

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Gary Anthony Stanko	:	
	:	
v.	:	C-2015-2505010
	:	
Pennsylvania American Water Company	:	

**INITIAL DECISION**

Before  
Joel H. Cheskis  
Administrative Law Judge

**INTRODUCTION**

This Decision dismisses a complaint filed against a water company by a resident who lives in the water company's service territory and seeks to have the water company extend its main line or install a service line to provide him water. This Decision finds that the water company has correctly applied its tariff regarding extension of its facilities to the public in its service territory when determining the portion of the construction costs the consumer would be responsible to pay. As a result, the complaint must be dismissed because the complainant has failed to demonstrate that the company violated the Public Utility Code, a Commission order or regulation or a Commission-approved company tariff with regard to the service provided to the complainant.

**HISTORY OF THE PROCEEDING**

On August 12, 2015, Gary Anthony Stanko filed with the Pennsylvania Public Utility Commission a formal complaint against Pennsylvania American Water Company (PAWC or the Company), Docket Number C-2015-2505010. In his complaint, Mr. Stanko averred that

his home is one of three homes served by one water line that was installed in 1956. Mr. Stanko provided additional detail regarding problems with the service received from that water line. Mr. Stanko requested in his complaint that the company install a new water line with separate meters so that each home would pay only for the water they use. In addition, Mr. Stanko noted on his complaint that he spoke with a representative from PAWC regarding the possibility of extending the Company's main water line. Mr. Stanko also averred that he is being served from a pipe that is comprised of asbestos cement that he feels is unsafe.

On October 14, 2015, PAWC filed an answer and new matter in response to Mr. Stanko's complaint. In its answer, PAWC admitted or denied the various averments Mr. Stanko made in his complaint and specifically denied that it is responsible for replacing the customer-owned service line that serves the three homes. PAWC referenced various tariff rules in support of its position. In its new matter, which was accompanied by a notice to plead, PAWC averred that the complaint is barred by the doctrine of *res judicata* and referenced a complaint Mr. Stanko's mother filed in 1988 that, it argued, is nearly identical to Mr. Stanko's complaint. PAWC averred that the 1988 complaint was previously dismissed. PAWC concluded: "to the extent [Mr. Stanko] seeks to require the company to install a new service line beyond the street connection, the complaint must be dismissed." PAWC attached to its answer copies of the 1988 complaint along with the Initial Decision dismissing that complaint that became final by Commission Order dated January 11, 1989.

Also on October 14, 2015, PAWC filed a preliminary objection in response to Mr. Stanko's complaint. In its preliminary objection, PAWC further averred that there are no genuine issues of material fact and the Company is entitled to judgment as a matter of law with respect to the allegations in the complaint because the complaint is barred by the doctrine of *res judicata*. PAWC argued that Mr. Stanko's complaint should be dismissed because the Commission has already made a determination based on the same set of facts. PAWC noted that *res judicata* operates to prevent re-litigation of claims already litigated on the merits. PAWC concluded that Mr. Stanko's complaint should be dismissed as legally insufficient and again attached various documents in support of its position.

Mr. Stanko filed neither an answer to PAWC's preliminary objection nor to its new matter.

By order dated December 1, 2015, PAWC's preliminary objection was denied and Mr. Stanko's complaint was allowed to proceed to a hearing before an administrative law judge.

By telephonic hearing notice dated December 2, 2015, an initial telephonic hearing was scheduled for this matter for Monday, February 8, 2016 and I was assigned as the Presiding Officer. A prehearing order was issued dated December 4, 2015 setting forth various rules that would govern the hearing. By email dated February 3, 2016, counsel for PAWC indicated that productive discussions regarding settlement were held between the parties and requested that the hearing scheduled for February 8, 2016 be continued for 60 days to allow the parties to further pursue settlement. Counsel further indicated that Mr. Stanko agreed with this request. The continuance was therefore granted via order dated February 5, 2016. By email dated April 1, 2016, counsel for PAWC indicated that settlement discussions have not been successful and a hearing should be scheduled. As a result, by telephonic hearing notice dated April 4, 2016, an initial telephonic hearing for this matter was scheduled for Wednesday, May 4, 2016. Prehearing order #2 was issued confirming scheduling of that hearing and noting that all aspects of the prehearing order dated December 4, 2015 remain in effect.

