

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Karlenny Martinez	:	
	:	
v.	:	F-2023-3043740
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Chad L. Allensworth
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses an electric service customer’s high billing complaint for the failure of the customer to meet her burden of proof that the utility violated the Public Utility Code, or a Commission regulation or order.

HISTORY OF THE PROCEEDING

On October 16, 2023, Complainant filed a Formal Complaint (“Complaint”) with the Pennsylvania Public Utility Commission (“Commission”) against PPL Electric Utilities Corporation (“PPL or “Respondent”) alleging that she had incorrect charges on her electric bill for her residence at 1061 State route 940, Hazelton, Pa 18202.

Complaint specifically contested billed usage from December 2022 to May 2023 on the basis that it is just a small home and she is not there for periods of time.¹

On November 13, 2023, PPL filed its Answer wherein it maintained that PPL billed Complainant appropriately for her usage.

On January 8, 2024, the Commission issued an Initial Call-In Telephone Hearing Notice setting the evidentiary hearing for March 1, 2024, at 10:00 a.m. and assigned the matter to me as presiding officer. Additionally, on January 8, 2024, the Commission issued my Prehearing Order for Telephone Hearing that set forth requirements for the hearing.

The hearing was held as scheduled on March 1, 2024, before me, with the Complainant appearing *pro se* and PPL represented by Nicholas A. Stobbe, Esquire. Presentation of the hearing was assisted by Georgina Gutierrez, who provided Spanish to English/English to Spanish interpretation for the Complainant. Complainant testified on her own behalf and did not present any exhibits. PPL presented the testimony of Dana Brunner – Senior Customer Service Representative, and April Lewis – Customer Contact Center Supervisor, along with seven PPL exhibits that were admitted into the record.

On March 8, 2024, the Commission issued a Judge Change – Assignment Notice reassigning this matter to Administrative Law Judge (“ALJ”) Dennis Buckley.²

¹ The Complaint is a timely appeal from the determination of the Commission’s Bureau of Consumer Services (BCS), at BCS No. 3913091, which dismissed Complainant’s informal complaint. A timely BCS appeal is subject to de novo review. 52 Pa. Code § 56.173(a).

² The matter was reassigned due to ALJ Allensworth leaving the Commission.

The record closed upon filing of the 97-page transcript with the Commission on March 21, 2024.

On April 4, 2025, the matter was reassigned to me.³ The matter is ripe for disposition.

FINDINGS OF FACT

1. Complainant is Karlenny Martinez who resides at 1061 Route 940, Hazle Township, 18202 (“the property”). Tr. 17.
2. Respondent is PPL Electric Utilities Corporation, a public utility providing electric service in the Commonwealth of Pennsylvania and to Complainant.
3. Complainant receives electric service at the property and has resided there for approximately five years. Tr. 17.
4. The property is a one-bedroom/one-bathroom family home, which includes a kitchen, living room and a basement. Tr. 30, 34.
5. Complainant resided at the property with her son for approximately five years with no changes to the property or the number of people residing there. Tr. 17-18, 31, 33.
6. The property uses electric heat with no additional space heaters. Tr. 28-29, 35.

³ ALJ Allensworth returned to Commission in February 2025.

7. Complainant was spending more time away from the property to be at a family member's home during the contested period of December 2022 to May 2023. Tr.19.

8. Complainant lowers the heat in the winter months when she is not home, but she does not turn off the heat completely. Tr. 28-29, 32-33.

9. The property does not have a washer/dryer, but it does have a refrigerator and stove. Tr. 29, 33.

10. Dana Brunner has been employed by PPL for over 24 years and is currently employed as a Senior Customer Service Representative whose duties include assisting customer service representatives with questions on customer billing and usage. Tr. 37-38.

11. April Lewis has been employed by PPL for approximately 14 years and is currently employed as a Customer Contact Center Supervisor whose duties include overseeing a team of customer service representatives and handling escalations of calls. Tr. 67-68.

