

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Clarence Gottschall III and Tonya Schaner	:	
	:	
v.	:	C-2025-3054884
	:	
FirstEnergy Pennsylvania Electric Company	:	

INITIAL DECISION

Before
Chad L. Allensworth
Administrative Law Judge

This Initial Decision sustains the Formal Complaint of an electric customer for unreasonable service based on actions taken by the electric company during vegetation maintenance resulting in the destruction of a tree and property damage thereby warranting the assessment of civil penalties.

HISTORY OF THE PROCEEDING

On April 30, 2025, Clarence Gottschall III and Tonya Schaner (collectively referred to as “Complainants”) filed a Formal Complaint (“complaint”) with the Pennsylvania Public Utility Commission (“Commission”) against FirstEnergy Pennsylvania Electric Company (“the Company”, “FirstEnergy” or “FE”). Complainants marked “other” as the reason for the complaint and alleged that the Company cut down trees that were not close to electric lines and dropped the logs onto a waterfall/pond breaking the concrete. Complaint ¶ 4. As relief, Complainants requested that the Company fix the damage or pay to fix the damage. Complaint ¶ 5.

On May 21, 2025, the Company filed an answer denying the material allegations of the complaint. Specifically, the Company admitted providing residential electric service to the Complainants in its Met-Ed Rate District and that it performed vegetation management at Complainants' address. Complaint ¶¶ 1-4. The Company denied dropping logs on the Complainants' pond. Complaint ¶ 4.

On May 21, 2025, the Company also filed a Preliminary Objection ("PO") arguing that the complaint should be denied or stricken as impertinent to the extent it requested monetary damages because the Commission has no power to award that relief under 52 Pa. Code § 5.101(a)(2). PO ¶¶ 7-15. The PO included a notice to plead that notified Complainants they had ten days to file a reply to the PO. Complainants did not file a response to the PO.

On June 20, 2025, an Initial Telephonic Hearing Notice was issued scheduling a telephonic hearing for August 19, 2025 at 10:00 a.m. That same day, a Prehearing Order was issued, which set forth the general procedural rules for the hearing.

On June 25, 2025, an Order was issued granting the Company's PO and striking that portion of the complaint requesting monetary damages.

On August 19, 2025, the telephone hearing was held as scheduled. Complainants appeared and represented themselves. Complainants testified on their own behalf and offered 17 Complainant Exhibits that were admitted into evidence. Angelina Umstead, Esq., appeared on behalf of the Company and presented the testimony of two witnesses along with five FirstEnergy Exhibits that were admitted into evidence.

The record closed on September 3, 2025, when the 76-page transcript was filed with the Commission.

FINDINGS OF FACT

1. Complainants are Clarence Gottschall III and Tonya Schaner who reside at 1412 Mountain Road, Hamburg, PA 19526 (“service address”). Tr. 12.
2. Respondent is FirstEnergy Pennsylvania Electric Company, which is a jurisdictional public utility providing electric service to Pennsylvania customers.
3. Complainants resided at the service address for approximately 15 years and received electric service from FirstEnergy at the service address. Tr. 12.
4. The service address had a handmade pond and waterfall that Mr. Gottschall built in 2005. Tr. 27-28.
5. There was no previous damage to the pond or waterfall. Tr. 20; Complainants’ Exhibit Q.
6. The service address also had a wisteria tree that was planted in 2005 and it was healthy before it was cut down. Tr. 28, 61; Complainants’ Exhibit Q.
7. The base of the wisteria tree was approximately 20 to 25 feet away from the utility lines. Tr. 28, 51; FE Exhibit 5.
8. The top of the wisteria tree was below the Company’s wires and was not interfering with the wires. Tr. 51-52, 62; Complainants’ Exhibit Q.
9. The Company has trimmed Complainants’ wisteria tree in the past and does so on a four-year vegetation maintenance cycle with the last maintenance completed in 2024. Tr. 28, 48.

10. The Company routinely trims problematic vegetation back ten feet away from wires. Tr. 61.

11. On October 15, 2024, there was a storm in the area of the service address causing trees and/or branches to fall and bring down one or more electric lines. Tr. 12-13.

12. The trees and/or branches in the intersection near the service address pulled down the electric lines, but they were not Complainants' trees. Tr. 15.

