

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lee M. Gunkle	:	
	:	
v.	:	F-2023-3044603
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial Decision denies the Complainant’s Formal Complaint because the Complainant has not established that there were incorrect charges on his bills.

HISTORY OF THE PROCEEDING

On November 14, 2023, Lee M. Gunkle (Complainant or Mr. Gunkle) filed a Formal Complaint (Complaint) against PPL Electric Utilities Corporation (PPL, Respondent, or Company) with the Pennsylvania Public Utility Commission (Commission).¹ In the Complaint, the Complainant contends that there are incorrect charges on his bills. He requests that the charges be removed from his account.

¹ The Complaint is a timely appeal from the determination of the Commission’s Bureau of Consumer Services (BCS), at BCS No. 3919420. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

On December 21, 2023,² the Respondent filed an Answer denying the material allegations of the Complaint.

By Interim Order dated December 21, 2023, the matter was set for a resolution conference with the Office of Administrative Law Judge's Mediation Unit. The parties were unable to resolve the issues in the Complaint.

By Initial Call-In Telephonic Hearing Notice dated January 26, 2024, the matter was set for an initial telephonic hearing on April 2, 2024, and the matter was assigned to me.

I issued a Prehearing Order on February 23, 2024, which indicated the procedures for the hearing and other administrative matters.

The hearing proceeded as scheduled on April 2, 2024. The Complainant was present and proceeded *pro se*. He testified on his own behalf at the hearing and presented three exhibits which were entered into the record at the hearing. Respondent was present and represented by Peter J. Kramer, Esq., who presented the testimony of April Lewis, a Customer Contact Center Supervisor and Holly Hankerson, a Customer Service Lead. Respondent also presented seven exhibits which were entered into the record at the time of the hearing.

After further review of the record, I issued an Order to reopen the record on July 26, 2024, and indicated that the Respondent needed to present further information regarding the Complainant's account. Counsel for the Respondent provided some documentation but not all that was requested. I followed up with counsel to determine if the

² The Formal Complaint was served on the Respondent by the Secretary's Bureau on December 5, 2023.

further information was available but counsel was not able to provide it at that time. After some time, it was determined that a further hearing was necessary in this matter.

By Further Call-In Telephonic Hearing Notice dated December 17, 2024, a further hearing was scheduled for February 6, 2025.

The further hearing proceeded as scheduled on February 6, 2025. Complainant³ did not participate in the hearing and did not have a representative appear on his behalf present. Respondent appeared and was represented by Peter J. Kramer, Esq., who presented the testimony of April Lewis, a Customer Contact Center Supervisor. Respondent offered five supplemental exhibits, which were all entered into the record.

The record closed on February 28, 2025, when I received the transcript of the second hearing.

FINDINGS OF FACT

1. The Complainant in this case is Lee M. Gunkle, who resides at 4593 Apple Lane, Macungie, Pennsylvania 18062 (Service Address). Tr. 8; Complaint ¶ 1.
2. The Respondent is PPL Electric Utilities Corporation.
3. The Complainant and his wife reside at the Service Address. Tr. 10.

³ The Complainant passed away on or about October 7, 2024. The Complainant's wife, Patricia Gunkle, who assumed the account after Mr. Gunkle's death, did not enter her appearance in this matter or have an attorney on behalf of the Complainant's estate enter an appearance in this case.

4. The Service Address is a single-family home that is two stories with a basement, three bedrooms and one and a half bathrooms. Tr. 15-16.

5. The residence has an electric water heater, refrigerator, stove/oven, microwave, washer and dryer, television, and lighting. Tr. 16-17.

6. The Service Address has oil heating. Tr. 17.

7. The Complainant received an estimated bill due an error in the registration of the remote reading device for December 22, 2022, with an estimated usage of 1,072 kilowatt hours for the billing period of November 17, 2022, to December 21, 2022. Tr. 25-26, 27; PPL Exh. 1.

8. The Company was able to go back and collect the actual usage for the November to December 2022 billing period which was 1,956 kilowatt hours or 884 kilowatt hours more than the estimated usage. Tr. 27; PPL Exh. 7.

9. The Complainant received a bill for January 20, 2023, which included 1,719 kilowatt usage for the current billing period plus the 884 kilowatt hours that were unbilled for the prior billing period for a total of 2,603 kilowatt hours. Tr. 27-28; PPL Exh. 5.

10. There was a consistent increase in the usage at the Complainant's Service Address for the winter months. Tr. 28; PPL Exh. 1, 4, 8, 12.

11. The Complainant was a default service customer of PPL and was charged the price to compare rate. Tr. 42.

12. PPL's price to compare rate can fluctuate. Tr. 42.

13. Prior to December 1, 2022, the price to compare was 12.366 cents per kilowatt hour and increased to 14.612 cents per kilowatt hour after December 1, 2022. The price to compare then decreased in June 2023 to 12.126 cents per kilowatt hour and as of December 1, 2023, the price to compare decreased to 11.028 cents per kilowatt hour. Tr. 42.

14. The meter from the Service Address was tested on December 14, 2023, and it was found to have an average of 100% accuracy. Tr. 37-38; PPL Exh. 2, 4.

15. The Complainant passed away on or about October 7, 2024. Tr. 67.

16. Responsibility for the Complainant's account with PPL was assumed by his surviving spouse, Patricia Gunkle. Tr. 67; PPL Exh. 13.

17. As on January 14, 2025, Mrs. Gunkle's account was enrolled in OnTrack which is PPL's customer assistance program for low-income customers. Tr. 66; PPL Exh. 8.