12. PPL Exhibit 1 is Complainant's Account Activity Statement. PPL Exhibit 1; Tr. 41.

13. PPL Exhibit 2 is PPL's Account Contact History with Complainant. PPL Exhibit 2; Tr. 47.

14. PPL Exhibit 3 is the Informal Case View from the informal complaint that Complainant submitted with the BCS. PPL Exhibit 3; Tr. 45-46.

15. PPL Exhibit 4 is a History of Payment Arrangements between PPL and Complainant. PPL Exhibit 4; Tr. 51-52.
16. PPL Exhibit 5 is Complainant's Daily Usage History. PPL Exhibit 5; Tr. 71.
17. PPL Exhibit 6 is Complainant's Meter Reading History. PPL Exhibit 6; Tr. 74.
18. PPL Exhibit 7 is PPL's Meter Test Results. PPL Exhibit 7; Tr. 50.
19. Complainant was a default service customer with PPL. Tr. 41-42.
20. As of December 1, 2022, PPL's default billing rate increased from \$12.30 to \$14.60 per kilowatt hour ("kWh"). Tr. 42.
21. As of June 1, 2023, the default billing rate decreased from \$14.60 to \$12.12 per kWh. Tr. 43.
22. Complainant's outstanding balance at the time of the hearing was \$7,570.74. Tr. 44.
23. Complainant's last payment prior to the hearing was received on January 9, 2023. Tr. 44.
24. Complainant contacted PPL on several occasions to discuss the disputed billing period. PPL Exhibit 2; Tr. 57.

25. PPL billed Complainant for the following usage from December 2021 to May 2022:

Billing Date	Days in Cycle	kWh used	Actual Amount Billed
December 21, 2021	32	961	\$140.46
January 24, 2022	34	2,474	\$341.57
February 22, 2022	29	3,691	\$495.44
March 22, 2022	28	2,542	\$346.11
April 21, 2022	30	2,364	\$322.74
May 20, 2022	29	1,271	\$180.62

PPL Exhibit 1.

26. PPL billed Complainant for the following usage from December 2022 to May 2023:

Billing Date	Days in Cycle	kWh used	Actual Amount Billed
December 22, 2022	34	1,021	\$200.30
January 20, 2023	30	6,814	\$1,321.27
February 17, 2023	28	3,302	-
March 21, 2023	32	3,172	-
April 20, 2023	30	1,952	-
May 19, 2023	29	1,215	-

PPL Exhibit 1.

27. The 1021 kWh usage billed on December 22, 2022, was an estimated bill based on Complainant's prior year's usage for the same billing period. Tr. 69, 82.

28. Complainant's actual usage for the December 22, 2022 billing period was 4,321 kWh as opposed to the billed 1,021 kWh. Tr. 69.

29. Complainant's kWh usage increased during the colder months and decreased during the warmer months. Tr. 72-73, 76.

30. On the January 20, 2023 bill, PPL added the additional 3,300 kWh usage from the December 22, 2022 billing period to the 3,514 kWh usage for January 20, 2023 billing period for a total of 6,814 kWh. Tr. 75-76, 78-79.

31. Complainant's kWh usage for the January billing period for the last three years were as follows: (a) January 2022 = 2,474 kWh, (b) January 2023 = 3,514 kWh and (c) January 2024 = 3,360 kWh. Tr. 77.

32. PPL performed a meter test at the property on December 8, 2023, whereby the meter tested with 100% accuracy. Tr. 49-51; PPL Exhibits 2, 7.

DISCUSSION

Complainant alleges that the electric bills for her small residential property from December 2022 to May 2023 were too high to be accurate.

The party seeking affirmative relief from the Commission bears the burden of proof. 66 Pa.C.S. § 332(a). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint to

prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa. PUC 300 (1976). This must be shown by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (1990). A preponderance of evidence is that which is more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (1950).

Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. Of Rev.*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Dep't. of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

Finally, the offense must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701.

This means that the Complainant must submit sufficient evidence to establish a *prima facie* case that PPL overcharged her account. If she does that, then the burden of going forward with the evidence, sometimes called the burden of persuasion, to rebut the evidence of the Complainant shifts to the Respondent. If the evidence presented by the Respondent is of co-equal weight, the Complainant has not satisfied the burden of proof. The Complainant would then have to provide additional evidence to rebut the evidence of the Respondent. *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983) (“*Burleson*”). While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the

Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001) (“*Milkie*”).