13. The damage to the electric lines resulted in loss of power for several properties, but not the service address. Tr. 13.

14. On or about October 15, 2024, the Company came to the area around the service address and reconnected the electric line. Tr. 13-15.

15. Complainants were not told that any further work would be done for the electric line. Tr. 13.

16. On or about October 16, 2024, a representative from the Company came to the service address while Ms. Schaner was home and left a door hanger indicating that emergency work in the area required tree clearing and the property owner was responsible for cleaning up debris. Tr. 16, 21, 58-59; Complainants' Exhibit A; FE Exhibit 2.

17. On or about October 16, 2024, the Company trimmed/cut down trees on Complainants' property without prior notice. Tr. 13, 15, 29, 49-50.

18. The wisteria tree was completely cut down. Tr. 29.

19. The tree trimming/cutting on or about October 16, 2024 was performed by the Company's contractor, Lewis Tree Services. Tr. 50.

20. Nobody else was on Complainants' property on or about October 16, 2024 cutting down trees. Tr. 17; FE Exhibit 3.

21. The Company did not need to cut down Complainants' wisteria tree to gain access to other trees because it was able to access the impacted wires from bucket trucks next to the road. Tr. 56.

22. As part of cutting/trimming trees at the service address, the Company dropped logs, which were up to eight inches in diameter, onto Complainants' waterfall pond area and broke concrete pieces off the pond. Tr. 13, 15; Complainants' Exhibits F through P.

23. Complainants' pond now leaks and will not hold water. Tr. 16-17.

24. The logs or large branches on the ground around the Complainants' pond and waterfall were cut down and not the result of storm damage. Tr. 60.

25. On October 16, 2024, October 23, 2024 and October 30, 2024, Ms. Schaner called the Company about Complainants' trees being cut down. Tr. 15-16, 21; FE Exhibits 1 and 2.

26. Ms. Schaner called the Company again about Complainants' trees being cut down on or about November 15, 2024 and December 5, 2024. Tr. 21; FE Exhibit 1.

27. On December 10, 2024, the Company sent Complainants a letter stating that its forestry crew was not near Complainants' pond and did not cause damage to the pond. Tr. 17; Complainants' Exhibit B; FE Exhibit 1.

28. Complainants filed an Informal Complaint with the Commission's Bureau of Consumer Services ("BCS") on or about December 18, 2024, which was denied on January 17, 2025. Tr. 18, 38-39; FE Exhibit 4.

29. Allison Walker has worked for the Company for approximately 28 years, including 14 years in her current position as an advanced customer service compliance specialist in the Company's Pennsylvania Compliance Department. Tr. 32-33.

30. Ms. Walker's responsibilities include reviewing, investigating and responding to Commission complaints as well as providing testimony at hearings. Tr. 33.

31. Richard Lamoreaux has worked for the Company for approximately 19 years as a forestry specialist. Tr. 43-44.

32. Mr. Lamoreaux became and has maintained his certification as an arborist since 1999 and was trained in all aspects of arboriculture, tree identification, tree biology, pruning standards, soil, tree nutrition, fertilization, and vegetation best management practices. Tr. 45-46.

33. Mr. Lamoreaux was admitted as an arborical specialist. Tr. 47.

34. Mr. Lamoreaux’s responsibilities as a forestry specialist include management of vegetation with potential to interfere with electrical distribution lines on the distribution corridor and adjacent to the corridor to minimize outages. Tr. 47-48.

35. Mr. Lamoreaux was not present when the Company contractors performed the vegetation maintenance at the service address on or about October 16, 2024.

DISCUSSION

Burden of Proof

Complainants as the party seeking affirmative relief from the Commission bear the burden of proof. 66 Pa.C.S. § 332(a). Complainants must establish that FirstEnergy has in some manner violated the provisions of the Public Utility Code (“Code”) or the regulations of the Commission in the course of providing them electric service. 66 Pa.C.S. § 332(a).