18. The account was also placed on a payment arrangement at that time by PPL. Tr. 67; PPL Exh. 9.

19. According to PPL records, the account balance at the time of the second hearing was \$578.62. PPL Exh. 8.

DISCUSSION

The Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S. § 332(a).

To establish a sufficient case and satisfy the burden of proof, Complainant must show that the respondent public utility is responsible or accountable for the problem described in the Complaint. *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). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). That is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 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 Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

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 Complainant shifts to the Respondent. If the evidence presented by the Respondent is of co-equal weight, the Complainant has not satisfied her burden of proof. The Complainant would be required 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).

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).

High Bill Dispute

The Complainant disputes his bill for December 2022 through January 2023. He indicated that he believed that the bills were too high because it is only himself and his wife that reside at the Service Address.

The burden of proof for “high bill” complaints has been explained in *Waldron v. Philadelphia Electric Co.*, 54 Pa.P.U.C. 98 (1980) (*Waldron*), and its progeny. In *Waldron*, the Commission adopted the Michigan Public Service Commission’s (PSC’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) (*Bennet*), 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.” *Bennet*, at 6; *See also Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Opinion and Order entered Nov. 15, 2011).

The Complainant and his wife reside at the Service Address. Tr. 10. The Service Address is a single-family home that is two stories with a basement, three bedrooms and one and a half bathrooms. Tr. 15-16. The residence has an electric water heater, refrigerator, stove/oven, microwave, washer and dryer, television, and lighting. Tr. 16-17. The Service Address has oil heating. Tr. 17.

A public utility may estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading. 52 Pa. Code § 56.12(3).

Further, when the actual meter reading establishes that the customer was underbilled due to an error in the registration of the remote reading device, the public utility may render a bill for the uncollected amount. If the rebilling exceeds the otherwise normal estimated bill for the billing period during which the bill is issued by at least 50% or at least \$50, the public utility shall comply with 52 Pa. Code §§ 56.12(5)(ii), 56.14.

PPL’s witness, April Lewis, testified that the Complainant received an estimated bill for December 22, 2022, with an estimated usage of 1,072 kilowatt hours for the billing period of November 17, 2022, to December 21, 2022. Tr. 25-26, 27; PPL Exh. 1. The Company was able to go back and collect the actual usage for the November to December 2022 billing period, which was 1,956 kilowatt hours, or 884 kilowatt hours more than the estimated usage. Tr. 27; PPL Exh. 7. The Complainant received a bill for

January 20, 2023, which included 1,719 kilowatt usage for the current billing period, plus the 884 kilowatt hours that were unbilled for the prior billing period for a total of 2,603 kilowatt hours. Tr. 27-28; PPL Exh. 5. There was a consistent increase in the usage at the Complainant's Service Address for the winter months. Tr. 28, 69-70; PPL Exh. 1, 4, 8, 12.

Ms. Lewis also explained that the Complainant was a default service customer of PPL and was charged the price to compare rate. Tr. 42. The price to compare rate can fluctuate. Tr. 42. Prior to December 1, 2022, the price to compare was 12.366 cents per kilowatt hour and increased to 14.612 cents per kilowatt hour after December 1, 2022. The price to compare then decreased in June 2023 to 12.126 cents per kilowatt hour and as of December 1, 2023, the price to compare decreased to 11.028 cents per kilowatt hour. Tr. 42.

Lastly, it should be noted that the meter from the Service Address was tested on December 14, 2023, and it was found to have an average of 100% accuracy. Tr. 37-38; PPL Exhs. 2, 4. Under the Commission's regulations, a wathour meter must test within the following limits:

(b) For the purpose of this section, the term "light load" means not less than 10%, nor more than 15%, of the rated test current of the **meter**. The term "heavy load" means not less than 75%, nor more than 100%, of the rated test current of the **meter**.

(c) No wathour **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, periodic or other tests, a wathour **meter** is found to exceed these limits, it shall be adjusted or removed from service.

52 Pa. Code § 57.20.

The Complainant did not meet his burden to establish that PPL billed him incorrectly for service. While the Complainant testified that he believes his usage is out of line for his residence, the Complainant did not present any further evidence to support those assumptions.

Further, PPL was able to provide credible testimony and evidence which established that there was an estimated reading in December 2022, and that once the Company was able to collect the actual usage for the Service Address, the Company billed the Complainant for the unbilled usage in the next billing cycle. Under the Commission's regulations, the Company is allowed to rebill the Complainant for unbilled usage.

The Company also presented evidence that the Complainant was a default service customer and was billed at the price to compare rate. The price to compare rate can fluctuate and in fact did fluctuate in December 2022 when it increased from 12.366 cents per kilowatt hour to 14.612 cents per kilowatt hour.

Lastly, the Company showed that the Complainant's meter was working within the established limits under the Commission's regulations and records show that the Complainant's usage did increase in the winter months and were in line with other winter periods. As such, the Complainant failed to establish that PPL billed him incorrectly, or that it violated the Public Utility Code, its regulations and orders. Therefore, the Complaint should be denied.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.

2. The burden of proof in this proceeding is upon the Complainant. 66 Pa.C.S. § 332(a).

3. 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.

4. In a high bill case, the Commission stated that it will 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 v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980).

5. 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 (Opinion and Order entered Nov. 15, 2011).

6. The Complainant did not meet his burden of proving that there were incorrect charges on his account at the Service Address. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Lee Gunkle at *Lee Gunkle v. PPL Electric Utilities Corporation* at Docket No. F-2023-3044603 is denied and dismissed.
2. That Docket No. F-2023-3044603 be marked closed.

Date: May 23, 2025

_____/s/
Marta Guhl
Administrative Law Judge