

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Dayna Sobanko	:	
	:	
v.	:	C-2025-3054654
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Alphonso Arnold III
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Formal Complaint of an electric utility customer against her electric utility, wherein it was alleged that the utility is providing her with unreasonable service as it relates to a utility pole near her property. The Formal Complaint is dismissed due to the customer’s failure to meet her burden of proof.

HISTORY OF PROCEEDING

On April 18, 2025, Dayna Sobanko (“Ms. Sobanko” or “Complainant”) filed a Formal Complaint against PECO Energy Company (“PECO” or “Respondent”) with the Pennsylvania Public Utility Commission (“Commission”), alleging that she was having a reliability, safety or quality problem with her utility service. Ms. Sobanko alleged that there were two utility poles in front of her home that have disrupted the sleep of her and her children since 2021 due to a bright light affixed to the one of the poles.

Ms. Sobanko additionally alleged that wires affixed to the pole are touching her home, and that there are three compressors affixed to one of the poles that have caused health damages and pain and suffering due to them not meeting “recommended standards.” For relief, Ms. Sobanko requested that the poles be relocated. The Complaint was served on PECO on April 21, 2025.

On May 12, 2025, PECO filed an Answer to the Complaint. PECO asserted that it informed Ms. Sobanko that she could have the poles in question relocated at her own expense, but that Ms. Sobanko never made such a request to PECO. PECO requested dismissal of the Complaint.

On May 12, 2025, Ms. Sobanko filed a Reply to Answer, wherein Ms. Sobanko went into more detail concerning the allegations of her Complaint. The Commission’s regulations do not permit Replies to Answers that do not contain affirmative relief or New Matter. 52 Pa. Code § 5.63(a).

On May 15, 2025, the Commission issued an Initial Telephonic Hearing Notice scheduling an evidentiary hearing in this matter for July 8, 2025, and assigning this matter to me as Presiding Officer.

On May 16, 2025, the Commission issued my Prehearing Order which explained the procedural rules that would govern the hearing.

On July 8, 2025, the hearing was convened as scheduled. Khadijah Scott, Esquire, appeared on behalf of PECO along with a witness and was ready to proceed. The court reporter was also present. Ms. Sobanko was not present to start the hearing. After a short recess to allow time for Ms. Sobanko to appear, the hearing proceeded in Ms. Sobanko’s absence. No testimony was taken, and no exhibits were introduced into

the record. At the hearing, PECO moved to dismiss the Complaint for Ms. Sobanko's failure to appear and prosecute her Complaint.

Shortly after recess of the hearing, Ms. Sobanko, via email, indicated that she attempted to connect to the hearing but was unable to do so. I informed the parties that, over the objection of PECO, a further evidentiary hearing would be scheduled for this case.

On July 10, 2025, the Commission issued a Further Telephonic Hearing Notice scheduling an evidentiary hearing in this matter for September 22, 2025.

On July 11, 2025, the Commission issued a Second Prehearing Order which explained the procedural rules that would govern the further hearing.

On September 22, 2025, the further evidentiary hearing was held as scheduled. Ms. Sobanko appeared, testified in support of her Complaint and sponsored five exhibits, two of which (Complainant Exhibits C and D) were admitted into the record. Attorney Scott represented PECO and presented the testimony of Stephen Reilly, a new business manager employed by PECO. Tr. 44. Mr. Reilly sponsored two exhibits (PECO Exhibits 1 and 2) that were admitted into the record.

On January 6, 2026, the Commission received a copy of the electronic transcript of the further evidentiary hearing. The record was closed on that date.

This matter is ready for disposition. For the reasons discussed below, the Complaint will be dismissed.

FINDINGS OF FACT

1. Complainant is Dayna Sobanko.
2. Respondent is PECO Energy Company.
3. The service address is 1433 East Columbia Avenue, Philadelphia, PA 19125. Tr. 45.
4. In front of the service address is a PECO utility pole. Tr. 45.
5. At the very top of the PECO pole are medium voltage wires. Tr. 45.
6. Below the medium voltage wires are transformers that take the medium voltage and make it low voltage to feed the buildings on the street. Tr. 46.
7. The transformers were installed on the utility pole in January 2021. Tr. 15.
8. Below the transformers there is low voltage secondary wiring. Tr. 46.
9. Below the low voltage secondary wiring are wires belonging to communication companies such as Verizon and Comcast. Tr. 46.
10. The wires that are closest to the property are the lower communication wires. Tr. 49.