The term “burden of proof” means a duty to establish a fact by a preponderance of the evidence. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950)(“*Se-Ling Hosiery*”); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa. PUC 300 (Oct. 6, 1976) (“*Feinstein*”). The term “preponderance of the evidence” means one party must present evidence which is more convincing, by even the smallest amount, than the evidence presented by the other party. *Se-Ling Hosiery*. Accordingly, one must review the record in this case to determine whether Complainants have satisfied their burden of proof. If the review indicates the burden has been satisfied, one must then determine whether Respondent has submitted evidence of co-equal value or weight to refute Complainants’ evidence. If this has occurred, the burden of proof cannot be satisfied, unless the party bearing the burden of proof presents additional evidence. *Morrissey v.*

Pa. Dept. of Highways, 225 A.2d 895 (Pa. 1967); *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *affirmed*, 461 A.2d 1234 (Pa. 1983).

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).

Furthermore, one must exercise care to ensure the decision of the Commission is supported by substantial evidence in the record. *See, e.g.*, Section 704 of the Administrative Agency Law, 2 Pa.C.S. § 704; *Yellow Cab Co. v. Pa. Pub. Util. Comm'n*, 524 A.2d 1069 (Pa. Cmwlth. 1987). The Pennsylvania appellate courts have defined the term “substantial evidence” 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. *Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); and *Murphy v. Pa. Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984). The Commission has held that a Complainant, to establish a sufficient case against a utility and satisfy the burden of proof, must show the utility is responsible or accountable for the problem described in the complaint. *Feinstein, supra*.

Reasonable Service Requirement

Public utility companies are required to provide reasonable service to their customers. The reasonable service requirement is found in Section 1501 of the Code, 66 Pa.C.S. § 1501, and reads in pertinent part:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission.

66 Pa.C.S. § 1501.

The Commission has exclusive jurisdiction to determine the reasonableness, adequacy and sufficiency of a public utility's services and facilities. *Elkin v. Bell of Pa.*, 420 A.2d 371 (Pa. 1980). The term "service" is "used in its broadest and most inclusive sense, includ[ing] any and all acts done, rendered, or performed, and any and all things furnished or supplied...by public utilities...in the performance of their duties under [the Public Utility Code]...." 66 Pa.C.S. § 102.

In the present case, the complaint claims that the Company dropped logs onto their pond/waterfall causing damage to it while performing vegetation management on their property. Public utility "service" includes vegetation management and notice of said actions. *PECO Energy Co. v. Township of Upper Dublin*, 922 A.2d 996 (Pa. Cmwlth. 2007); *West Penn Power Co. v. Pa. Pub. Util. Comm'n*, 578 A.2d 75 (Pa. Cmwlth. 1990).

Weight and Credibility of Testimony

The issue of credibility of witnesses in an evidentiary proceeding before the Commission falls within the purview of the administrative law judge. *Application of JET*

Sedan Services, LLC, Docket No. A-2009-2120781 (Opinion and Order entered Aug. 23, 2010). Some factors to be considered in considering the credibility of witnesses are the manner of testifying, apparent candor, intelligence, personal intent and bias, or lack of bias. *Danovitz v. Portnoy*, 161 A.2d 146 (Pa. 1960).

In determining the weight to be attached to the testimony of a witness, it is proper to consider appearance, general bearing, conduct on the stand, demeanor, manner of testifying, such as candor or frankness, or the clearness of his statement, and even the intonation of in the witness' voice. *Id.* As such, the positiveness of a witness, as well as any uncertainty as to the facts as to which testimony is given, may be considered. *Id.*

Analysis

Mr. Gottschall and Ms. Schaner both testified to the facts in this case consistently, intelligently, with apparent candor and supported their testimony with photographic evidence. As such, I find the testimony of both Mr. Gottschall and Ms. Schaner to be credible and due appropriate weight.

Mr. Gottschall and Ms. Schaner provided credible testimony and supporting documentation that FirstEnergy were at the service address on October 16, 2024 without prior notice, cut down a healthy wisteria tree that was not interfering with the wires and dropped logs from the tree onto their waterfall/pond, damaging the waterfall/pond to the point that it no longer holds water. Tr. 13-17, 28; Complainants' Exhibits F through Q. Ms. Schaner further testified credibly that FirstEnergy left a door hanger on October 16, 2024, indicating that emergency work was being done that required tree clearing and the property owner was responsible for cleaning up debris.

