

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Mark Chronister	:	
	:	
v.	:	C-2025-3056334
	:	
FirstEnergy Pennsylvania Electric Company	:	

**INITIAL DECISION**

Before  
John M. Coogan  
Administrative Law Judge

**INTRODUCTION**

This decision denies a Formal Complaint that alleges inadequate service due to power outages where Complainant failed to satisfy his burden of demonstrating that Respondent violated the Public Utility Code, a Commission order or regulation or a Commission-approved tariff.

**HISTORY OF THE PROCEEDING**

On July 16, 2025, Mark Chronister (Complainant or Mr. Chronister) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission), against FirstEnergy Pennsylvania Electric Company – Met-Ed Rate District (FE PA, Company, or Respondent) regarding a reliability, safety or quality problem with his utility service. Complaint, ¶ 4. Mr. Chronister alleges that his radial

tap is out very often and, as relief, Mr. Chronister requests that FE PA improve its service and cut his rates to reflect how often his service is out. *Id.*, ¶¶ 4-5.

The Complaint was served on FE PA by the Commission's Secretary's Bureau on July 17, 2025. The deadline for FE PA to file its answer was August 6, 2025. 52 Pa. Code § 5.61(a). By August 6, 2025, FE PA had not filed an answer.

On August 7, 2025, FE PA filed an Answer and New Matter as well as a Motion to File Answer and New Matter *Nunc Pro Tunc*.

In its Answer, FE PA denies that there is a reliability or quality problem with the electric service provided to Complainant. Respondent avers that Complainant's service location is in a rural area heavily surrounded by trees, and FE PA performs tree maintenance on a four-year cycle. Respondent states that it patrolled the circuit serving Complainant on February 19, 2025 and July 14, 2025, and identified 81 trees for removal in August 2025, to improve the reliability for the Complainant. The Company further avers that it continues to study and implement viable circuit improvements to improve the circuit's reliability performance. Answer and New Matter, ¶ 4. In its New Matter, Respondent requests that this matter be referred to the Office of Administrative Law Judge's (OALJ) Mediation Unit. *Id.*, ¶ 14.

The Answer and New Matter contained a Notice to Plead, directing Complainant to file a response to the New Matter within 20 days of service. Complainant filed a response to the New Matter on August 14, 2025, stating that he is ok with mediation with agreement that if no resolution is obtained, he can request a hearing be held on his Complaint. Complainant further stated that for the matter to be properly mediated he must have all information which FE PA will use and all he requests of them.

On September 8, 2025, a Motion Judge Assignment Notice was issued, assigning me as the presiding officer.

On September 10, 2025, I issued an Order Granting FE PA's Motion to File Answer and New Matter *Nunc Pro Tunc* and Referring to Mediation.

On September 23, 2025, the Commission issued an Interim Order Setting Resolution Procedure. The case was not resolved in mediation.

On January 16, 2026, the Commission issued an Initial Telephonic Hearing Notice setting a formal call-in telephonic hearing for this matter for March 17, 2026 at 10:00 a.m. In anticipation of that hearing, I issued a Prehearing Order on January 16, 2026 setting forth various rules that would govern that proceeding.

The initial hearing convened on March 17, 2026, as scheduled. Mr. Chronister appeared on his own behalf. Mr. Chronister did not move for admission of any exhibits into the record. Margaret A. Morris, Esquire, appeared at the hearing on behalf of FE PA, along with three witnesses for FE PA: Charles Howlett, Senior Compliance Specialist; Kurt Gerrick, Distribution Tech IV Reliability; and Gregory Fry, Forestry Specialist. The following eight exhibits were admitted into the record on behalf of FE PA:

1. FE PA Exhibit 1 – Customer Contact History
2. FE PA Exhibit 2 – Aerial view of Newberry 576-4L
3. FE PA Exhibit 3 – Aerial view of Location of Outages
4. FE PA Exhibit 4 – Outage History and Improvements
5. FE PA Exhibit 5 – Event Orders
6. FE PA Exhibit 6 – Photos of Right-of-Way
7. FE PA Exhibit 7 – 2022 Forestry Record
8. FE PA Exhibit 8 – 2025 Forestry Record

The record in this case consists of the above-referenced exhibits and a transcript of 113 pages. The record closed on April 7, 2026, when the transcript was filed. For the reasons discussed below, the Formal Complaint will be denied.

#### FINDINGS OF FACT

1. The Complainant is Mark Chronister.
2. The Respondent is FirstEnergy Pennsylvania Electric Company.
3. Mr. Chronister's FE PA service address is 1405 Bremer Road, Dover, PA 17315 (Service Address). Formal Complaint, ¶ 1; Tr. 11.
4. Mr. Chronister's account with FE PA at the Service Address was established on December 4, 2013. Tr. 40.
5. FE PA provides overhead service to the Service Address from the Newberry substation. Tr. 50-51.
6. The Service Address is on the 576 circuit and is fed to a radial tap approximately six miles from the substation. Tr. 51.
7. There are 25 customers on the radial tap. Tr. 51; FE PA Exhibit 2.
8. The radial tap is 1.7 miles long. Tr. 51; FE PA Exhibit 2.
9. The circuit serving the Service Address is located in a heavily wooded area with significant tree exposure. Tr. 52, 89; FE PA Exhibits 2, 6.

