

Rather, the instant case turns on a determination of whether the omission of PPL to inform Mr. Smith of the applicable rate schedule prior to electrification and connection of service was reasonable service under the circumstances of this case. I find

that Mr. Smith made a *prima facie case* that the Company's failure to inform him prior to completing the electrification process and connection to service that he would be charged the commercial rate, not the residential rate, was unreasonable service. Overall, the regulatory and legal environment in Pennsylvania places a high emphasis on utility customers, whether residential or commercial, having clear and upfront information about the rates they will be charged. As explained by the Commission, "[t]he rate being charged by a utility for its service is a paramount concern to its utility customers." *Pa. Alloy Machining Co. v. Equitable Gas Co.*, No. C-00015491 at 4 (Opinion and Order entered Mar. 14, 2002) (*Pa. Alloy*). Without the Company informing Mr. Smith that he would be charged the commercial rate, I agree with Mr. Smith that he was not in a position to make an informed decision whether to incur the costs of hiring a contractor to have his garage electrified, and whether to incur the costs of paying a commercial rate to charge his current hybrid plug-in EV, or a future complete EV.

Next, having found that Mr. Smith presented evidence sufficient to initially satisfy his burden of proof, it must be examined whether PPL presented evidence sufficient to rebut the evidence of the Complainant. *Milkie, Burleson*. I find that PPL did not carry its rebuttal burden.

The Company presented two reasons why Mr. Smith should have known he would not be eligible for the residential rate and that the GS-1 rate would apply to his garage. They are: (1) that Mr. Smith should have read the Company's tariff; and (2) that Mr. Smith should have specifically asked prior to electrification and connection. (*See* Tr. at 47 for the exchange of testimony between Mr. Smith and PPL's witness on these two reasons, quoted above at 20). I am not persuaded that these reasons are sufficient to rebut the Complainant's evidence. These reasons focus on the customer's omission while this decision focuses, as it must, on the Company's omission, and whether such omission constitutes reasonable or unreasonable service under Section 1501 of the Code. *See, Pa. Alloy.*

I find that Mr. Smith reasonably expected to be charged the same residential rate for service to his garage as was provided to his townhouse, and he never expected, or did it occur to him, that he would be charged a commercial rate under the circumstances. These circumstances include that he was a long-time residential customer, that he resided in a historical residential neighborhood, that he called about having service connected to his home garage, that his garage is only 136 feet from his townhouse, and that he did not intend to use his home garage for any commercial purpose.

However, more significantly, Mr. Smith testified he relied upon PPL as the experts to inform him of the electrification process and connection to service to charge his EV. (Tr. at 79). Significantly, Mr. Smith called the Company to inquire about its electrification process so that he could install an EV charging station to charge his personal EV in his home garage. As Mr. Smith credibly explained: "[W]e only know residential service. I've had residential service here for more than 24 years, *and I relied on PPL as the experts to give us guidance if we need to do anything else*." (Tr. at 17) (emphasis added).

Therefore, even if Mr. Smith read the tariff, he could not have been reasonably expected to definitively conclude that the GS-1 rate schedule would apply to his garage service when he was not a business, he did not have any customers, he sought to install an EV charging station for his personal use in his home garage, and the possibility of the application of a commercial rate was never mentioned in his numerous contacts or meetings with PPL representatives. It is reasonable that a customer in Mr. Smith's situation would consider himself a residential customer based upon the actual usage and location of his property. Although, as discussed above, actual use is not necessarily the factor relied upon for rate schedule classification, PPL was aware of the significant change to the rates and terms of service to the Complainant, a residential

customer of long standing, and so should have informed the Complainant about this material change.

Further, the fact that the garage was part of the curtilage of a residence and that it very obviously was not a business renders PPL's failure to inform the Complainant of a material change to his rates all the more unacceptable. While I agree that there is a presumption that customers will be aware of the rates, terms and conditions of service set forth in a utility's filed tariff, this does not excuse the utility from being forthcoming with a residential customer making what the utility knows to be a material change to his service. From a broader perspective, with the growing number of electric vehicles in use, the failure of a utility to inform a customer of a material change in rates is likely to have a negative impact on such customers.