Ms. Schaner also credibly testified that FirstEnergy left the door hanger without attempting to actually contact her as she was home at the time and that nobody

else was on the service address on or around October 16, 2024 cutting down trees. Tr. 16-17, 21. Finally, Ms. Schaner credibly testified that she contacted FirstEnergy about cutting down trees on October 16, 2024 at the service address on the following dates: October 16, 2024, October 23, 2024, October 30, 2024, November 15, 2024 and December 5, 2024. Tr. 15-16, 21; FE Exhibits 1 and 2.

Based on Complainants' credible testimony, they have met their burden of proof that FirstEnergy provided unreasonable service in cutting down their wisteria tree without cause and dropping logs/branches from trees cut at the service address onto their waterfall/pond thereby damaging the waterfall/pond. Thus, FirstEnergy must present evidence of equal or greater value to prevail.

FirstEnergy does not contest that its contractor, Lewis Tree Service, performed vegetation maintenance at the service address on October 16, 2024. Tr. 50-55. However, FirstEnergy denied that its contractor was near Complainants' waterfall/pond and denied causing any damage to the waterfall/pond by letter sent to Complainants on December 10, 2024. Tr. 17; Complainants' Exhibit B; FE Exhibit 1.

Richard Lamoreaux, FirstEnergy's forestry specialist and a certified arborist, testified about the vegetation management performed at the service address. I find Mr. Lamoreaux's testimony to be credible in part and not credible in part. Specifically, I find Mr. Lamoreaux's testimony credible where he testifies that: (a) there were large logs/branches on the ground at the service address near the Complainants' waterfall/pond, (b) the Company did not need to cut down the Wisteria tree and the logs/branches on the ground at the service address were cut down based on his professionalism and the fact that it was corroborated by photographic evidence. Tr. 56, 59-60; Complainants Exhibits F through Q.

However, I find part of Mr. Lamoreaux's not credible. Specifically, Mr. Lamoreaux also testified that FirstEnergy's contractor only trimmed "sucker branches" from trees on the service address, on October 16, 2024, and that the size of the branches that the contractor cut could not have damaged Complainants' waterfall/pond. Tr. 45-46, 51-52. Mr. Lamoreaux further testified that FE's contractor was not responsible for cutting the large logs/branches that were left at the service address and did damage Complainants' waterfall/pond. TR. 59-60. I find these portions of Mr. Lamoreaux's testimony to be incredible due to lack of first-hand knowledge and implausibility.

Mr. Lamoreaux acknowledged that he was not present when Lewis Tree Service performed the work on October 16, 2024. Tr. 64. This weakens the weight and credibility of his testimony as to what vegetation maintenance actions FE's contractor took on October 16, 2024. Additionally, it is uncontested that trees were cut at the service address on October 16, 2024 and that FE's contractor was present cutting trees on that same date. It is also uncontested that Complainants' wisteria tree was completely cut down and that large logs/branches were left on the property on or near Complainants' waterfall/pond and caused damage to the Complainants' waterfall/pond. Based on these uncontested facts and Complainants' credible testimony that nobody else was at the service address cutting trees, I find Mr. Lamoreaux's testimony that FE's contractor was present at the service address and cutting trees but did not cut the branches/logs that caused the damage to be implausible. To find Mr. Lamoreaux's testimony credible that FE's contractor was not responsible for the damage would require accepting that a third party appeared at the service address to cut down trees without being seen by anyone.

Therefore, I find that FirstEnergy was responsible for cutting down the Complainants' wisteria tree without cause and notice and was responsible for dropping large logs/branches on the Complainants' waterfall/pond causing damage. Considering the above analysis, the evidence establishes that FirstEnergy failed to provide Complainants with reasonable service in violation of Section 1501. While the

Commission lacks jurisdiction to award Complainant monetary damages, Complainant may seek redress through the local district magistrate or the appropriate court of common pleas. *DiSanto v. Dauphin Consolidated Water Supply Co.* 436 A. 2d 197 (Pa. Super. 1981).

Civil Penalties

As discussed above, Complainants carried their ultimate burden of proof in establishing that FirstEnergy violated the Public Utility Code by rendering unreasonable service in violation of 66 Pa.C.S. § 1501. Therefore, penalties must be addressed. Pursuant to Section 3301 of the Code, 66 Pa.C.S. § 3301, the Commission may impose a maximum civil penalty of \$1,000 per day for each violation of the Code, its regulations or its orders. However, certain standards apply when imposing a civil penalty. *Rosi v. Bell Atlantic-Pa., Inc.*, 94 PUC 103 (Feb. 10, 2000).