The burden of proof for “high bill” complaints has been explained in *Waldron v. Philadelphia Electric Co.*, 54 Pa.P.U.C. 98 (1980), and its progeny. In *Waldron*, the Commission adopted the Michigan Public Service Commission’s policy announced in *Hallifax v. O & A Electric Co-Op*, Case No. U-5825, May 1979, which stated that, while the accuracy of the meter is an important factor in resolving billing disputes, it is not the sole criterion. The Commission stated that it will also consider the following factors: the billing history of the complainant; any change in the number of occupants residing at the household; the potential for energy utilization; and any other relevant facts or circumstances that are brought to light during the complaint proceeding. *Waldron* at 100.

Consistent with the Commission's holding in *Bennett v. Peoples Natural Gas Co.*, Docket No. C-2009-2122979 (Opinion and Order entered Oct. 13, 2010), the *Waldron* Rule allows a complainant to establish a *prima facie* case in a “high bill” complaint by showing that the disputed bill is abnormally high when compared to prior usage patterns and his or her pattern of usage has not changed or by providing other relevant evidence showing that the disputed bill is unreasonably high. In evaluating a “high bill” complaint, the Commission may consider such evidence as “the billing history of the account, any change in usage patterns (such as a change in the number of occupants residing in the household or potential energy utilization), and any other relevant facts or circumstances that come to light during the proceeding.” *Id.* at 6 (emphasis added); see *Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Opinion and Order entered Nov. 15, 2011) (holding that limiting the *Waldron* Rule to the three factors is too limiting).

Complainant testified that she had resided at the property for approximately five years with her son and there were no changes to the property or the number of occupants during this time. Tr. 17-18, 31, 33. The property is a one-bedroom/one-bathroom family home with a kitchen, living room and basement that uses electric heat. Tr. 28, 30, 34-35. Complainant further testified that the bills during the disputed period of December 2022 to May 2023 were high considering she was not spending a lot of time there and she would turn the heat down when she was not home. Tr. 19, 23, 28. Specifically, Complainant contested the billed usage and she contacted PPL on several occasions to discuss the disputed billing period. PPL Exhibit 2; Tr. 34, 57.

Complainant did not offer actual bills to substantiate her claim of high billing, but she testified to billing amounts in the contested period as follows: (a) December 2022 to January 2023 = \$1,321.27, (b) January 2023 to February 2023 = \$647.51, (c) February 2023 to March 2023 = \$622.62, (d) March 2023 to April 2023 = \$389.05 and (e) April 2023 to May 2023 = \$247.98. Tr. 23. Complainant also testified that thereafter her bills were much lower both before the contested period and after the contested period with the highest bill in the uncontested period being in September of 2023, which was \$148.00. Tr. 18.

In contrast, PPL presented the credible testimony of Dana Brunner, a Senior Customer Service Representative and April Lewis, a Customer Contact Center Supervisor. The testimony of Ms. Brunner and Ms. Lewis was found to be credible based on the detail and confidence of their testimony.

Ms. Brunner testified that Complainant is a default service customer and that there was an applicable rate increase for her service on December 1, 2022 from \$12.30 to \$14.60 per kWh. Tr. 42. There was also a subsequent rate decrease for her service on June 1, 2023 from \$14.60 to \$12.12 per kWh. Tr. 43. Ms. Brunner further testified that Complainant's outstanding balance at the time of the hearing was \$7,570.74,

that her last payment was made on January 9, 2023, and that there have been a total of seven defaulted payment arrangements on Complainant’s account. Tr. 44, 52-53, 55. Finally, Ms. Brunner testified that PPL tested the meter for the property on December 8, 2023, and the results reflected that the meter was 100% accurate. Tr. 49, 51; PPL Exhibit 7.

Ms. Lewis testified that Complainant’s kWh usage increased during the colder months and decreased during the warmer months. Tr. 72-73, 76. This is consistent with Complainant’s claims that her bills were lower outside of the contested period when the weather would have been warmer.