The Company also argues that Mr. Smith should have been the one to specifically ask the Company what rate schedule and/or rate he would be charged. While it is indeed prudent upon any customer to ask the applicable rate before applying for service, again this decision must focus on the Company's omission, not the customer's. Again, as explained above, under the circumstances, Mr. Smith reasonably expected to be eligible for residential service since he was not informed otherwise. I note that this is especially so where here, PPL's omission included not informing Mr. Smith both of the applicable generation or supply rate, or rate per kWh, and the applicable distribution charge may include a demand charge of $4.361 per kW.

Further, Mr. Smith's expectation is consistent with his testimony that when he called customer service in May 2022 to initiate the electrification and connection process, the CSR asked him a series of questions concerning his residential account and intended use of the garage, which information PPL used to set up his work order. (Tr. at 22). There was simply no reference to any potential commercial account. I find it concerning that only when Mr. Smith contacted PPL for an explanation of his

significantly higher December 2023 bill, did a CSR explain to him that "all garages are billed on a commercial rate" unless they are designed as a living space. (Tr. at 19; PPL Exhibit 2). I find it unreasonable under the circumstances of this case that the Company, as the utility provider and expert, did not so inform Mr. Smith of this fact but instead insists it only had to do so if specifically asked by him. It is worth pointing out again that Mr. Smith called the Company and made clear to it that he wanted to install a personal EV charging station in his home garage in his residential neighborhood.

Next, I do agree with PPL that, pursuant to its tariff, a written contract was not required, but was an allowable optional choice by the Company. Pursuant to its tariff, Mr. Smith was, although unknowingly, a *non-residential applicant* for service. Specifically, the Company's tariff rules related to service contracts for non-residential applicant states:

> Rule 2 – REQUIREMENTS FOR SERVICE
>
> * * *
>
> B. SERVICE CONTRACTS
>
> (1) Every *non-residential applicant* for service *may* be required to sign a contract specifying the intended use of service, *the applicable rate schedule* and other service conditions, and a contract between Company and customer is valid only when accepted in writing by a duly authorized Company representative....
>
> (2) Service is for an initial term of one year except as otherwise specifically provided.
>
> (3) Acceptance or use of service is deemed a request for the supply of such service and constitutes a contract to pay for the service under these rules and the applicable rate

> schedule. The receipt of electric service makes the receiver a customer of the Company.

PPL Tariff Electric – Pa. PUC. No. 201, 4th Revised Page No. 6. (*See* PPL Exhibit 7 at 12) (emphasis added).

Next, the Company argues that since no written contract was required, Rule 2(B)(3) is applicable which provides that the acceptance or use of the service constitutes a contract to pay for the service under the applicable rate schedule. The Company continues its argument by contending that once Mr. Smith paid his first bill issued in October 2022, as well as all the subsequent bills up to January 2024, Mr. Smith accepted the contract for service including the GS-1 rate schedule. (Tr. at 76-77).

I am not convinced that under the circumstances this sufficiently rebuts Mr. Smith's evidence of unreasonable service. Mr. Smith explained that he set up his accounts with PPL on autopay, and prior to the December 2023 bill, all his bills were around $20, which in his view, was consistent with paying "a few bucks more" for residential service to his garage. (Tr. at 23-25).[4] Mr. Smith explained that he only realized for first time that he was being billed a non-residential rate for service to his garage when "the real big bill which showed up that was $67" in December 2023, which prompted his call to PPL to find out why. (Tr. at 23). Further, once the Company disclosed to him the reason for the GS-1 rate application he promptly took action to try to have the Company nonetheless charge him the residential rate and when the Company explained it could not, he discontinued service to his garage because he could not afford the commercial rate.

