

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17105-3265**

**Kevin Washington**  
v.  
**Philadelphia Gas Works**

**Public Meeting held November 13, 2014**  
**2388427-ALJ**  
**Docket No. C-2013-2388427**

**MOTION OF COMMISSIONER GLADYS M. BROWN**

Before the Commission is the Initial Decision of Administrative Law Judge Angela Jones (ALJ) pertaining to Kevin Washington's Complaint against Philadelphia Gas Works (PGW or the Company). In this proceeding, the Complainant alleges, *inter alia*, that PGW improperly failed to reinstate his April 15, 2013 Company issued payment arrangement. As relief, Complainant requested that the Commission direct PGW to restore his gas service and reinstate his payment arrangement.

A summary of events detailed on the record indicate that the Complainant became tardy on his payment arrangement. In response, PGW sent a 10-day shut-off notice to the residence on July 15, 2013. Subsequently the Complainant contacted the Company to determine what amount he owed to catch-up and maintain his status on his payment arrangement. Complainant was told he needed to pay \$700 to do so. There is no evidence that the Complainant was told that after he paid the \$700 that he was obligated to contact the Company in order to be reinstated on a payment arrangement.

Complainant made the \$700 payment as directed.<sup>1</sup> After this payment was made, PGW did not reinstate the Complainant on his previous payment arrangement. Instead, the Company terminated service on August 14<sup>th</sup>, 2013. PGW contended, contrary to its communications to the Complainant, that \$105 of the payment had to be allocated to settle a past due security balance. The Company therefore only processed \$595 toward the catch-up amount.

Lastly, the record indicates an error in processing a potential certificate of satisfaction. Complainant admits agreeing to review a proposed settlement between him and PGW. However, Complainant contends that PGW never mailed the settlement to him. Review of the settlement document indicates the use of the name "Kevin Young" instead of the Complainant's name.

Based on the evidence of record, the ALJ finds that PGW made the following operational errors:

- (1) PGW did not correctly process the \$700 payment made by the Complainant;
- (2) PGW did not provide effective actual notice to the Complainant that further contact with the Company was needed if he desired to be reinstated on his most recent payment arrangement.
- (3) PGW did not process the certificate of satisfaction correctly.

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<sup>1</sup> Payment was made at a PGW district office on July 26, 2013.

In deliberating whether or not to reinstate the company payment arrangement, the ALJ found that PGW did not comply with the terms of the July 24, 2013 verbal agreement it made with the Complainant regarding payment of the \$700 and reinstatement of the payment arrangement. The ALJ further submits equity would restore the Complainant to the position he held prior to PGW's breach of the verbal agreement. However, the ALJ determines that given the Complainant's failure to demonstrate a good faith payment history it is reasonable in this case to not exercise equity.

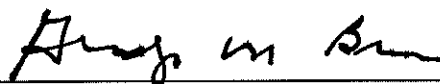
The Company offered to reinstate the Complainant's payment arrangement if a \$700 payment was made. The Complainant complied with PGW's request. Equity demands that PGW live up to its end of the bargain. I understand that the Complainant has the type of payment history which would normally prevent this Commission from ordering a payment arrangement; however, reinstatement in this case does not constitute a Commission ordered payment arrangement. Rather, it involves rectifying an unreasonable business practice and making PGW deliver on a promise made to a customer.<sup>2</sup>

The ALJ also concludes that the record in this Complaint does not contain sufficient evidence to determine if a civil penalty is warranted for PGW's operational errors. As such, the ALJ recommends that this case be further investigated by the Commission Staff. I believe that a presiding officer has the authority to determine if a fine is necessary and in the public interest, and if so, what amount would be prudent. If further fact finding is deemed necessary, a hearing should be held. Referral to Commission staff is not appropriate.

**Therefore, I move that:**

1. The Initial Decision of ALJ Jones be reversed, in part, and that PGW be directed to place the Complainant back onto the April 15<sup>th</sup>, 2013 payment arrangement.
2. The topic of whether a fine is necessary and in the public interest, be remanded to the Office of Administrative Law Judge for disposition and/or further proceedings as may be necessary, consistent with this Motion;
3. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

November 13, 2014  
Date

  
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Gladys M. Brown, Commissioner

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<sup>2</sup> 66 Pa. C.S. § 1501.