

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rudi Garland	:	
	:	
v.	:	F-2016-2560832
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This initial decision dismisses the Complainant’s, Rudi Garland, Complaint in which the Complainant alleged that she was not responsible for the accrued balance of the account at a prior address. The Complainant failed to meet her burden of proof to establish that she was not responsible for the accrued balance at the prior address.

HISTORY OF THE PROCEEDING

On August 9, 2016, Rudi Garland (Ms. Garland or Complainant) filed a formal Complaint (Complaint) against Philadelphia Gas Works (the Respondent, the Company or PGW) with the Pennsylvania Public Utility Commission (Commission) alleging that the utility is threatening to shut off service and requesting a payment arrangement. As relief, Complainant requested that the balance from a prior address be removed from her account.

This formal Complaint is an appeal to the informal decision issued by the Commission’s Bureau of Consumer Services (BCS) at BCS# 3425221.

On August 29, 2016, Respondent filed an Answer. The Respondent denied the main averments of the Complaint. The Respondent asserted that the Complainant had not contacted the Company to discontinue service at the prior address and was responsible for the balance from the prior address.

A Hearing Notice dated September 14, 2016, notified the parties that an in-person initial hearing was scheduled for Wednesday, October 26, 2016, at 10:00 a.m. and the matter was assigned to me.

A Prehearing Order was issued on September 16, 2016, advising the parties of the date and time of the scheduled hearing, and also informing them of the procedures applicable to this proceeding.

The hearing convened as scheduled on October 26, 2016. Rudi Garland appeared *pro se* and testified on behalf of the Complaint. Brandon J. Pierce, Esq., represented the Respondent, and presented the testimony of Tiffany Jones, a Senior Customer Review Officer for PGW in charge of investigating complaints filed with the Commission. Respondent also sponsored eight exhibits, all of which were admitted into the record at the time of the hearing.

The hearing resulted in a transcript of 44 pages. The record closed on December 5, 2016, when I received my copy of the transcript.

FINDINGS OF FACT

1. Complainant is Rudi Garland, who resides at 4901 Stenton Avenue, Apartment I-8, Philadelphia, Pennsylvania 19144 (Service Address). Tr. 9.
2. Respondent is Philadelphia Gas Works.

3. The Complainant had utility service in her name with PGW at 3045 West Dauphin Street, Apartment 1R, Philadelphia, PA¹ from July 9, 2008 to May 2, 2013. Tr. 21, 24; PGW Exh. 6.

4. Service at 3045 West Dauphin Street was terminated for non-payment on May 2, 2013. Tr. 28.

5. The final bill issued for 3045 West Dauphin Street was \$2,013.71. Tr. 22; PGW Exh. 1

6. PGW has no record of the Complainant requesting a turn off at 3045 West Dauphin Street before service was terminated on May 2, 2013. Tr. 27; PGW Exh. 5.

7. The Complainant's current balance is \$2,835.03. Tr. 28; PGW Exh. 1.

8. The Complainant has had no Company or Commission issued payment arrangements. Tr. 40; PGW Exh. 4.

DISCUSSION

In her formal Complaint, Complainant alleges that despite the fact that she contacted the Respondent to inform them that she was moving from a prior service address, the Company did not shut off service in her name. The Complainant further contends that she was charged the balance for service at the prior location even though she lived elsewhere. PGW contends that Complainant has been affiliated with the Service Address since 2008 and the Company has no records of the Complainant contacting it to shut off service in her name. The Company's position is that the Complainant must therefore assume responsibility for the balance on that account. As the proponent of a rule or order, the Complainant in this proceeding bears

¹ The Complainant contends that the prior Service Address had a different physical address, specifically, 2301 31st Street, Philadelphia, PA. Tr. 9. However, the Company has no record of an account in the Complainant's name at that address. Tr. 21. Moreover, the information at the hearing indicates that the correct address for the prior account at issue is the address indicated above. Tr. 21.

the burden of proof pursuant to Section 332(a) of the Public Utility Code (Code), 66 Pa.C.S. § 332(a). To satisfy this burden, the Complainant must demonstrate that the Respondent was responsible for the problems alleged in the Complaint through a violation of the Code or a regulation or order of the Commission. This must be shown by a preponderance of the evidence. *Patterson v. Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). Preponderance of the evidence means that the party with the burden of proof has presented evidence that is more convincing than that presented by the other party. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa.Cmwlth. 1990) *alloc. den.*, 529 Pa. 654, 602 A.2d 863 (1992). In addition, the Commission's decision must be supported by "substantial evidence," which consists of evidence that a reasonable mind might accept as adequate to support a conclusion. A mere "trace of evidence or a suspicion of the existence of a fact" is insufficient. *Norfolk and Western Railway Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