A review of the entire billing activity for the garage reveals that the December 2023 bill was significantly larger than any of the bills up to that date because this was the

[4] I note that the first bill issued on October 6, 2022 was for $41.14, but this covered a 45-day billing period. (PPL Exhibit 1).

first time that demand charges (kW) impacted his bill. The billing history is reflected in the following table:

Billed	Days used	kWh*	Billed kW**	Transaction Amount
10/06/2022	45	--	--	$41.14
11/04/2022	29	--	--	$25.53
12/06/2022	32	--	--	$25.53
01/11/2023	35	--	--	$26.64
02/06/2023	27	--	--	$26.58
03/08/2023	30	6	--	$27.54
04/06/2023	29	1	--	$26.71
05/08/2023	32	--	--	$26.41
06/07/2023	30	--	--	$26.41
07/07/2023	30	2	--	$26.64
08/07/2023	31	4	--	$26.82
09/06/2023	30	--	--	$26.31
10/05/2023	29	1	--	$26.42
11/03/2023	29	10	1.0000	$31.93
12/12/2023	33	58	8.0000	$69.15
01/09/2024	34	22	8.0000	$64.86
01/16/2024	04	--	--	$68.36

* kWh (kilowatt hours) (consumption)
** kW (kilowatts) (demand charge)

Tr. at 50; PPL Exhibit 1.

As explained by PPL's witness, residential customers are not billed a demand charge but a business including a GS-1 customer may, which will impact the customer's total bill. (Tr. at 50). Pursuant to the GS-1 rate, the net monthly rate is determined by a

distribution charge, which consists of a customer charge of $22 per month plus a demand charge of $4.361 per kilowatt for all billing kW. (Tr. at 36). The "Billed kW" (demand charge) is the average number of kilowatts supplied during the 15-minute period of maximum use during the current billing period. (Tr. at 36; PPL Exhibit 8 at 6, Rate Schedule GS-1).

Therefore, up until the December 2023 bill, Mr. Smith's bills would have looked somewhat similar to his residential bill in that he was being charged cents per kWh consumed (approximately 11₵), whereas under the commercial rate, he was also being billed dollars per kW demand (over $4.00), when applicable. Demand charges can be complex, especially for a residential customer, as evidenced by Mr. Smith's questioning during the hearing that showed confusion between the kWh charge and kW billed charge. (*See, e.g.,* Tr. at 47-57).

In my view, this further supports the conclusion that PPL failed to provide reasonable service by not informing Mr. Smith of the applicable rate schedule which included, unlike his residential bill, the potential for demand charges. Further, without this information, Mr. Smith was also deprived of the ability to optimize his usage to avoid demand charges, as he had apparently unknowingly accomplished by avoiding peak demand up until the December 2023 bill. Thus, without full disclosure of the applicable rate schedule, and applying a contractual analysis which PPL invokes, I cannot conclude that there was any sort of valid, "meeting of the minds," with respect to the charged rates. PPL cannot impute to the Complainant the knowledge that a material term in the "contract" with the utility had changed just because the Complainant paid a bill. Thus, the Complainant did not voluntarily and knowingly enter into a contract with the Company for the commercial rate by paying his first bill in October 2022.

Next, both the Complainant and the Company submitted as evidence in support of their respective positions various screenshots of PPL's website. In Mr. Smith's

view, Exhibit C-1, which refers to a "customer contract agreement" under the "scheduling" service heading, supports his position that a written contract was necessary and PPL violated its own rules since there was no written contract. (Tr. at 63). However, my review of Exhibit C-1 shows that this "page" refers to new or upgraded *residential* service, not commercial service.

The Company submitted PPL Exhibit 6 in support of its position that it had provided reasonable service. PPL Exhibit 6 is a screenshot of the Company's website titled "Calculating Impact of Charging EV to Monthly Electric Bill." (Tr. at 44; PPL Exhibit 6). However, my review of this Exhibit and website page shows that the formula for calculation refers to the generation portion of a customer's monthly bill as measured by the monthly kilowatt hours (kWh). Significantly, it does not refer to the distribution charges which, as discussed above, for a GS-1 customer, can be impacted by the demand charge. This is the information that Mr. Smith needed in order to make an informed decision since he was not eligible for a residential rate to his garage.

Nonetheless, I note that, while not dispositive, PPL's website does have a page outlining the electrification process for businesses who want to go electric to support their EV charging needs. Per this page, "step 1" is to request a feasibility study to receive a preliminary evaluation of the service needed and "any applicable costs you [the business customer] may be responsible for to go electric."[5] I only note this page because it highlights the predicament that Mr. Smith was in. While Mr. Smith considered himself a residential customer, he was ultimately treated by the Company as a business customer without having been informed that service to his garage would be considered a business account. However, Mr. Smith was not afforded a complete evaluation of all the costs he would be responsible for including the business rate schedule.