The hearing convened on May 4, 2016, as scheduled. Mr. Stanko appeared *pro se*. Michael A. Gruin, Esquire appeared on behalf of PAWC. Mr. Gruin presented one witness who sponsored eight exhibits that were admitted into the record. A 50-page transcript of the hearing was made. The record in this proceeding closed on May 24, 2016 when the transcript was submitted to the Commission.

Mr. Stanko's complaint is ready for disposition. For the reasons discussed below, the complaint will be denied.

## FINDINGS OF FACT

1. The Complainant in this case is Gary Anthony Stanko.
2. The Respondent in this case is Pennsylvania American Water Company.
3. The service address is 4 Sneazy Road, Monongahela, PA.
4. The service line serving Mr. Stanko's house was installed in 1966 and also serves Mr. Stanko's two neighbors. Tr. 6-7.
5. The service line is a 1,600 foot transite pipeline that goes uphill from the water main to the homes. Tr. 7.<sup>1</sup>
6. Mr. Stanko and his neighbors divide one bill three ways no matter how much water was used by each family. Tr. 7, 9-10.
7. The service line has had many leaks. Tr. 8-9.
8. Mr. Stanko inquired with PAWC about having the main line extended but it was cost prohibitive. Tr. 10-11
9. Mr. Stanko and his family members have had various health issues and they boil their water as a precaution. Tr. 11.
10. Mr. Stanko lives on a cul-de-sac at the top of a hill where two other homes are located. Tr. 13.
11. Mr. Stanko has lived at the service address since 1960. Tr. 13.

---

<sup>1</sup> Transite pipeline is a pipe made using asbestos and cement. See, <https://en.wikipedia.org/wiki/Transite>.

12. Mr. Stanko is not a customer of PAWC. Tr. 14.
13. Mr. Stanko's mother filed a complaint against PAWC in the 1980s asking to have PAWC provide water service to her home. Tr. 16.
14. Mr. Stanko investigated having a well dug on his property or installing a cistern but it was cost prohibitive. Tr. 17-18.
15. Jason Ivcic has been a distribution supervisor for PAWC for the past twelve years in charge of the day-to-day operations of the distribution department repairing main lines, installing service lines, reading meters, among other things. Tr. 20.
16. Mr. Ivcic has visited Mr. Stanko's property many times and spoken with him on numerous occasions both at the property and at PAWC's offices. Tr. 21.
17. PAWC Exhibit Number 2 is a screen shot from Google maps that shows an overhead view of the three homes on Sneezy Road and nearby roads. Tr. 23; PAWC Exh. No. 2.
18. PAWC's main line is about 1,860 feet down Sneezy Road on Front Street. Tr. 24; PAWC Exh. No. 2.
19. The meter to record water usage is at the bottom of Sneezy Road at Front Street. Tr. 24.
20. Mr. Stanko's neighbor, Kathleen Berlingeri, is the only PAWC customer of record on Sneezy Road. Tr. 24-25.
21. PAWC Exhibit Number 1 is the formal complaint Mr. Stanko's mother filed with the Commission against Pennsylvania American Water in 1988 asking to have PAWC provide water service to her home. Tr. 25; PAWC Exh. No. 1.

22. Mr. Ivcic informed Mr. Stanko that he could apply for a main line extension for the three homes where PAWC would be required to contribute financially to the costs of construction or he could run his own service lines down to Front Street. Tr. 26.

23. The difficulty with Mr. Stanko running the service line to PAWC's main is that he would have to get rights-of-ways on property that he does not own. Tr. 26, 30.

24. PAWC has no record of Mr. Stanko or his neighbors applying for a main line extension. Tr. 27.

25. PAWC Exhibit Number 7 is a page from PAWC's tariff that addresses main extensions for bona fide service applicants. Tr. 27-28; PAWC Exh. No. 7.

