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COMMONWEALTH OF PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

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Mary Ellen Viola v. Philadelphia Gas Works.  
Billing dispute.  
Initial telephonic hearing.  
-----X

Docket No.  
F-01556854

Pages 1 through 18  
Hearing Room 1300  
State Office Building  
Broad and Spring Garden Streets  
Philadelphia, Pennsylvania

Thursday, October 21, 2004

Met, pursuant to notice, at 10:00 a.m.

DOCKETED

BEFORE:

NOV 22 2004

HERBERT SMOLEN, Administrative Law Judge

APPEARANCES:

MARY ELLEN VIOLA  
2410 South 9<sup>th</sup> Street  
Philadelphia, Pennsylvania 19148  
(Pro Se)

*H.M.*

LAURETO FARINAS, Esquire  
800 West Montgomery Avenue  
Philadelphia, Pennsylvania 19122  
(For Philadelphia Gas Works)

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WITNESS INDEX

WITNESSES

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Mary Ellen Viola  
(By the Judge)

5        --        --        --

EXHIBIT INDEX

NUMBER

FOR IDENTIFICATION

IN EVIDENCE

(None)

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FORM 1

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P R O C E E D I N G S

1  
2 ADMINISTRATIVE LAW JUDGE HERBERT SMOLEN: This is the  
3 matter of Mary Ellen Viola versus Philadelphia Gas Works at Docket  
4 F-01556854. My name is Herbert Smolen and I am the Administrative Law  
5 Judge assigned by the Commission to hear the evidence in this case and to  
6 render a decision in writing.

7 This is a telephonic hearing and on the telephone we have the  
8 Complainant, Mary Ellen Viola. Ms. Viola, would you please acknowledge  
9 your presence. Are you there?

10 MS. VIOLA: Yes, sir.

11 JUDGE SMOLEN: And on behalf of the company, we have Laureto  
12 Farinas, Esquire. Mr. Farinas, are you present?

13 MR. FARINAS: Yes, Your Honor.

14 JUDGE SMOLEN: And do you have any witnesses with you?

15 MR. FARINAS: I have one witness with me. His name is Jack  
16 Irivarrry.

17 JUDGE SMOLEN: You have to spell that.

18 MR. FARINAS: Jack I-R-I-V-A-R-R-Y.

19 JUDGE SMOLEN: Now Ms. Viola, I am first going to place you  
20 under oath and ask you some preliminary questions and then I will ask you  
21 to tell me what your complaint is all about.

22 MS. VIOLA: Okay.

23 JUDGE SMOLEN: When you have completed your testimony, the  
24 lawyer for the company will have an opportunity to ask you some questions  
25 based on your testimony. When you have completed your case, he will

1 have an opportunity to present the case on behalf of PGW and when that  
2 witness has completed his testimony, you will have an opportunity to ask  
3 him questions based on his testimony and whatever exhibits they  
4 introduce. Do you understand?

5 MS. VIOLA: Yes.

6 JUDGE SMOLEN: Okay. I am going to swear you in now.

7 Whereupon,

8 MARY ELLEN VIOLA

9 having been duly sworn, testified as follows:

10 DIRECT TESTIMONY

11 JUDGE SMOLEN: Please state your full name and address for this  
12 record.

13 THE WITNESS: Mary Ellen Viola.

14 JUDGE SMOLEN: And your address?

15 THE WITNESS: 2410 South 9<sup>th</sup> Street, Philadelphia, PA, 19148.

16 JUDGE SMOLEN: Did you say 2410?

17 THE WITNESS: South ninth, yes.

18 JUDGE SMOLEN: You are the ratepayer in this case?

19 THE WITNESS: Yes, Your Honor.

20 JUDGE SMOLEN: And the account is in your name?

21 THE WITNESS: Yes.

22 JUDGE SMOLEN: All right. In your own words and in a  
23 chronological fashion as possible, tell me what your complaint is all about.

24 THE WITNESS: Okay, Your Honor. I was paying my gas bill on  
25 time every month. I have been living in this home for 15 years and never

1 had a problem. A year and a half ago there was a tragedy. I am a single  
2 parent and I was unemployed at the time and plus with the PGW gas  
3 increase, that continued for a period of five months in a row and it set me  
4 back on my gas bill.