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[5] *See*: https://www.pplelectric.com/site/Landing-Pages/Electric-Vehicles/Business-Customers (last visited 9/13/2024).

Finally, having found that PPL did not rebut the Complainant's evidence, when viewing the evidence as a whole, the evidence supports a determination that Complainant has met his ultimate burden of proof by a preponderance of the evidence. 66 Pa.C.S. § 332(a). I agree with Mr. Smith that the Company failed to provide reasonable service when it clearly omitted the information that he would be charged the commercial rate, not the residential rate, so that he could have made an informed decision whether to incur the costs of hiring an electrician to have his home garage electrified, and whether to incur the costs of charging an EV in his home garage at the commercial rate.

Arguably, as discussed above, the most important term that the Company could have informed Mr. Smith was the applicable rate schedule and applicable rates. If customers like Mr. Smith are not given accurate information through a lack of transparency, they will be unable to determine if they are being charged a correct rate, deprived of the ability to optimize their usage to conform to their budgets, and unable to make an informed choice. *See, Pa. Alloy*.

Accordingly, having found that the Complainant met his ultimate burden of proof that the Company provided unreasonable service, this part of his Complaint will be sustained.

Civil Penalty

Because record evidence demonstrates that the Company violated Section 1501 of the Code, 66 Pa.C.S § 1501, a determination must be made whether civil penalties should be assessed.

Pursuant to Section 3301 of the Code, the Commission may impose a maximum civil penalty of $1,000 per day for each continuing violation of the Code, its

regulations or its orders. 66 Pa.C.S. § 3301(a), (b). The Commission has set forth, in a statement of policy, the factors and standards for evaluating if a fine for violating a Commission order, regulation or statute is appropriate. 52 Pa. Code § 69.1201(a). The factors and standards are:

> (1) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.
>
> (2) Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.
>
> (3) Whether the conduct at issue was deemed intentional or negligent. This factor may only be considered in evaluating litigated cases. When conduct has been deemed intentional, the conduct may result in a higher penalty.
>
> (4) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.
>
> (5) The number of customers affected and the duration of the violation.
>
> (6) The compliance history of the regulated entity which committed the violation. An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty.

> (7) Whether the regulated entity cooperated with the Commission's investigation. Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty.
>
> (8) The amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.
>
> (9) Past Commission decisions in similar situations.
>
> (10) Other relevant factors.

52 Pa. Code § 69.1201(c).

The first factor is whether the conduct was of a serious nature, such as willful fraud or misrepresentation, or less egregious, such as administrative filing or technical errors. As discussed above, this is not a case of misquoting a rate or willful fraud. Rather, it is a case of omission on the Company's part to inform the customer which, in this matter, I find somewhat serious in that the Complainant, due to this omission, incurred the costs of thousands of dollars to have his garage electrified, which he says he would not have done had he had known the applicable rate schedule. Therefore, this factor warrants a higher penalty.

The second factor is whether consequences were of a serious nature resulting in damages to property or injury to persons. Since there is no evidence of such damages or injury, this factor is not applicable.

The third factor is whether the offending conduct was intentional or negligent. Based on the evidence in the record, I cannot conclude whether the omission was intentional or negligent. Therefore, this factor does not warrant a higher penalty.

The fourth factor is whether the utility has modified its internal practices and procedures to address the offensive conduct at issue to deter and prevent similar conduct in the future. Since the Company argues that its conduct was reasonable, there is no evidence of any remedial or proposed remedial conduct. However, I would urge the Company to remedy a similar situation herein—namely, informing a customer in Mr. Smith's situation that a residential property can be both charged a residential rate and a commercial rate. Therefore, this factor is neutral.

The fifth factor is the number of customers affected and the duration of the violation. There is no evidence that these violations affected anyone beyond the parties in the instant case. Therefore, this factor is not applicable.