11. PECO does not have the authority to move or relocate communication facilities. Tr. 49.

12. The transformers do not emit light. Tr. 46.

13. The distance of the transformers from the service address was measured by a PECO aerial first class linemen to be approximately nine and a half feet. Tr. 47.

14. The voltage of the transformer at issue is 13 kV. Tr. 18.

15. Pursuant to the National Electric Safety Code (“NESC”) 2017 Rule 234A & 234C, the horizontal clearance that is required from a 13kV transformer to a building is seven and a half feet. PECO Exhibit 1.

16. PECO’s tariff at Tariff Electric Pa. P.U.C. No. 8, at 20, effective January 1, 2025, states that the cost for removal or relocation of distribution line poles and their associated attachments made pursuant to the request of a residential property owner who is not entitled to receive condemnation damages to cover the cost of such work shall be borne by the property owner and shall be limited to contractor, direct labor, and direct material costs incurred less maintenance expenses avoided as a result of the pole removal or relocation. PECO Exhibit 2.

17. Ms. Sobanko has a background as a digital strategy and customer experience consultant and currently works at a startup in the education technology space. Tr. 21.

DISCUSSION

Legal Standards

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). The offense must also 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.

Section 332(a) of the Code provides that a complainant, as the party seeking affirmative relief from the Commission, has the burden of proof by a preponderance of the evidence. 66 Pa.C.S. § 332(a); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A preponderance of the evidence is evidence that is more convincing, by even the smallest amount, than that presented by the opposing party. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

Additionally, this Commission's decision must be supported by substantial evidence in the record. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might 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 & W. Ry. Co. v. Pa. Pub. Util. Comm’n*, 413 A.2d 1037 (Pa. 1980); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984). As the Commission explained, “opinions and conclusions cannot be relied upon as substantial evidence in a decision by this agency.” *Norman v. Phila. Gas Works*, Docket No. C-2018-2640719 at 30 (Opinion and Order entered Oct. 7, 2021) (“*Norman*”).

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts complainant's evidence, the burden of going forward with the evidence shifts back to complainant, who must rebut the utility's evidence with some additional evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001) (“*Milkie*”).

A public utility has a duty to maintain adequate, efficient, safe and reasonable service and facilities and to make repairs, changes, and improvements that are necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. 66 Pa.C.S. § 1501. Section 1501 of the Code provides, in pertinent part, as follows:

§ 1501. Character of service and facilities

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. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service.

66 Pa.C.S. § 1501.

Section 1501 of the Code does not require a public utility to provide perfect service, but a public utility is obligated to provide service that is reasonable and adequate. *Analytical Lab Servs., Inc. v. Metro. Edison Co.*, Docket No. C-20066608 (Opinion and Order entered Dec. 21, 2007). The term “service” is defined broadly under Section 102 of the Code to include any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities, used, furnished or supplied by public utilities. *See* 66 Pa.C.S. § 102.

Lastly, the Commission’s regulations require electric utilities to comply with the NESC regarding minimum safety standards:

§ 57.28. Electric safety standards.

(b) *Safety code.* An electric utility shall comply with the minimum safety standards established by the National Electric Safety Code pursuant to its terms of applicability.

52 Pa. Code § 57.28(b).

Analysis

At the evidentiary hearing held in this matter, Ms. Sobanko testified in support of her Complaint and complained of three transformers clustered together on a pole outside of the bedroom windows of her home at the service address, as well as the electrical lines attached to the utility pole. Tr. 15-43. Ms. Sobanko lives at the service address with her husband and two young children. Tr. 15. Ms. Sobanko alleged that she and her children have experienced noise, vibration, and electromagnetic field (“EMF”) exposure from the transformers due to the proximity of the transformers to the bedroom windows at the service address. Tr. 15-16. The transformers were installed in January 2021. Tr. 15. Ms. Sobanko alleged that the transformers were less than 10 feet from the service address and that the electrical lines were less than three feet from the address. Tr.

