

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Alice Howick	:	
	:	
v.	:	C-2025-3055099
	:	
FirstEnergy Pennsylvania Electric Company	:	

INITIAL DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

This decision denies a Formal Complaint filed with the Pennsylvania Public Utility Commission by Alice Howick against FirstEnergy Pennsylvania Electric Company, for failure to meet the burden of proving the utility billed her using the incorrect rate.

HISTORY OF THE PROCEEDING

On May 9, 2025, Alice Howick (Ms. Howick or Complainant) filed the Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against FirstEnergy Pennsylvania Electric Company (FE PA or Respondent). Complainant alleged FE PA was threatening to shut off her electric service, and FE PA incorrectly charged her account at the nonresidential rate, which is a higher rate than the residential rate. For relief, Complainant requested the Commission

order FE PA to charge her at the lower residential rate. In the Complaint, Ms. Howick agreed to receive service of all documents by eService.

On June 2, 2025, FE PA filed its Answer. Respondent acknowledged Complainant is a customer but denied using the incorrect billing rate on the billing statements. Specifically, Respondent contended Complainant was billed correctly at the nonresidential rate.

By Call-In Telephone Hearing Notice dated June 5, 2025, the Office of Administrative Law Judge (OALJ) scheduled the initial telephonic hearing for July 28, 2025. On June 5, 2025, the presiding officer issued a Prehearing Order which, *inter alia*, advised the parties about procedural matters.

On July 28, 2025, the presiding officer convened the initial telephonic hearing as scheduled. Complainant appeared *pro se* and testified on her own behalf. In addition, Complainant presented the testimony of a neighbor, Christina Fair. Respondent was represented by Margaret Morris, Esquire, who appeared with Respondent's witnesses: Charles Howlett and Stephen Huff. Attorney Morris offered twelve (12) exhibits, marked FE PA Exhibits 1 through 12, which were admitted into evidence. Complainant and Respondent issued final statements on the hearing record in lieu of filing briefs.

On August 4, 2025, the presiding officer issued the Interim Order Closing the Hearing Record. The transcript from July 28, 2025, contains a total of 85 pages. The hearing record is now closed, and the matter is ready for disposition.

FINDINGS OF FACT

1. Complainant is Alice Howick, who resides at 10140 Old State Road, Conneaut Lake, Pennsylvania (service address) in Apartment 2. (Tr. 14, 16, 46).

2. Respondent is FirstEnergy Pennsylvania Electric Company, an electric distribution company which provides electric service at the service address. (Tr. 17).

3. The service address is a wood frame structure with three floors and contains eleven (11) apartments, including the one where Complainant lives currently. (Tr. 14, 15).

4. As of the date of the hearing, seven of the eleven apartment units were inhabited. (Tr. 16).

5. Complainant purchased the service address with her late husband in the 1970's but did not move into the service address until after her husband died in 2019 and her residence burned down. (Tr. 17, 21-22, 48).

6. Complainant's husband handled the electric accounts for the service address, and he knew which outlets and appliances were recorded on which electric meter. (Tr. 21).

7. Respondent bills Complainant at the nonresidential rate for the electric service she uses in her apartment at the service address but bills Complainant at the residential rate for the other meter. (Tr. 18).

8. There are three meters¹ at the service address located on the outside of the service address, which record the electricity consumed at the water pump, common areas and the residential units. (Tr. 18-19, 46-50; FE PA Exhibits 3 & 4).

9. There are three electric service accounts in Complainant's name at the property, with two accounts listed as residential accounts and one account listed as Rate GS Medium or nonresidential. (Tr. 46-50; FE PA Exhibits 3 & 4).

10. The meter that records electric consumption in Complainant's apartment (Apartment 2) was established on November 7, 1978, and records electric consumption in the common areas at the service address. (Tr. 20-21, 51; FE PA Exhibit 5).

11. Respondent issued a termination notice on Complainant's Rate GS Medium electric service account on May 1, 2025, due to an unpaid balance totaling \$2,248.72. (Tr. 34, 36, 57; FE PA Exhibit 5).

12. In March or April of 2025, Complainant asked a friend and tenant, Christina Fair (Ms. Fair), to contact Respondent about billing at the nonresidential rate and to correct a discrepancy in the mailing address.² (Tr. 22-24, 33, 37).

13. After Ms. Fair called FE PA on Complainant's behalf, FE PA sent a technician out to the service address in mid-April 2025. (Tr. 23-24, 37-39).