The sixth factor is the compliance history of the offender, PPL. The record does not include a history of PPL's past offenses. Therefore, this factor is not applicable.

The seventh factor is whether the actions of the regulated entity were cooperative or discordant with a Commission investigation. Since there is no evidence of a Commission investigation, this factor is not applicable.

The eighth and ninth factors are respectively, the amount of a civil penalty required to deter future violations and prior Commission decisions in similar cases. My research has not revealed a prior Commission decision with like circumstances as the instant case to use as a guidance. Deterrence of future conduct is discussed below.

The tenth factor is any "other relevant factor." I find it concerning that at no time during the months-long electrification and connection process, which involved numerous contacts between the parties including several CSRs and a technician, was Mr. Smith informed that he was not eligible for the residential rate for service to his home garage. The Company knew that Mr. Smith would have to hire an electrician and spend

thousands of dollars to have his garage electrified. Therefore, under the circumstances of this case, the Company's silence or omission seems more offensive to me and warrants a higher penalty.

Therefore, considering all the factors above, and the totality of the circumstances in the instant case, I find a total civil penalty of $1,000 appropriate and sufficient to deter future violations of this type.

For the reasons stated above, the Company will be directed within thirty (30) days of the entry of a Final Commission Order in this case to pay a civil penalty in the amount of $1,000.00 by sending a certified check or money order payable to the Commonwealth of Pennsylvania.

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).

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. The Company's commercial rates are different from the residential rates, and the Company presently does not have an EV specific tariff rate. (Tr. at 33; PPL Exhibit 8).

5. The residential RS rate applies to a single-family dwelling and detached buildings which are served through the same meter as the single-family dwelling. (Tr. at 34; PPL Exhibit 8).

6. A "dwelling" is defined in PPL's tariff as a living space consisting of at least permanent provisions for shelter, dining, sleeping and cooking with provisions for permanent electric, water, and sanitation services. (Tr. at 34-35; PPL Exhibit 8).

7. The small general service GS-1 rate applies to single phase, non-residential service at secondary voltage and other applications outside the scope of the residential rate schedule. (Tr. at 36; PPL Exhibit 8).

8. The Public Utility Code imposes a duty on every public utility company to provide reasonable service to its customers and the public. 66 Pa.C.S. § 1501.

9. The Complainant did not satisfy his burden of proof that he was billed incorrectly the GS-1 rate or demonstrated that the Company violated the Public Utility Code, a Commission Order or Regulation or a Commission-approved tariff with regard to the bills rendered by it.

10. The Complainant did satisfy his burden of proof that the Company provided unreasonable service.

ORDER

THEREFORE,

IT IS ORDERED:

1. That, after hearing held, the Formal Complainant filed by Douglas Smith against PPL Electric Utilities Corporation, at Docket No. C-2024-3046013, is denied in part and granted in part.

2. That the Formal Complaint is denied as to the allegation of the Complainant, Douglas Smith, that PPL Electric Utilities Corporation charged him the incorrect rate for electric service to his garage.

3. That the Formal Complaint is sustained as to the allegation of the Complainant, Douglas Smith, that PPL Electric Utilities Corporation provided him with unreasonable service.

4. That within thirty (30) days of the entry of a Final Order issued by the Pennsylvania Public Utility Commission, PPL Electric Utilities Corporation is directed to pay a civil penalty of one thousand dollars ($1,000.00) by sending a certified check or money order to:

Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

5. That a copy of this Opinion and Order shall be served upon the Financial and Assessment Chief, Office of Administrative Services.

6. That the Bureau of Administrative Services, Assessment Section, shall monitor this matter for compliance.

7. That, if PPL Electric Utilities Corporation fails to make the civil penalty payment required by Ordering Paragraph No. 4 above, within thirty (30) days of the entry date of the Commission's Final Order, it is further ordered that the Bureau of Administrative Services, Assessment Section, shall refer this matter to the Pennsylvania Office of Attorney General for collection of the total set forth above and appropriate action.

8. That, upon payment of the penalty, the Secretary shall mark this matter at Docket No. C-2024-3046013 as closed.

Dated: September 26, 2024

/s/
Gail M. Chiodo
Administrative Law Judge