According to Section 56.266(a) of the Commission's regulations, a customer who is going to vacate a premises supplied with utility service or wishes to have service discontinued must give at least seven days' notice to the utility. 52 Pa.Code §56.266(a). If there is no notice, then that customer must be responsible for the services rendered. *Id.* Finally, in the event of a termination or discontinuance of service, the utility may transfer any outstanding balance to a new residential service account for the same customer. 52 Pa.Code §56.266(b).

At the hearing, Complainant testified that she moved from 3045 West Dauphin Street sometime in 2009. Tr. 10. She also testified that she contacted the Company at that time to inform them that she was moving and service should be terminated in her name. Tr. 10. The Complainant indicated that she lived with her father during this time. Tr. 10

In her testimony, PGW's witness, Ms. Jones, indicated that the Complainant had utility service in her name with PGW at 3045 West Dauphin Street, Apartment 1R, Philadelphia, PA from July 9, 2008 to May 2, 2013. Tr. 21, 24; PGW Exh. 6. Service at 3045 West Dauphin Street was terminated for non-payment on May 2, 2013. Tr. 28. The final bill issued for 3045 West Dauphin Street was \$2,013.71. Tr. 22; PGW Exh. 1. Ms. Jones also testified that PGW

has no record of the Complainant requesting a turn off at 3045 West Dauphin Street before service was terminated on May 2, 2013. Tr. 27; PGW Exh. 5.

In response to Ms. Garland's assertions that she lived with her father for the time period at issue, it was noted by PGW that the Complainant was not able to produce any records to support that she lived at another location or the lease agreement from the 3045 West Dauphin Street address. "Mere bald assertions ... do not constitute evidence." *Pennsylvania Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *Mid-Atlantic Power Supply Association of Pennsylvania v. Pennsylvania Public Utility Commission*, 746 A.2d 1196, 1200 (Pa.Cmwlth. Ct. 2000); see also, *Steffy's Pattern Shop v. Frontier Communications of Pennsylvania, Inc.*, Docket No. R-00994808 (Opinion and Order entered March 3, 2000). Complainant was unable to support her oral testimony with additional evidence. She was unable to produce a rental agreement for the prior address at 3045 West Dauphin Street, nor any other information that she did not live at that address. Nor did the Complainant produce any other documentation that she was living with her father during the timeframe at issue.

Ms. Garland has failed to produce a scintilla of evidence to support her claim that she did not reside at and benefit from the utility services at 3045 West Dauphin Street between 2009 and May 2013. The Complainant did not provide any proof that she resided elsewhere during the time period at issue. The Company has no record that the Complainant contacted it to inform them she would be vacating 3045 West Dauphin Street in 2009. Complainant has failed to carry her burden of proving that Respondent has violated a Commission statute, regulation or order by transferring the balance that accumulated at 3045 West Dauphin Street between 2009 and May 2013 to her new residential account.

For the reasons stated above, I will dismiss Ms. Garland's present Complaint for failure to carry her burden of proof. Ms. Garland is liable for the balance accrued in the account in the amount of \$2,835.03.

CONCLUSIONS OF LAW

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

2. Complainant had the burden of proof and failed to carry that burden. 66 Pa.C.S. § 332(a).

3. Mere bald assertions do not constitute evidence. *Pennsylvania Bureau of Corrections v. City of Pittsburgh*, 516 Pa. 75, 532 A.2d 12 (1987); *Mid-Atlantic Power Supply Association of Pennsylvania v. Pennsylvania Public Utility Commission*, 746 A.2d 1196, 1200 (Pa.Cmwlth. 2000); see also, *Steffy's Pattern Shop v. Frontier Communications of Pennsylvania, Inc.*, Docket No. R-00994808 (Opinion and Order entered March 3, 2000).

4. Absent notice to the public utility that a consumer is vacating the premises, the consumer remains responsible for any services rendered to the premises. 52 Pa.Code § 56.266(a).

5. The public utility may transfer an unpaid balance to a new residential service account of the same customer. 52 Pa.Code § 56.266(b).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Rudi Garland against Philadelphia Gas Works at Docket No. F-2016-2560832 is dismissed.