10. The Service Address experienced 16 sustained outages between January 14, 2024, and March 10, 2026. Tr. 56; FE PA Exhibits 4, 5.

11. A sustained outage is any outage longer than five minutes. Tr. 56; FE PA Exhibits 4, 5.

12. Eleven of the 16 outages were caused by off-right-of-way trees; one outage was caused by non-Company tree trimming; one outage was caused by wind; one outage was caused by equipment failure; and no permanent cause was known for two outages. FE PA Exhibits 4, 5.

13. The tap serving the Service Address includes a trip saver, which is a protective device similar to a recloser. Tr. 53-55; FE PA Exhibit 3.

14. FE PA has a maintenance and inspection policy for the Service Address circuit, including visually field checking the entire circuit and reporting any abnormalities and conditions, such as loose guy wires, cracked insulators, broken poles, cross arms and other equipment problems. Tr. 55.

15. FE PA performs vegetation management on the circuit serving the Service Address every four years as cycle maintenance and as needed after storms. Tr. 86.

16. FE PA last performed four-year cycle maintenance on the circuit serving the Service Address in 2022. Tr. 87; FE PA Exhibit 7.

17. FE PA will next complete four-year cycle maintenance on the circuit serving the Service Address in 2026. Tr. 87.

18. FE PA performed off cycle vegetation management on the circuit serving the Service Address in 2025 as a result of calls and Mr. Chronister's Formal Complaint. Tr. 89-91; FE PA Exhibit 8.

## DISCUSSION

### *Legal Standards*

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). As a matter of law, 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 be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. §§ 332(a), 701.

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 the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the 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); *see also, Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

Any decision of the Commission must be supported by substantial evidence. 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); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Dept. of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984). Further, mere bald assertions, personal opinions or perceptions do not constitute evidence to bolster a claim. *Pa. Bureau of Corrs. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

Public utilities are required by law to provide the Complainant with adequate and reasonable service. Section 1501 of the Public Utility Code (Code) states:

**§ 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.

66 Pa.C.S. § 1501. This section does not require utility companies to provide perfect service. *Elkin v. Bell Tel. Co. of Pa.*, 372 A.2d 1203 (Pa. Super. 1987).

In the context of outages, "a Section 1501 violation regarding unreasonable service is fact specific as to the number of outages, their causes, and a Company's corrective actions." *Barry v. Metro. Edison Co.*, Docket No. C-2018-3005410 (Opinion

and Order entered Aug. 12, 2019) (*Barry*); *see also* *Ciraolo v. PPL Elec. Utils. Co.*, Docket No. C-2022-3034903 (Opinion and Order entered July 11, 2023); *Bierkamp v. Metro. Edison Co.*, Docket No. C-2019-3015097 (Opinion and Order entered Mar. 15, 2023); *Zampatti v. W. Penn Power Co.*, Docket No. C-2020-3021157 (Opinion and Order entered Apr. 25, 2022) (*Zampatti*). In *Zampatti*, the Commission found that fourteen outages and eight reclosure events over approximately three and a half years did not constitute unreasonable service. In *Zampatti*, the Commission did not cite or set a rule about a quantity of outages that constitute inadequate and unreasonable service but did emphasize that the electric distribution company took steps to remedy the service concerns and that those steps did lead to fewer outages. *Id.* at 11-12.

The Commission does not automatically consider an outage from an off right-of-way tree to exonerate the utility from fault. *Barry*. An electric distribution company shall strive to prevent interruptions of electric service and, when interruptions occur, restore service within the shortest reasonable time. 52 Pa. Code § 57.194(d).

In this proceeding, Complainant has alleged that FE PA violated Section 1501 of the Code regarding reasonable, safe and quality service. Therefore, Complainant has the burden of proof in this proceeding.

#### *Mr. Chronister's Complaint*

Mr. Chronister testified that he has lived at the Service Address for 44 years, and power has been an ongoing issue. Tr. 11. Mr. Chronister avers that FE PA's Exhibit 4 shows that he is out of power almost once a month in two years. Tr. 18. Additionally, Mr. Chronister avers that FE PA's response time is very slow and could be improved. Tr. 28.