26. PAWC Exhibit Number 3 is an investment work order that was created for the Stanko's in 1988 that includes cost estimates and prices for installing a water main line extension or service line for a total of approximately \$70,000. Tr. 28-29; PAWC Exh. No. 3.

27. The current approximate estimate to serve Mr. Stanko and his two neighbors is \$160,000 which includes the cost of the pipe, the installation contractor, the stone and the paving. Tr. 29-30.

28. PAWC would pay \$12,397.49 per customer of the total cost. Tr. 30, 39.

29. The line to serve Mr. Stanko would be difficult to install due to the elevation in the property requiring a booster pump. Tr. 30-31.

30. Mr. Stanko's water pressure decreases when Eastman Chemical, a nearby factory with a fire protection service, draws water. Tr. 31-32.

31. The decrease in pressure would have been resolved if a backflow preventer was installed in the meter pit but that was never done. Tr. 32-33.

32. PAWC Exhibit Number 4 is a page from PAWC's tariff that addresses the sale of water in private fire hydrants, meter reading devices, service lines and service pipes. Tr. 33; PAWC Exh. No. 4.

33. The 1,600 foot transite pipe that serves Mr. Stanko's property is a service pipe under the tariff and it is the customer's responsibility to maintain it. Tr. 34; PAWC Exh. No. 4.

34. PAWC Exhibit Number 5 is a page from PAWC's tariff that indicates that the customer is responsible for maintaining the service pipe. Tr. 34; PAWC Exh. No. 5.

35. PAWC Exhibit Number 6 is a page from PAWC's tariff that addresses the application of service and street service connection that would be completed if a customer would like water supplied to their home. Tr. 34-35; PAWC Exh. No. 6.

36. PAWC Exhibit Number 8 is a PAWC customer contact record indicating that Mr. Stanko contacted PAWC on August 31, 2015 complaining about having to split the water bill with his two neighbors and requesting separate meters. Tr. 36; PAWC Exh. No. 8.

37. PAWC's tariff requires a deposit of one-third of the amount to be paid by the customer and the remainder to be paid over a period of time. Tr. 41.

### DISCUSSION

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). 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. PUC 196 (1990). "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, 364 Pa. 54, 70 A.2d 854 (1950). 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. § 701. In this proceeding, Mr. Stanko seeks an order from the Commission directing PAWC to extend its main line to serve his property. Mr. Stanko, therefore, has the burden of proof in this proceeding.

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) (Milkie); *see also*, Burleson v. Pa. Pub. Util. Comm'n, 443 A.2d 1373 (Pa.Cmwlth 1982).

The 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 & Western Ry. Co. v. Pa. Pub. Util. Comm'n, 489 Pa. 109, 413 A.2d 1037 (1980); Erie Resistor Corp. v. Unemployment Comp. Bd. of Review, 166 A.2d 96 (Pa.Super. 1961); and Murphy v. Comm., Dept. of Public Welfare, White Haven Center, 480 A.2d 382 (Pa.Cmwlth.1984).

In this case, Mr. Stanko would like to be connected directly to PAWC's main line with a new service line. Mr. Stanko described years of water service he received from a service line he shares with two of his neighbors that frequently leaks and causes other problems. Mr. Stanko complained that the usage was not individually metered but that the neighbor who received the bill from PAWC would divide the bill three-ways. Mr. Stanko believes that, as a result, he was always paying for more water than he was using. Mr. Stanko explained decades of efforts he and his family have undertaken in an attempt to have their own service line connected to PAWC's main line but that all of the options were cost prohibitive. As a result, Mr. Stanko asks for the Commission to direct PAWC to install a new service line for him at a reasonable cost.

In response to Mr. Stanko, PAWC presented the testimony of Jason Ivcic, the distribution supervisor who has been working most recently with Mr. Stanko regarding his requests to be connected directly to PAWC's main line. Mr. Ivcic provided details regarding the costs to install the new main that Mr. Stanko requests. Mr. Ivcic explained, among other things, that the service line would have to be approximately 1,600 feet long and go uphill and over other people's property. Mr. Stanko also discussed the application of various PAWC tariff provisions regarding main line extensions that result in an estimate of approximately \$160,000 to serve Mr. Stanko and his two neighbors.