¹ Complainant testified there are three electric meters but one meter – for the water pump house – has a different address and was not at issue in this proceeding. Tr. 20, 27-29.

² When the 911 system led to a change in the mailing address, Respondent used an incorrect mailing address for a period of time after the address changed for the 911 system. The Complaint does not include this concern. Tr. 28-30.

14. The customer charge for Rate GS Medium is higher than the Rate RS customer charge, and the per kilowatt hour rate for Rate RS is higher than the Rate GS Medium per kilowatt hour rate. (Tr. 56, 59).

15. Respondent has not verified the source of the load for the Rate RS account or the Rate GS Medium account. (Tr. 63-64).

16. The account balance on the nonresidential account was \$3,167.19, as of the date of the initial hearing. (Tr. 53; FE PA Exhibit 6).

DISCUSSION

Pursuant to Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), the burden of proof is on the proponent of a rule or order. In this proceeding, Ms. Howick is the proponent of a rule or order. Therefore, she bears the burden of proving by a preponderance of the evidence that Respondent violated the Public Utility Code or a regulation or order of the Commission.³ Ms. Howick must show the utility is responsible or accountable for the problem described in the Formal Complaint herein.⁴

Complainant's Position

Complainant contends the bills are too high and she should be billed at the residential rate.

³ *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

⁴ *Feinstein v. Philadelphia Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976).

Respondent's Position

Respondent contends the service address is a multi-unit rental apartment building which has one meter that records consumption in common areas and in eleven apartments. FE PA asserts it correctly charges Complainant for electric service, pursuant to FE PA's tariff and consistent with the Public Utility Code and the Commission's regulations and Orders. FE PA points out the service address has been served under the Rate GS Medium schedule since November 7, 1978, when the electric service account was established in the name of Complainant and her late husband. FE PA asserts Complainant's request to reclassify the rate from Rate GS Medium to Rate RS cannot be granted. In addition, FE PA asserts the Commission should deny Complainant's request to be on budget billing because, pursuant to Chapter 56 of the Public Utility Code, budget billing is not available for nonresidential electric service. Lastly, FE PA points out that there is another meter on the property which provides electric service to an individual apartment, and that account is charged correctly under the Rate RS. Respondent argues the electric service account for Complainant's apartment and the other apartments is classified correctly as residential.

Conclusion

Section 1301 of the Public Utility Code (the Code), 66 Pa.C.S. § 1301, requires public utility rates to be just and reasonable, and in conformity with the Commission's orders and regulations. Where a customer is heard to complain about an existing rate, there is a strong presumption the pre-existing Commission-approved rates are just and reasonable.⁵ The burden of proof falls upon Complainant to prove the previously-approved rate is no longer reasonable, by demonstrating "recent significant

⁵ *Duquesne Light Co. v. Pa. Pub. Util. Comm'n*, 715 A. 2d 540 (Pa. Cmwlth. 1998); *Popowsky v. Pa. Pub. Util. Comm'n*, 669 A.2d 1029, 1037 n.14 (Pa. Cmwlth. 1995).

changes in circumstances in the interim.”⁶ Consequently, Ms. Howick has the burden of proof and must demonstrate recent significant changes in circumstances, which cause the Commission-approved rate to be unjust and unreasonable.⁷ The absence of such a showing establishes *prima facie* evidence of the facts found in the prior order.⁸

Relevant to this proceeding, Respondent uses two electric service rates: Rate RS which is available for customers using single-phase service served through one meter for each family unit; and Rate GS Medium which is available for nonresidential customers served through a single delivery point using more than 1,500 kilowatt hours per month. (FE PA Exhibit 7).

The testimony and evidence presented demonstrated that one meter records consumption for eleven apartments, including Complainant’s apartment. Pursuant to Respondent’s tariff, Complainant is charged under the correct rate schedule – Rate GS Medium.

CONCLUSIONS OF LAW

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

2. Complainant as the proponent of a rule or order has the burden of proof in this matter. 66 Pa.C.S. § 332(a).

⁶ *Zucker v. Pa. Pub. Util. Comm’n*, 401 A.2d at 1380 (Pa. Cmwlth. 1979); *Schellhammer v. Pa. Pub. Util. Comm’n*, 629 A.2d 189 (Pa. Cmwlth. 1993).

⁷ *See* 66 Pa.C.S. § 332(a).

⁸ “Whenever the commission shall make any rule, regulation, finding, determination or order, the same shall be *prima facie* evidence of the facts found and shall remain conclusive upon all parties affected thereby...” 66 Pa.C.S. § 316.

