

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

**Valerie J. Williams**  
v.  
**Philadelphia Gas Works**

**Public Meeting – September 17, 2015**  
**2456937 – OSA**  
**Docket No. F-2014-2456937**

**STATEMENT OF**  
**COMMISSIONER JAMES H. CAWLEY**

Before the Commission today are the Exceptions to the Initial Decision addressing the Complaint of Valerie J. Williams (Ms. Williams or Complainant) against Philadelphia Gas Works (PGW or Respondent). On November 18, 2014, Ms. Williams filed a formal Complaint alleging overcharging under PGW's Customer Responsibility Program (CRP) from 2005 to 2010, and requesting a refund. On December 29, 2014, PGW filed an Answer and New Matter. In the Answer, PGW denied the material allegations of the Complaint, and indicated it applied a credit to the Complainant's account for the previous four years (2011 through 2014) of usage based on a determination that the CRP was not beneficial. In the New Matter, PGW stated that the Commission is without jurisdiction to hear a cause of action from the Complainant's account for gas service from 2005 through 2010, because it is outside the statute of limitations period set forth in Section 3314 of the Public Utility Code, 66 Pa.C.S. § 3314(a).<sup>1</sup> On December 29, 2014, PGW filed a Motion for Summary Judgment and Preliminary Objections, requesting that the Complaint be dismissed because the cause of action was outside the statute of limitations period.

On April 20, 2015, Administrative Law Judge (ALJ) Jandebour granted PGW's Motion for Summary Judgment and dismissed the Complaint. I agree with the ALJ's determination that PGW's liability for a review and refund for the time period from 2005 to 2010 is barred by the statute of limitations. However, the fact that the Complainant's usage was less than her CRP charges from April 16, 2010 through March 19, 2014 suggests that she was similarly overcharged from the inception of her gas service in 2005, not just from 2010 onward.

As we stated in *Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014-2016, Submitted in Compliance with 52 Pa Code 62.4*, Docket No. M-3013-2366301 (August 21, 2014) at pages 29-30 thereof:

In its Proposed 2014-2016 Plan, PGW states that a customer is not eligible for CRP "if the monthly CRP payment is higher than the payment the customer would need to make under the most affordable budget/payment arrangement plan for which they are eligible..." Proposed 2014-2016 Plan at 9. In our review of 450 informal complaints filed at the Commission by PGW customers in 2013, we identified 29 instances where customers paid a higher rate on CRP than they

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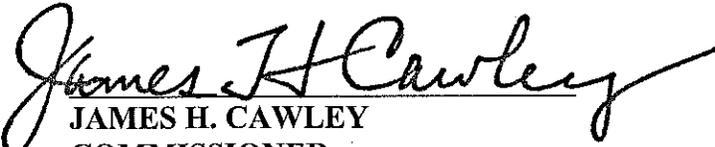
<sup>1</sup> Section 3314(a) provides: No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part.

would have if they had been on a payment arrangement or charged for actual usage. As a direct result of the Commission investigation, these customers were rebilled retroactively at the more affordable rate and refunded any overpayment.

We expressed concern that there may be many more PGW customers who are enrolled in CRP even though it does not offer the lowest payment option. 52 Pa. Code § 69.265(6)(vii) states that utilities should have account monitoring procedures for payment and energy consumption as part of their CAP design. Section 1301 of the Public Utility Code requires utilities to charge just and reasonable rates, and Section 1303 states that a utility must compute bills under the rate most advantageous to the patron. 66 Pa. C.S. §§ 1301, 1303. PGW should be monitoring CRP accounts on an ongoing basis to determine whether the program is the most beneficial and offer to remove a customer from the program once it is determined that the customer would receive more affordable bills and/or arrearage treatment through a budget plan or payment arrangement.

I agree with the result reached by the Order before us because it recognizes that the basis of dismissal should be Section 1312(a) of the Public Utility Code<sup>2</sup> which places limits on the Commission's authority to refund excess customer payments that were made more than four years before a complaint is filed. However, PGW may have violated Sections 1301 and 1303 (as explained in the quotation above), or Section 1501.<sup>3</sup> Rather than moving that this matter be remanded for further hearing, I urge PGW to examine its records in order to determine whether there were overcharges between 2005 and 2010 similar to those that occurred thereafter. The law aside, if there were overcharges by PGW, which it has appeared to have acknowledged by issuing a refund for the later period, then basic fairness, common sense, and good customer service dictate that Ms. Williams be made whole for the period 2005 through 2010.

DATE: September 17, 2015

  
JAMES H. CAWLEY  
COMMISSIONER

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<sup>2</sup> 66 Pa.C.S. § 1312(a).

<sup>3</sup> 66 Pa.C.S. § 1501 (requiring, among other things, that a public utility provide "reasonable service").