Mr. Stanko's complaint will be dismissed because he has failed to demonstrate that PAWC in anyway violated the Public Utility Code, Commission orders or regulations or a Commission-approved Company tariff with regard to extending its facilities to provide him water service.

To begin, Section 1501 of the Public Utility Code specifically requires, among other things, the extension of utility facilities to the public. This section provides:

**§ 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. Any public utility service being furnished or rendered by a municipal corporation beyond its corporate limits shall be subject to regulation and control by the commission as to service and extensions, with the same force and in like manner as if such service were rendered by a public utility. The commission shall have sole and exclusive jurisdiction to promulgate rules and regulations for the allocation of natural or artificial gas supply by a public utility.

66 Pa.C.S. § 1501. Furthermore, Section 1504 of the Public Utility Code provides that “the commission may, after reasonable notice and hearing, upon its own motion or upon complaint: (1) prescribe as to service and facilities, including the crossing of facilities, just and reasonable standards, classifications, regulations and practices to be furnished, imposed, observed and followed by any or all public utilities.” 66 Pa.C.S. § 1504(1).

In response to these statutory provisions, the Commission adopted regulations that address the instances in which a public utility company is required to extend its services. For example, Section 65.21 of the Commission’s regulations provides:

**§ 65.21. Duty of public utility to make line extensions.**

Each public utility shall file with the Commission, as part of its tariff, a rule setting forth the conditions under which facilities will be extended to supply service to an applicant within its service area. Upon request by a bona fide service applicant, a utility shall construct line extensions within its franchised territory consistent with the following directives:

- (1) Line extensions to bona fide service applicants shall be funded without customer advance if the annual revenue from the line extension will equal or exceed the utility’s annual line extension costs.
- (2) If the annual revenue from the line extension will not equal or exceed the utility’s annual line extension costs, a bona fide service applicant may be required to provide a customer advance to the utility’s cost of construction for the line extension. The utility’s investment for the line extension shall be the portion of the total construction costs which generate annual line extension costs equal to annual revenue from the line extension. The customer advance amount shall be determined by subtracting the utility’s investment for the line extension from the total construction costs.

52 Pa.Code § 65.21(1)-(2). Section 65.21 then provides an algebraic equation to be used to determine the utility’s investment for the line extension. 52 Pa.Code § 65.21(3); *see also*, PAWC Exh. No. 7.

These provisions of the Public Utility Code and Commission regulations have been addressed by the Pennsylvania Supreme Court. In Popowsky v. Pa. Pub. Util. Comm’n.,

910 A.2d 38 (Pa. 2006) (Popowsky), the Pennsylvania Supreme Court affirmed the decision of the Commission to dismiss a complaint filed by a resident of a small town in western Pennsylvania that lacked public water that residents and property owners needed and wanted. The Commission, among other things, rejected the argument that need alone required the extension of the water lines at the utility's expense. Id. at 44. The Commonwealth Court affirmed the Commission's decision. Id. at 45. In affirming the Commonwealth Court, the Supreme Court analyzed whether the Commission's main line extension regulations were consistent with the statutory responsibility to ensure that utility's make extensions of their lines to the public where necessary. Id. at 53, *citing*, 66 Pa.C.S. § 1501. The Supreme Court noted the language in Section 1501 that requires the obligation to extend facilities to the public to be "subject to the provisions of this part and the regulations and 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.***" Id. at 54 (emphasis added). The Supreme Court found that the Commission's main line extension regulations were just and reasonable and that there was no basis for the Court to interfere with them. Id. at 56.

Finally, it is further noted that public utility tariffs must be applied consistent with their language. Public utility tariffs have the force and effect of law and are binding on the public utility and its customers. Pennsylvania Electric Co. v. Pa. Pub. Util. Comm'n, 663 A.2d 281 (Pa. Cmwlth. 1995). The Commission has no authority to allow a public utility to deviate from its tariff even where the Commission concludes it is in the public interest. Philadelphia Suburban Water Co. v. Pa. Pub. Util. Comm'n, 808 A.2d 1044 (Pa. Cmwlth. 2002). A public utility may not charge a rate other than the rates set forth in its tariff. 66 Pa.C.S. §1303.