In addition to witness testimony, PPL presented several exhibits, including an Account Activity Statement reflecting the kWh usage for the property for the months of December to May for both 2021-2022 and 2022-2023 as follows:

Billing Date	kWh used	Billing Date	kWh used
December 21, 2021	961	December 22, 2022	1,021
January 24, 2022	2,474	January 20, 2023	6,814
February 22, 2022	3,691	February 17, 2023	3,302
March 22, 2022	2,542	March 21, 2023	3,172
April 21, 2022	2,364	April 20, 2023	1,952
May 20, 2022	1,271	May 19, 2023	1,215

PPL Exhibit 1.

The account statement shows that the kWh usage was not consistently higher during the contested period from 2022 to 2023 than the usage for the same period from 2021 to 2022. The only significant change in kWh usage reflected between the

uncontested period of 2021-2022 and the contested period of 2022-2023 was for the billing month of January. Specifically, the account statement reflects an increase of 4,340 kWh from January 2022 (i.e., 2,474 kWh) to January 2023 (i.e., 6,814 kWh). However, Ms. Lewis explained the basis for this discrepancy.

Ms. Lewis testified that the 1021 kWh usage billed on December 22, 2022, was an estimated bill based on Complainant's prior year's usage for the same billing period. Tr. 69, 82. However, Complainant's actual usage for the December 22, 2022 billing period was 4,321 kWh. Tr. 69. This means that PPL underbilled Complainant for her kWh by 3,300 kWh. To remedy this, PPL added the additional 3,300 kWh usage from the December 22, 2022 billing period to the 3,514 kWh usage for the January 20, 2023 billing period for a total of 6,814 kWh on the January 20, 2023 bill. Tr. 75-76, 78-79. Ms. Lewis further testified that Complainant's kWh usage for the January billing period for the last three years were as follows: (a) January 2022 = 2,474 kWh, (b) January 2023 = 3,514 kWh and (c) January 2024 = 3,360 kWh. Tr. 77.

It is the Complainant's burden to prove that PPL has overcharged her for the period in question. In support of her claim, she offers testimony that: (1) she has resided at the property for approximately five years with her son, (2) there were no changes to the property or number of occupants during this time, (3) the property is a one-bedroom/one-bathroom family home with a kitchen, living room and basement that uses electric heat and (4) she was not home at times during the contested period and (5) she would turn down the heat when she was not home. This evidence is sufficient to establish a *prima facie* case.

However, PPL successfully rebutted Complainant's claims with credible evidence that: (1) Complainant's meter tested accurate, (2) Complainant's usage increased in the colder months, (3) Complainant's usage during the contested period was not abnormally high compared to prior years and (4) PPL appropriately billed

Complainant for actual usage following an estimated bill. Therefore, Complainant did not meet her ultimate burden of proof that PPL violated the Public Utility Code, Commission regulation or order. 66 Pa.C.S. § 332; *Milkie; Burluson*.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of this Complaint. 66 Pa.C.S. § 701.

2. The party seeking affirmative relief from the Commission bears the burden of proof. 66 Pa.C.S. § 332(a). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the Complaint to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976).

3. Right to relief must be shown by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (1990). A preponderance of evidence is that which is more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (1950).

4. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. Of Rev.*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Dep't. of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

5. The offense must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701.

6. 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. *Bennett v. Peoples Natural Gas Co.*, Docket No. C-2009-2122979 (Opinion and Order entered Oct. 13, 2010); *see Waldron v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980); *Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Opinion and Order entered Nov. 15, 2011) (holding that limiting the *Waldron* Rule to the three factors is too limiting).

7. Complainant did not meet her ultimate burden of proof that PPL violated the Public Utility Code, Commission regulation or order following PPL’s rebuttal of the *prima facie* case. 66 Pa.C.S. § 332(a); *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff’d*, 461 A.2d 1234 (Pa. 1983); *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Karlenny Martinez against PPL Electric Utilities Corporation at Docket No. C-2023-3043740 is dismissed.
2. That Docket No. F-2023-3043740 be marked as closed.

Date: April 17, 2025

/s/
Chad L. Allensworth
Administrative Law Judge