28-30. Ms. Sobanko explained at the hearing that she requests that the Commission order PECO to relocate the transformers and lines at no cost to her. Tr. 20.

In support of her claims Ms. Sobanko presented Complainant Exhibits C and D, which were admitted into the record. Pages 1, 2, and 4 of Complainant Exhibit C are pictures of the pole, transformers, and lines in question and page 3 of Complainant Exhibit C is a picture of Ms. Sobanko measuring the distance between the lines affixed to the pole and her building. Complainant Exhibit C. Complainant Exhibit D is a picture of Ms. Sobanko using an EMF reader to measure the radiation levels from the EMFs produced by the transformers. Complainant Exhibit D. The reader provides an electric field reading of 34 V/m and a magnetic field reading of 1.57 μ T. Complainant Exhibit D.

PECO presented the testimony of Stephen Reilly, a new business manager whose department is responsible for the city of Philadelphia in terms of new electric service, demo of electric service, facility relocation, and facility protection at the customer's request. Tr. 44-45. Mr. Reilly has a bachelor's degree in mechanical engineering and a master's in business administration. Tr. 45.

PECO witness Reilly explained that in front of the service address is a PECO pole. Tr. 45. At the very top of the PECO pole are medium voltage wires and below the medium voltage wires are transformers that take the medium voltage and make it low voltage to feed the buildings on the street. Tr. 45-46. Below the transformers are low voltage secondary wiring and below the low voltage secondary wiring are wires belonging to communication companies such as Verizon and Comcast. Tr. 46. Mr. Reilly testified that he reviewed the pictures that Ms. Sobanko presented in this proceeding and concluded that the wires that are closest to the service address are the lower communication wires. Tr. 49. Mr. Reilly explained that PECO does not have the authority to move or relocate communication facilities. *Id.*

Mr. Reilly further explained that the voltage of the transformers at issue is 13 kV, and that the distance of the transformers from the service address was determined by PECO aerial first class linemen to be approximately nine and a half feet. Tr. 47. Pursuant to the NESC 2017 Rule 234A & 234C, the horizontal clearance that is required from a 13kV transformer to a building is seven and a half feet.¹ PECO Exhibit 1. PECO's tariff at Tariff Electric Pa. P.U.C. No. 8, at 20, effective January 1, 2025, states that the cost for removal or relocation of distribution line poles and their associated attachments made pursuant to the request of a residential property owner who is not entitled to receive condemnation damages to cover the cost of such work shall be borne by the property owner and shall be limited to contractor, direct labor, and direct material costs incurred less maintenance expenses avoided as a result of the pole removal or relocation. PECO Exhibit 2. Mr. Reilly does not have any safety concerns with respect to the transformers in question. Tr. 50.

After reviewing the evidence in the record, I find that Ms. Sobanko has not met her burden of proof in this proceeding.

Regarding the transformers at issue, Ms. Sobanko alleged that the transformers pose a health and safety concern, focusing on the EMFs produced by the transformers and the proximity of the transformers to her home.² With respect to the EMFs produced by the transformers and any adverse health effects caused by the EMFs,

¹ When asked if the 2017 NESC guidelines was the most recent version, witness Reilly stated the following: "I can't speak to the NESC guidelines. I can speak to the standard -- I'm not in charge of the -- you know, the PECO standard that pulls from the NESC guidelines. But I can speak to the fact that this standard is up to date in terms of what we design to." Tr. 60.

² Although Ms. Sobanko testified that the transformers produce noise and vibration, she did not provide any further evidence at the hearing regarding this issue. Regarding her claim in the Complaint that there is a bright light affixed to one of the poles in front of her service address, Ms. Sobanko provided no testimony on this issue and I note that Mr. Reilly testified at the hearing that the transformers do not emit light. Tr. 46.

the record is devoid of any evidence to support a finding that the transformers in question pose a health concern to Ms. Sobanko. While Ms. Sobanko presented evidence of the EMF levels produced from the transformers, she did not present any expert to testify regarding whether these EMF levels caused her harm. The issue of whether the transformers near Ms. Sobanko's service address cause adverse health effects is an issue that involves explanations and inferences not within the range of ordinary training, knowledge, intelligence and experience. When the issue at hand involves scientific, technical, or other specialized knowledge beyond that possessed by a layperson, expert testimony is needed to assist the factfinder to understand the evidence or to determine a fact in issue. *See* Pa.R.E. 702.