The *Rosi* factors are generic in nature and apply to all violations of the Public Utility Code, as well as Commission regulations and orders, regardless of utility type. *Pa. Pub. Util. Comm'n v. NCIC Operator Services*, Docket No. M-00001440 (Order entered Dec. 21, 2000). The factors and standards first articulated by the Commission in *Rosi* were published as Policy Statements and Guidelines. *See* 52 Pa. Code § 69.1201. Section 69.1201 applies to both litigated and settled cases involving the calculation of civil penalties. Section 69.201 in part, provides as follows:

- (a) The Commission will consider specific factors and standards in evaluating litigated and settled cases involving violations of 66 Pa.C.S. (relating to Public Utility Code) and this title. These factors and standards will be utilized by the Commission in determining if a fine for violating a Commission order, regulation or statute is appropriate, as well as if a proposed settlement for a violation is reasonable

and approval of the settlement agreement is in the public interest.

(b) Many of the same factors and standards may be considered in the evaluation of both litigated and settled cases. When applied in settled cases, these factors and standards will not be applied in as strict a fashion as in a litigated proceeding.

(c) The factors and standards that will be considered by the Commission include the following:

(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.

In the instant case, the evidence demonstrates the Company failed to provide reasonable service to Complainants as required by Section 1501 of the Code by cutting down the Complainants' wisteria tree without cause and notice, and dropping logs/branches on the Complainants' waterfall/pond thereby damaging the waterfall/pond. Considering the above evidence of FirstEnergy's violations, the following determinations are warranted under the *Rosi* factors and standards:

(1) FirstEnergy's conduct in cutting down the Complainants' wisteria tree unnecessarily and damaging Complainants' waterfall/pond by dropping large logs/branches on it was of a serious nature. The violations resulted in property damage

and the violations included misrepresentation that the Company was not responsible. Therefore, a higher penalty is warranted.¹

(2) FirstEnergy's actions in cutting down Complainants' wisteria tree unnecessarily and dropping branches/logs onto Complainants' waterfall/pond resulted in property damage. There is also an element of misrepresentation in FirstEnergy's actions by denying the conduct. Therefore, a higher penalty is warranted.

(3) This was a litigated case. There is no evidence to support that FirstEnergy acted intentionally in this case. Thus, FirstEnergy's conduct is deemed negligent. Therefore, a lower penalty is warranted.

(4) There is no evidence that FirstEnergy has made efforts to modify its internal practice and procedures to address the conduct at issue and prevent similar conduct in the future. Therefore, a higher penalty is warranted.

(5) There is no evidence that other customers were affected by FirstEnergy's violations of the Code. As to the duration of the violation, the evidence establishes that FirstEnergy's actions of cutting down the wisteria tree and damaging the waterfall/pond all occurred on October 16, 2024. However, FirstEnergy subsequently denied the violations and continued to do so without further investigation. Therefore, a higher civil penalty is warranted.

(6) In this case the evidence is silent on FirstEnergy's compliance history. However, in *Barbara R. Lolly v. Duquesne Light Co.*, Docket No. C-2010-

¹ If the violation is intentional, Commission precedent provides that penalty starts in the range of \$500.00 to \$1,000.00 per day. If the violation is negligent, Commission precedent provides that the penalty starts in the range of zero dollars to \$500.00 per day. *See Rosi*, cited above.

2167824 (Order entered Apr. 14, 2011)(*Lolly*), the Commission sustained the assessment of a \$250.00 civil penalty because the Company denied the customer's damage claim without considering any of the customer's documentary information. The Commission reasoned as follows.

We also conclude that the ALJ correctly determined that Duquesne Light provided unreasonable service to the Complainant when she attempted to put in a claim for damages to her appliances. Every utility is required to furnish reasonable service to its customers. 66 Pa. C.S. § 1501. The term "service" is used in its broadest and most inclusive sense and includes all acts done by a public utility. 66 Pa. C.S. § 102. Moreover, "[i]nappropriate and unreasonable treatment to customers can be interpreted as inadequate service...." *See, Edward T. O'Toole v. Metropolitan Edison Company*, Docket No. C-20030854 (Order entered May 9, 2005).