As PAWC witness Ivcic testified, as applied specifically to Mr. Stanko's request, the total cost of extending its facilities would be approximately \$160,000, which includes the cost of the pipe, the contractor, the stone and the paving. Tr. 29-30. Mr. Ivcic testified that he has visited Mr. Stanko's property several times and spoken with Mr. Stanko on numerous occasions, both at the property and at PAWC's office. Tr. 21. Mr. Ivcic used a screen shot from Google Maps during the hearing to testify regarding specifics of Mr. Stanko's location. Tr. 24; PAWC Exh. No. 2. Mr. Ivcic added that the Company's main line is about 1,860 feet down

Mr. Stanko's road and that rights-of-ways would need to be obtained on property that Mr. Stanko does not own to connect to PAWC's facilities. Tr. 24, 26; PAWC Exh. No. 2.

Mr. Ivcic also testified regarding each of the PAWC tariffs that govern main extensions. In particular, Mr. Ivcic discussed PAWC's tariff page that deals with bona fide service applicants. Tr. 27-28; PAWC Exh. No. 7. Mr. Ivcic also testified regarding PAWC's tariff page that addresses sale of water in service lines, among other things, including providing a definition of service pipe and service line. Tr. 33; PAWC Exh. No. 4; *see also*, PAWC Exh. No. 5. Mr. Ivcic explained that the service line is not owned by PAWC and that it is the responsibility of the customer to maintain. Tr. 33-34. Mr. Ivcic also testified regarding PAWC's tariff page that pertains to street service connections and the information that is required to be provided to the Company if a customer would like water supplied to their home. Tr. 34-35; PAWC Exh. No. 6.

Finally, Mr. Ivcic also discussed an Investment Work Order given to Mr. Stanko's mother when she filed a similar complaint in 1988. In particular, Mr. Ivcic testified that, back in 1988, the estimate for what a main line extension to Mr. Stanko's property would be was approximately \$70,000. Tr. 28-29; PAWC Exh. No. 3. Mr. Ivcic noted that figures associated with that estimate are for the installation of pipes and associated work as well as the booster pump which would need to be installed to get the water up the hill. Tr. 29. Mr. Ivcic added that a current estimate of the cost to serve the three customers is \$160,000. Tr. 29. Mr. Ivcic added that the Company's portion of the project cost is \$12,397.49 per customer and the customer would be responsible to pay for the remainder. Tr. 29-30.

In total, PAWC has presented substantial record evidence demonstrating that it has acted in accordance with the Public Utility Code, Commission orders and regulations and Commission-approved Company tariffs when working with Mr. Stanko. Although Mr. Ivcic did not present specific details regarding the inputs into the algebraic equation used to determine the amount Mr. Stanko would be responsible for if PAWC extended its facilities, or the level of detail as was provided to Mr. Stanko's mother in 1988, as applied to Mr. Stanko, the algebraic formula contained in the regulations and PAWC's tariff result in an amount for the main line

extension that is still cost-prohibitive for him. The high resulting figure of approximately \$160,000 is likely due, in part, to various factors, including the approximate 1,600 foot length of the service line as well as the fact that the service line would run uphill from the main line to Mr. Stanko's home therefore requiring additional booster equipment. Nonetheless, it is not PAWC's burden to prove that it should not be required to extend its facilities; rather, it is Mr. Stanko's burden to demonstrate by substantial evidence that PAWC should. Milkie, *supra*. The cost of installing the line far exceeds the revenue PAWC would receive from the use of the line. The Commission cannot order PAWC to incur greater financial responsibility for the cost of the service line than as determined by the regulations. The Commission's regulations and PAWC's tariffs are reasonable rules and regulations that govern PAWC's obligation to extend its mains. In this case, those rules and regulations result in an amount Mr. Stanko is unwilling to pay. As a result, Mr. Stanko's request to have PAWC extend its facilities to provide him service must be denied.