FE PA submitted documentation of 16 sustained power outages between January 14, 2024 and March 10, 2026. Tr. 56; FE PA Exhibits 4, 5. Eleven of the 16 outages were caused by off-right-of-way trees; one outage was caused by non-Company tree trimming; one outage was caused by wind; one outage was caused by equipment failure; and no permanent cause was known for two outages. FE PA Exhibits 4, 5.<sup>1</sup>

FE PA avers the Company has provided Mr. Chronister with reasonable and adequate service. Tr. 60-66; Ex. 4. As support for this assertion, FE PA provided testimony that the tap serving the Service Address includes a trip saver, which is a protective device similar to a recloser. Tr. 53-55; FE PA Exhibit 3. FE PA also provided testimony that it has a maintenance and inspection policy for the Service Address circuit, including visually field checking the entire circuit and reporting any abnormalities and conditions, such as loose guy wires, cracked insulators, broken poles, cross arms and other equipment problems. Tr. 55.

In addition to maintenance of its facilities, FE PA provided testimony that the Company performs vegetation management on the circuit serving the Service Address every four years as cycle maintenance and as needed after storms. Tr. 86. FE PA last performed four-year cycle maintenance on the circuit serving the Service Address in 2022. Tr. 87; FE PA Exhibit 7. FE PA will next complete four-year cycle maintenance on the circuit serving the Service Address in 2026. Tr. 87. FE PA performed off cycle

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<sup>1</sup> FE PA witness Kurt Gerrick testified that 13 of the 16 outages were caused by off-right-of-way trees, one outage was caused by equipment failure and no permanent cause was known for two outages. Tr. 56-57. However, upon closer inspection of FE PA's exhibits, the record only supports the finding that 11 outages were caused by off-right-of-way trees: one event on November 12, 2025 was caused by non-Company tree trimming, and another event on February 17, 2025 was caused by wind. The records at FE PA Exhibits 4 and 5 do not indicate whether these two events were related to trees either inside or outside of the Company's right-of-way.

vegetation management on the circuit serving the Service Address in 2025 as a result of calls and Mr. Chronister's Formal Complaint. Tr. 89-91; FE PA Exhibit 8.

Mr. Chronister testified that FE PA witness Kurt Gerrick previously told him that the tap serving the Service Address is the worst tap in York County. Tr. 18. Mr. Gerrick testified that his comments regarding the worst tap were meant from a tree and forestry perspective. Tr. 68. Mr. Gerrick did admit that the outages experienced by Mr. Chronister are more than the norm. Tr. 77. Mr. Gerrick also testified that it would be cost prohibitive to run two miles of electric lines underground for 25 customers. Tr. 67, 80.

It is unclear from the record whether the efforts by FE PA to improve Mr. Chronister's service have been effective. FE PA's exhibits show that Mr. Chronister experienced six sustained outages in 2024, 10 sustained outages in 2025, and no sustained outages in 2026 through March 10, 2026. Therefore, although Mr. Chronister experienced an increase in sustained outages from 2024 to 2025, he also had no outages in 2026 as of March 10, 2026. Although the results of FE PA's efforts are not clear, I still find that Mr. Chronister has not met his burden of proof to show that FE PA's service is unreasonable and inadequate. Fifteen of the 16 outages were caused by events not clearly within FE PA's control, i.e., off-right-of-way trees, non-Company tree trimming, wind, and unknown reasons. Eleven of the outages were caused by off-right-of-way trees. Although the Commission does not automatically consider an outage from an off-right-of-way tree to exonerate the utility from fault, the Complainant did not establish in the record that PPL did not provide reasonable or adequate service in relation to managing or attempting to manage the off-right-of-way trees that caused outages. Additionally, FE PA is performing both facility maintenance as well as vegetation management of Mr. Chronister's circuit.

Mr. Chronister's Complaint requests a variety of relief. However, for the reasons explained above, the record does not contain substantial evidence that FE PA is providing unreasonable and inadequate service and therefore violating the Public Utility Code, a Commission order or regulation or a Commission-approved tariff as it relates to Complainant's service. Accordingly, the Complainant's Formal Complaint is denied.

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 701.
2. The party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).
3. "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).
4. Any decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.
5. "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); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Dept. of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlt. 1984).

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

7. Utility companies are required to provide adequate and reasonable service. 66 Pa.C.S. § 1501.

8. Section 1501 of the Public Utility Code does not require utility companies to provide perfect service. *Elkin v. Bell Tel. Co. of Pa.*, 372 A.2d 1203 (Pa. Super. 1987); 66 Pa.C.S. § 1501.

9. A Section 1501 violation regarding unreasonable service outages is fact specific as to the number of outages, their causes, and a company's corrective actions. The Commission does not automatically consider an outage from an off-right-of-way tree to exonerate the utility from fault. *Barry v. Metro. Edison Co.*, Docket No. C-2018-3005410 (Opinion and Order entered Aug. 12, 2019).

10. An electric distribution company shall strive to prevent interruptions of electric service and, when interruptions occur, restore service within the shortest reasonable time. 52 Pa. Code § 57.194(d).

11. FE PA provided adequate and reasonable service consistent with Section 1501 of the Public Utility Code. 66 Pa.C.S. § 1501.

12. Complainant failed to satisfy his burden to demonstrate that FE PA violated the Public Utility Code, a Commission order or regulation or a Commission-approved tariff. 66 Pa.C.S. § 332(a).