When asked about her qualifications, Ms. Sobanko indicated that she has a background as a digital strategy and customer experience consultant and currently works at a startup in the education technology space. Tr. 21. As there is no evidence that Ms. Sobanko is qualified to offer testimony as an engineer, doctor, or other medical professional, the record is devoid of any expert testimony or credible evidence to support her claim that the transformers installed near her service address present a health hazard to her. Without expert testimony and credible evidence, Ms. Sobanko claims are reduced to unsubstantiated opinions. Assertions, personal opinions, or perceptions do not constitute factual evidence. As the Commission explained, “[O]pinions and conclusions cannot be relied upon as substantial evidence in a decision by this agency.” *Norman* at 30.

Due to the absence of expert testimony presented by Ms. Sobanko in this proceeding, she cannot be found to have made a *prima facie* case that the transformers near her service address adversely affect her health in violation of Section 1501 of the Code. As Ms. Sobanko did not establish a *prima facie* case, the burden of production never shifted to PECO. *Milkie*. For the above reasons, Ms. Sobanko's argument in this regard must be rejected.

Next, regarding the proximity of the transformers to the service address, I find that the transformers are nine and a half feet from the service address, based on the measurements of PECO. The NESC horizontal clearance requirement from a 13kV transformer to a building is seven and a half feet. Thus, the horizontal clearance between the transformers and the service address is in compliance with the NESC.

Lastly, regarding the electrical lines at issue, Ms. Sobanko alleged that the lines attached to the pole outside of her service address present a safety concern because of the proximity of the lines to her address, claiming that they were less than three feet away from her address. According to PECO, the NESC does not differentiate between the horizontal clearance requirements from a transformer to a building and the horizontal clearance requirements from electrical lines to a building. Tr. 49-50. Also according to PECO, the lines that are closest to the service address are the lines belonging to communication companies and do not belong to PECO. From the pictures provided by Ms. Sobanko, I cannot discern whether or not the electrical lines owned by PECO are less than three feet away from the service address. Ultimately, given the evidence provided, I cannot find that PECO's electrical lines present a safety concern to Ms. Sobanko.

In conclusion, for the above reasons, Ms. Sobanko failed to meet her burden of proof in this proceeding. In absence of a finding that PECO violated Section 1501 of the Code, PECO will not be ordered to relocate the transformers or the electrical lines in question. The Complaint will be dismissed in the Ordering paragraphs below.

CONCLUSIONS OF LAW

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

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

3. To establish a sufficient case and satisfy the burden of proof, the Complainant must show that Respondent is responsible or accountable for the problem described in the Complaint by a preponderance of the evidence. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

4. The offense must also be a violation of the Public Utility Code, a Commission regulation or order or a Commission-approved tariff. 66 Pa.C.S. § 701.

5. A preponderance of the evidence is 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).

6. If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts complainant's evidence, the burden of going forward with the evidence shifts back to complainant, who must rebut the utility's evidence with some additional evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

7. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. 2 Pa.C.S. § 704.

8. Opinions and conclusions cannot be relied upon as substantial evidence in a decision by the Commission. *Norman v. Phila. Gas Works*, Docket No. C-2018-2640719 (Opinion and Order entered Oct. 7, 2021).

9. A public utility has a duty to maintain adequate, efficient, safe and reasonable service and facilities and to make repairs, changes, and improvements that are necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. 66 Pa.C.S. § 1501.

10. Section 1501 of the Code does not require a public utility to provide perfect service, but a public utility is obligated to provide service that is reasonable and adequate. *Analytical Lab Servs., Inc. v. Metro. Edison Co.*, Docket No. C-20066608 (Opinion and Order entered Dec. 21, 2007); 66 Pa.C.S. § 1501.

11. The term “service” is defined broadly as to include any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities, used, furnished or supplied by public utilities. 66 Pa.C.S. § 102.

12. An electric utility shall comply with the minimum safety standards established by the National Electric Safety Code pursuant to its terms of applicability. 52 Pa. Code § 57.28(b).

13. Complainant failed to meet her burden of proving that Respondent violated Section 1501 of the Code. 66 Pa.C.S. § 1501.

