

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Darnell Fassett

Public Meeting March 26, 2015

2408541-ALJ

v.

Docket No. F-2014-2408541

Philadelphia Gas Works

**MOTION OF
VICE CHAIRMAN JOHN F. COLEMAN, JR.**

Before the Commission is the Initial Decision (ID) sustaining the above-captioned Formal Complaint, in part, filed by Darnell Fassett against Philadelphia Gas Works (PGW). In his Complaint, Mr. Fassett questions the amount that he was back billed by PGW for unauthorized gas usage at the service location.¹ The amount of the back bill is \$5,541.01 and covers a four-year period from March 13, 2009 through March 13, 2013. The Complainant also requests a payment arrangement. The ID denies the Complaint regarding the dispute of the back-billed amount but sustains the Complaint regarding the request for a payment arrangement.

I agree with the decision to deny the Complaint regarding the back-billed amount. The Complainant does not dispute that he is responsible for the unauthorized usage at the service location. Tr. 16. Moreover, PGW's calculation of the back bill was reasonable. PGW used March 13, 2013, the date it discovered the unauthorized usage,² as the start date of the back bill. Tr. 40, 69-70. PGW could have back billed for the unauthorized usage back to May 20, 2002, the date gas service was disconnected at the service location.³ Tr. 43. However, PGW opted to bill the customer just four years back in the interest of good customer relations. Tr. 63-64. In addition, PGW's calculation methodology was consistent with its usual practice of calculating a back bill for theft of service based on the capacity of the appliances connected to the gas line and the number of degree days during the relevant period. Tr. 46-49. Therefore, the Complainant failed to meet his burden of proof regarding the amount of the back bill.

I do not agree, however, with the decision to grant a payment arrangement here. I do not believe a payment arrangement is appropriate when the person requesting the arrangement was involved in a theft of utility service while residing at the service location. In this case, the theft of gas service was in the form of a meter bypass. Tr. 69-70.

PGW is not required under applicable law to issue an amortization/payment agreement on amounts owed resulting from fraud or theft. When a public utility issues a make-up bill for previously unbilled service due to a billing error, meter failure, or leakage, the utility is required under Section 56.14 of the Commission's regulations⁴ to explain the bill and to make a reasonable attempt to amortize the bill. Section 56.14 of our regulations, however, does not

¹ Mr. Fassett has been the property owner of the service location since 1988. Tr. 10.

² PGW's theft of service investigation revealed gas present at the property and that the residence had three gas appliances – the house heater, the water heater, and the stove – all of which were operational at the time. Tr. 72-73.

³ Gas service was disconnected at the curb box. Tr. 43.

⁴ 52 Pa. Code § 56.14.

apply when the previously unbilled service is due to fraud or theft of service.⁵ Consequently, PGW is not obligated under Section 56.14 to make a reasonable attempt to amortize the back bill here.

Also, the facts in this case do not support a Commission-ordered payment arrangement. The record indicates that the Complainant resided at the service location from 1988 until 2009. Tr. 10-11. The record also indicates that PGW has no way of knowing when the theft of service actually began in this case. Tr. 63. However, when asked whether the service location used gas service for the entire time that he has owned the property, the Complainant testified that it did. This would include gas usage after service was disconnected in May 2002. Tr. 10.

Meanwhile, other testimony from the Complainant asks us to believe that he lived at the service location without gas service from May 2002 until the summer of 2009, even though the house heater, hot water heater, and stove were all gas appliances. Tr. 16-17, 42. Yet, the Complainant did not present any evidence showing how he managed to live at the premises for seven years without operational gas appliances. Thus, I do not find it credible that the Complainant lived at the service location for seven years without gas service, and I believe it is reasonable to conclude that the meter bypass was installed at some point after May 2002 while the Complainant resided at the premises.

For these reasons, I believe the Complainant is responsible for the \$5,541.01 back billed amount,⁶ should not receive a Commission-ordered payment arrangement for the back billed amount, and is required to pay the full back billed amount prior to restoration of gas service at the premises. To do otherwise, I believe, sends the wrong message to all other law abiding ratepayers that those who willfully misuse utility service can receive the benefit of a delayed repayment period at no interest to repay a debt arising from the misuse of service.

THEREFORE, I MOVE THAT:

1. The Initial Decision is adopted, in part, and modified, in part, consistent with this Motion.
2. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

Date: March 26, 2015


JOHN F. COLEMAN, JR.
VICE CHAIRMAN

⁵ *Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa.C.S., Chapter 14; General Review of Regulations*, Docket No. L-00060182, Revised Final Rulemaking Order, Attachment One, p. 50. As noted by the Commission in Attachment One to the Order, "the regulation [Section 56.14] as it is currently written and also proposed does not include fraud and theft as triggering events. This means a bill seeking to recover amounts that were previously unbilled because of theft or fraud have never been considered make-up bills under § 56.14 and this will continue to be the case under the proposed revisions to this section."

⁶ The Complainant does not dispute that he is responsible for the service address, as the owner of the property, and does not dispute that his responsibility includes checking on the gas service. However, I am not proposing to find the Complainant responsible for unauthorized gas usage, based solely on his status as a property owner or a landlord. Rather, I am proposing to find him responsible, based upon the credible record evidence, which includes evidence that he owns the property and resided there while unauthorized gas usage occurred.