5 In October of 2004, I went over to Broad Street.

6 JUDGE SMOLEN: 2004? That is this month.

7 THE WITNESS: I am sorry, Your Honor. It was 2003.

8 JUDGE SMOLEN: All right.

9 THE WITNESS: Last year I went to Broad Street to get on the CRP  
10 program. I was put on the CRP program and they wanted me to pay \$28 a  
11 month and I signed the program. I came home and two weeks after I  
12 arrived back at my house, I was notified that there would be an increase,  
13 plus there would be arrears that I was unaware of. There are only two  
14 persons living in my household. It is me and my son and he is a full-time  
15 college student and I receive a survival death benefit check only, and so I  
16 told them that with the increase that they were going to give me and plus  
17 the arrears, that it probably would not be worth it and that I wanted to be  
18 taken off the program and they said that would be fine.

19 JUDGE SMOLEN: Stop for just a second.

20 THE WITNESS: Okay.

21 JUDGE SMOLEN: Were you actually taken off the program?

22 THE WITNESS: Yes, I was taken off the program. All this problem  
23 started two weeks after when I made a phone call to PGW, and I will tell  
24 you exactly who I spoke to. I spoke to Ms. Gateman in Room 602. She  
25 was the supervisor. She was very, very, very, very mean on the phone

1 and she said, "well, you know Ms. Viola, you were on it and you are off it."  
2 I said, "listen, I would rather not be on it because it is not going to benefit  
3 me." Your Honor, I am not home five months out of the year and the  
4 couple months that I do have the gas on, I would rather leave it the way it  
5 is. I told her that and she said, "fine."

6 November 12, 2003, they suspended me and took me off the  
7 program. Two weeks after I was at Broad Street in person, I called them  
8 up and they took me off the program.

9 JUDGE SMOLEN: Stop. Stop for just a second. I just want to  
10 review for my own notes here.

11 THE WITNESS: I have been suspended, Your Honor, off the  
12 program since November.

13 JUDGE SMOLEN: So you went on the CRP in -

14 THE WITNESS: October of 2003, and in November, exactly four  
15 and a half weeks later, I was taken off the program.

16 JUDGE SMOLEN: All right, go ahead now.

17 THE WITNESS: At that time when I was on the phone, her exact  
18 words to me were, "well, Ms. Viola, if you are going to be taken off, you  
19 have to go and apply for Liheap. If you don't want to make an agreement  
20 to pay, you must apply for Liheap." I said, "okay, that's not a problem."

21 I took my personal information to 8<sup>th</sup> and Snyder. I took my  
22 survival death benefit check; my social security card and whatever income  
23 in that year. I took all that information there because at that time, Your  
24 Honor, the only amount that I owed PGW was \$232 when I first applied in  
25 October for payments to help me pay. It was \$232 and that is all that I

1 owed at that time.

2 In December, Liheap sent me a check for \$421. December 21,  
3 2003, they sent me a check for \$421. Are you still there, Your Honor?

4 JUDGE SMOLEN: Yes, I am.

5 THE WITNESS: This would have given me a credit of two hundred  
6 and something dollars and at least I would have been able to be okay for  
7 the winter. So I made whatever my payment was at that time and all of a  
8 sudden, I don't see nothing being taken off. I have my bill right here. My  
9 billing statement for January 24<sup>th</sup> says, "payment received, \$421." The  
10 account balance was \$311 at that time and it says the credit was \$138, so  
11 I was fine.

12 February, my balance was \$341 and so I called PGW and I said,  
13 "excuse me, I don't understand this."

14 JUDGE SMOLEN: Stop, stop, stop. You are going a little fast for  
15 me to take notes.

16 THE WITNESS: Okay, because I am so nervous that you don't  
17 understand.

18 JUDGE SMOLEN: I understand, but just slow down. You said  
19 January -

20 THE WITNESS: January. I am looking at my bill, Your Honor.

21 JUDGE SMOLEN: Stop. Stop.

22 THE WITNESS: January 24<sup>th</sup> I could see that the \$421 was  
23 definitely applied from Liheap. That is what was applied on my bill.