In this case, Duquesne Light's agent provided Ms. Lolly with a phone number and a claim form. Before she could submit all the required information for her claim, the claim was denied.

We agree with the ALJ that Duquesne Light failed to deliver even a modicum of customer service by establishing a claims process that was no process at all. ... Although the Complainant was sent a claim form and went through the effort to compare repair versus replacement costs of her appliances, her claim was summarily denied without considering any information or documentation from her. Quality customer service is expected of all regulated utilities. Because Duquesne Light violated Section 1501 by failing to provide reasonable or adequate customer service, we adopt the ALJ's decision to impose a \$250 civil penalty.

Id., at 6-7. Considering the penalty assessed in *Lolly*, the penalties assessed in this case are warranted and commensurate with the serious nature of FirstEnergy's conduct.

(7) There is no evidence of a Commission investigation; therefore, this factor is neutral.

(8) A total civil penalty in the amount of \$1,000.00 is warranted and necessary to deter future violations by FirstEnergy.

(9) The Commission has previously imposed civil penalties for violations involving improperly cutting trees. In *Francene Tearpock-Martini v. UGI Utilities, Inc.*, Docket No. F-2008-2022125 (Opinion and Order entered June 19, 2009), the Commission imposed a civil penalty of \$200.00 for the utility improperly cutting a Complainant's tree without notice. Likewise, since FirstEnergy improperly cut Complainants' wisteria tree in this matter, a similar penalty or higher one would be warranted for the current violation.

Additionally, the Commission has previously imposed civil penalties for causing damage to property during the performance of vegetation maintenance. In *William T. Reffner v. Peoples Natural Gas Co., LLC*, Docket No. C-20077841 (Opinion and Order entered June 10, 2008), the Commission imposed a civil penalty of \$500.00 for the utility damaging property during its performance of vegetation maintenance. Likewise, since FirstEnergy damaged Complainants' waterfall/pond in this matter, a similar or higher penalty would be warranted.

Accordingly, a total civil penalty of \$1,000.00 is warranted in this matter, which includes \$250.00 for the unnecessary cutting of Complainants' tree and \$750.00 for damaging Complainants' waterfall/pond by dropping branches/logs on it.

(10) There are no other relevant factors to consider in this matter.

CONCLUSIONS OF LAW

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

2. Complainants bear the burden of proving FirstEnergy has in some manner violated the provisions of the Code and/or Commission regulations in providing their electric service. 66 Pa.C.S. § 332(a).

3. Public utility “service” includes vegetation management and notice of said actions. *PECO Energy Co. v. Twsp. of Upper Dublin*, 922 A.2d 996 (Pa. Cmwlth. 2007); *West Penn Power Co. v. Pa. Pub. Util. Comm’n*, 578 A.2d 75 (Pa. Cmwlth. 1990).

4. Complainants met their burden of proving FirstEnergy violated the Code and/or Commission regulations by failing to provide Complainants with reasonable customer service relating to vegetation maintenance and causing damage to their property. 66 Pa.C.S. § 1501.

5. The Commission is authorized to consider and impose civil monetary penalties against a public utility company. 52 Pa. Code § 69.1201.

6. The violations of the Public Utility Code and the Commission’s regulations that are of a serious nature warrant a higher penalty. 52 Pa. Code § 69.1201(c)(1).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Clarence Gottschall and Tonya Schaner filed in the matter of Clarence Gottschall and Tonya Schaner v. FirstEnergy Pennsylvania Electric Company at Docket No. C-2025-3054884 is sustained.
2. That FirstEnergy Pennsylvania Electric Company is hereby assessed a total civil penalty of \$1,000.00 because FirstEnergy Pennsylvania Electric Company failed to provide Complainant reasonable service during performance of vegetation maintenance.
3. That within thirty (30) days of the entry of this Opinion and Order, FirstEnergy Pennsylvania Electric Company shall remit the total penalty of \$1,000.00 payable by certified check or money order to “Commonwealth of Pennsylvania” with the docket number of this proceeding listed thereon, and send to:

Matt Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
4. That FirstEnergy Pennsylvania Electric Company shall cease and desist from further violations of the Public Utility Code, 66 Pa.C.S. § 101, *et seq.*