In addition, Mr. Stanko has also failed to satisfy his burden of demonstrating that PAWC violated the Public Utility Code, a Commission order or regulation or a Commission-approved Company tariff with regard to any health or safety issues related to the provision of water service provided by the Company. Mr. Stanko averred in his complaint and during the hearing that the transite pipe contains asbestos material that he believes is unsafe. Tr. 11. Yet, Mr. Stanko failed to present substantial evidence in support of this claim that would be sufficient to warrant sustaining this portion of the complaint. As a result, these averments in Mr. Stanko's complaint will also be denied.

As such, Mr. Stanko has failed to satisfy his burden to demonstrate that PAWC in anyway violated the Public Utility Code, a Commission order or regulation or a Commission-approved company tariff. Record evidence demonstrates that PAWC complied with its tariffs governing extensions of its facilities in responding to Mr. Stanko's requests to have the Company extend its facilities to provide him water service. When applying the tariffs, the cost to provide Mr. Stanko the service he requested was prohibitive. This is likely due to the length of the facilities needed to reach Mr. Stanko's home and the terrain those facilities would traverse. Nonetheless, the Public Utility Code allows utilities to have reasonable rules and regulations regarding its obligation

to extend its facilities and the Pennsylvania Supreme Court has determined that PAWC's main extension rules are reasonable. Mr. Stanko's complaint should, therefore, be dismissed.

### CONCLUSIONS OF LAW

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

2. 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).

3. 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. PUC 196 (1990).

4. "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, 364 Pa. 54, 70 A.2d 854 (1950).

5. 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. § 701.

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 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).

7. The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

8. "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 & Western Ry. Co. v. Pa. Pub. Util. Comm'n, 489 Pa. 109, 413 A.2d 1037 (1980); Erie Resistor Corp. v. Unemployment Comp. Bd. of Review, 194 Pa.Superior 278, 166 A.2d 96 (1961); and Murphy v. Comm., Dept. of Public Welfare, White Haven Center, 85 Pa.Cmwlth 23, 480 A.2d 382 (1984).

9. 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. 66 Pa.C.S. § 1501.

10. 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.

11. The commission may, after reasonable notice and hearing, upon its own motion or upon complaint prescribe as to service and facilities, including the crossing of facilities, just and reasonable standards, classifications, regulations and practices to be furnished, imposed, observed and followed by any or all public utilities. 66 Pa.C.S. § 1504(1).

12. If the annual revenue from the line extension will not equal or exceed the utility's annual line extension costs, a bona fide service applicant may be required to provide a customer advance to the utility's cost of construction for the line extension. The utility's investment for the line extension shall be the portion of the total construction costs which generate annual line extension costs equal to annual revenue from the line extension. The customer advance amount shall be determined by subtracting the utility's investment for the line

extension from the total construction costs. 52 Pa.Code § 65.21(1)-(2); *see also*, Popowsky v. Pa. Pub. Util. Comm'n, 910 A.2d 38 (Pa. 2006).

13. Public utility tariffs must be applied consistent with their language. Public utility tariffs have the force and effect of law and are binding on the public utility and its customers. Pennsylvania Electric Co. v. Pa. Pub. Util. Comm'n, 663 A.2d 281 (Pa. Cmwlth. 1995).

14. The Commission has no authority to allow a public utility to deviate from its tariff even where the Commission concludes it is in the public interest. Philadelphia Suburban Water Co. v. Pa. Pub. Util. Comm'n, 808 A.2d 1044 (Pa. Cmwlth. 2002).

15. A public utility may not charge a rate other than the rates set forth in its tariff. 66 Pa.C.S. §1303.

16. Mr. Stanko has failed to satisfy his burden of proof in this proceeding to demonstrate that PAWC in any way violated the Public Utility Code, a Commission Order or regulation or a Commission-approved tariff. 66 Pa.C.S. § 332(a).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal complaint filed by Gary Anthony Stanko against Pennsylvania American Water Company at Docket Number C-2015-2505010 dated August 12, 2015 is hereby dismissed.

2. That this matter be marked closed.

Date: July 25, 2016

\_\_\_\_\_/s/\_\_\_\_\_  
Joel H. Cheskis  
Administrative Law Judge