24 JUDGE SMOLEN: Stop. Stop.

25 THE WITNESS: Giving me - what concerned me is that I am

1 looking and I see an account balance of \$311. I should have a credit of  
2 \$138 and that is not what happened. So I called PGW and they said, "yes,  
3 what can I help you with." I said, "well, I should have a credit of \$421."  
4 They said, "Ms. Viola, being suspended was not being taken off the  
5 program." I said, "what do you mean? I would like to be taken off the  
6 program." They said, "first of all, did you file a complaint with the PUC?"  
7 They had me every way that you could think of, Your Honor.

8 Because I made a complaint with the PUC, they froze my account  
9 and they were telling me that I was never really taken off the program  
10 back in November, because they couldn't do that because I contacted the  
11 PUC. So the \$421 that they received, they were telling me was to be used  
12 for other programs for PGW and that the funds were never applied to my  
13 account and that made me very upset. I said, "that's not fair; why would  
14 you do that?" They said. "you were just suspended in November. You  
15 were never taken off this."

16 They made it very clear to me that I was taken off the CRP  
17 program because they are the ones who told me, "if you want to be taken  
18 off today, you must apply for Liheap." So you are telling me that PGW  
19 knew that if I applied for Liheap and suspended, they would keep that  
20 funds and my bill would climb so that it kept increasing every month? I am  
21 now in a hole now more than I was when they asked me to do everything  
22 that they told me to do. "Well, Ms. Viola, there is nothing we can help you  
23 with. You owe us \$311 and the \$421 is just going to be for programs for  
24 PGW." That is what they told me at that time, Your Honor, and I was very  
25 upset.

1 I took all my personal information to 8<sup>th</sup> and Snyder because she  
2 told me to do that. They told me to do that because I was off the CRP and  
3 they wanted me to apply because if I qualified, that would help me to pay  
4 the bills. They said, "well, you are not really off the program and now you  
5 owe us \$311." February I made a payment and now my bill is up to \$341.  
6 So Your Honor, the whole thing is, the \$421 check that I did receive  
7 December 21<sup>st</sup>, either they didn't give me all the correct information  
8 because they made me believe that I was off that program and that I had  
9 to go and apply for Liheap and I said, "that's fine." They explained to me  
10 that if I received funds, that would help me to pay the bill, but they kept  
11 the \$421. Now my PGW bill is \$478, and I am ready for another winter  
12 and I am in the same financial situation as I was last year.

13 JUDGE SMOLEN: All right, can I ask you a few questions now?

14 THE WITNESS: Sure.

15 JUDGE SMOLEN: When you went on the CRP program in October  
16 of 2003 and you received your bill in November, did you receive a bill for  
17 the full amount of your usage or did you receive a reduced bill because you  
18 were on the CRP program?

19 THE WITNESS: No, because they installed the meter to read from  
20 advance, so everything is Actual Reading.

21 JUDGE SMOLEN: I understand that, but my question to you is,  
22 were you billed for the full amount or were you billed for a reduced amount  
23 because you were on the CRP program, at least for that month?

24 THE WITNESS: Yes, Your Honor. It was reduced for that month.

25 JUDGE SMOLEN: And how much was it reduced for that month?

1 THE WITNESS: My bill was \$69 and my charges were \$32.44.

2 JUDGE SMOLEN: So that at least according to your testimony, the  
3 difference between \$69, which should have been your bill had you not been  
4 on the CRP, and the \$37.44, was the reduced amount because you were,  
5 at least for that month, on the CRP program?

6 THE WITNESS: Yes, Your Honor, and that continued because the  
7 whole time -

8 JUDGE SMOLEN: Stop. Stop for a minute.

9 THE WITNESS: The whole time I am calling them up and saying,  
10 "where is the \$421," they said, "we are keeping your check and you are  
11 going to have to pay your bill now and that's it." So my whole argument is  
12 that the \$421 could have put me back to where I had a credit of \$138,  
13 where I would have caught up on all my bills for the spring and summer,  
14 but they just kept that balance from the beginning. In November, the  
15 month that you are speaking about, my balance was \$302 and that's when  
16 I was taken off of it and I know because they said to me, "you are  
17 suspended. You are off the program and that's it."

18 The reason why they continued to keep bringing the bill up that  
19 way is because they knew that I already applied in November for Liheap,  
20 so they probably kept me on the CRP program, knowing that I was going to  
21 get the Liheap check and knowing that the Liheap check was never going  
22 to be applied to my account. I called every month and I made a lot of  
23 phone calls because I was very upset about that and I said, "I don't  
24 understand; am I off of it," and they said, "yes, you are, Ms. Viola."

25 JUDGE SMOLEN: Ms. Viola?

1 THE WITNESS: Yes.

2 JUDGE SMOLEN: I have heard this testimony before and -

3 THE WITNESS: Yes, but I am very upset about it because they put  
4 me in a very bad situation because they weren't going to apply that funds  
5 to my account.

6 JUDGE SMOLEN: Ms. Viola, why don't you just listen to me and  
7 listen to the questions and think before you speak?

8 THE WITNESS: Yes.

9 JUDGE SMOLEN: Have you added up for yourself all of the actual  
10 usage that you had, as against all of what you were billed and see what the  
11 difference is between what you actually used and what you were billed  
12 during the period of time which is in dispute?

13 My real question is, and just think about it, because I am  
14 wondering when I read the testimony, and I don't know, but it seems to  
15 me that if your bill for one month might have been \$70 and you were  
16 charged \$35 and that continued for a period of months and then you went  
17 off the program, perhaps - this is only a question - perhaps that Liheap  
18 money was applied to the difference between what you should have paid  
19 and what you actually paid. I don't know.

20 THE WITNESS: I understand what you are saying but that is not  
21 how the program works. Once I apply for Liheap, that check automatically  
22 gets applied to my PGW account and PGW already knows that and I would  
23 have had a credit. In January of '04 --

24 JUDGE SMOLEN: The same thing. I heard this before. I have the  
25 \$421 credit with a \$311 balance and you believe you have a credit of \$138.

1 I have that.

2 THE WITNESS: In January of '04, because they actually told me,  
3 Your Honor, "the \$421, you are not getting it." That's all I know. Whether  
4 or not they deduct all the usage, I don't know. I don't know how to deduct  
5 all the usage.

6 JUDGE SMOLEN: I didn't say the usage. I said -

7 THE WITNESS: They just told me -

8 JUDGE SMOLEN: I said "the amount of the bills." That's what I  
9 said. I don't know. We are going to hear what their testimony is, but I  
10 asked you, did you add up all of the amount of the bills for actual usage  
11 and subtract from them the amount that you actually paid and see what  
12 the difference was?

13 THE WITNESS: No, Your Honor.

14 JUDGE SMOLEN: Okay. Well, we will see what the testimony is  
15 when we go on. Mr. Farinas, do you have any questions to ask? We have  
16 heard what Ms. Viola has to say and I understand her case. She believes  
17 that she did not get credit for that \$421. Do you have any questions?

18 MR. FARINAS: Actually, I do, Your Honor, but before I do that, I  
19 would like to propose that I am hearing for the first time Ms. Viola in  
20 person. She called and my office has left messages and I would like to  
21 propose a settlement to her.

22 JUDGE SMOLEN: Right.

23 MR. FARINAS: I hope this doesn't inconvenience your time, Your  
24 Honor.

25 THE WITNESS: Your Honor, I --

1 JUDGE SMOLEN: Ms. Viola, stop. No, it does not. The Commission  
2 always encourages the parties to get together, negotiate, and settle these  
3 matters so that everybody can walk away amicably. Do you want me to  
4 step off?

5 MR. FARINAS: I mean, if that is what you would normally do in  
6 this situation and if it is in front of you while you are here, I want to assure  
7 Ms. Viola that I am also interested in resolving as many matters as I can  
8 because it just works better for customers all around.

9 JUDGE SMOLEN: Let me ask Ms. Viola.

10 MR. FARINAS: Yes.

11 JUDGE SMOLEN: I can hang up and let you two discuss it and then  
12 somebody call me back and we can resume the hearing or you go on the  
13 record with some kind of a settlement. I will ask Ms. Viola, do you want to  
14 discuss this matter directly with Mr. Farinas?

15 THE WITNESS: Your Honor, I feel a lot more comfortable with the  
16 fact that you are on the phone and I want to tell you one thing else, Your  
17 Honor. When I came home in October and turned my heat on in November  
18 - this is the kind of treatment that you get from PGW.

19 JUDGE SMOLEN: Stop. Ms. Viola?

20 THE WITNESS: I turned my gas on and there was like a smell  
21 because the gas wasn't turned on. I called PGW at the emergency and I  
22 said, "I just walked in and I smell gas and will there be a charge for you to  
23 come out," and she said that there would be no charge. That gentleman  
24 came downstairs and he told me that there was nothing wrong at all and  
25 what I was smelling is gas that was burning and that should subside and

1 "don't worry about it. That shouldn't be a problem." The next month I  
2 got \$50 added to my bill.

3 I called PGW and I told them about the \$50 and I asked why, and  
4 she told me that it was because the gentleman did work and fixed the part  
5 on my heater. I said, "no, he did not; that is not true." He checked to  
6 make sure that there was no leak and he told me that eventually a part  
7 would have to be replaced and she said, "there is nothing I can do about it.  
8 The \$50 is going to be a charge." I told the Public Utility Commission  
9 about that. If I smell gas, it is my responsibility to call PGW, and they put  
10 \$50 on my bill and told me that I could have called a contractor to shut it  
11 off. My point is, Your Honor, they said they took it off my bill but I never  
12 saw a \$50 credit off my bill.

13 JUDGE SMOLEN: Mr. Farinas, I am going to go off the record now.  
14 I am not going to terminate but I am going to let you discuss the matter  
15 with Ms. Viola with a view to an amicable settlement, so we are now off the  
16 record.

17 MR. FARINAS: Yes, Your Honor.

18 JUDGE SMOLEN: Now, go ahead. I am still here.

19 (Discussion off the record.)

20 JUDGE SMOLEN: We are back on the record.

21 In a brief off the record discussion, the parties had an opportunity  
22 to discuss the matter between themselves and arrived at what I believe is  
23 an amicable agreement. I am going to ask Mr. Farinas for the record, to  
24 place the agreement on the record and to include a reference to the Liheap  
25 grant of \$421 and the disputed \$50 charge which Ms. Viola previously

1 testified to.

2 Mr. Farinas, will you put what the proposed settlement is on the  
3 record?

4 MR. FARINAS: Yes, Your Honor, gladly. Both settlement is that I  
5 will send Ms. Viola a confirmation that the \$50 charge has been removed  
6 from her account and it was removed on December 12, 2003. Currently,  
7 her balance reads \$512.94. I am proposing the second terms of this  
8 settlement to credit her account with the disputed amount - the Liheap  
9 grant of \$421. Crediting that to the account will leave her with a balance  
10 of \$91.94.

11 JUDGE SMOLEN: As of what date is that balance due?

12 MR. FARINAS: The \$512.94 is as of October 18, 2004. That's  
13 when it would be due. The last billing was September 21, 2004.

14 JUDGE SMOLEN: So the \$91.94 is due then as of?

15 MR. FARINAS: October 18<sup>th</sup>. The billing date.

16 JUDGE SMOLEN: Okay. Now Ms. Viola, you heard this proposal  
17 that he is going to send you a confirmation that the \$50 charge was  
18 removed and that your account is to be credited with \$421, leaving you  
19 with a balance as of today, of \$91.94.

20 THE WITNESS: I am very, very, very happy. Thank you so much,  
21 Your Honor.

22 JUDGE SMOLEN: All right, that's fine. You will do that  
23 immediately, Mr. Farinas?

24 MR. FARINAS: Yes, Your Honor. I will certainly do that as soon as  
25 possible.

1 JUDGE SMOLEN: You will send Ms. Viola a letter to that effect and  
2 of course in order to close the record here in this case, you will send me a  
3 Certificate of Satisfaction.

4 MR. FARINAS: I will do so, Your Honor.

5 THE WITNESS: God bless you both. Thank you.

6 JUDGE SMOLEN: Thank you very much for participating in the  
7 hearing. Mr. Farinas, please send me that Certificate as soon as possible  
8 and the hearing is adjourned.

9 MR. FARINAS: Thank you, Your Honor.

10 THE WITNESS: Thank you, Your Honor, and thank you,  
11 Mr. Farinas.

12 JUDGE SMOLEN: You are welcome.

13 (Whereupon, at 10:25 a.m., the proceedings were concluded.)  
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CERTIFICATE

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

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