

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Vincent Bullock	:	
	:	
v.	:	C-2017-2610748
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Angela T. Jones
Administrative Law Judge

INTRODUCTION

This decision finds that the record evidence failed to support the allegation of the Complainant that the billed charges for gas service were inaccurate and not his responsibility. Therefore, the Complainant failed to sustain his burden of proof and his formal complaint (Complaint) is dismissed.

HISTORY OF THE PROCEEDING

On June 9, 2017, Complainant, Vincent Bullock, filed a Complaint with the Pennsylvania Public Utility Commission (Commission or PUC) against Philadelphia Gas Works (PGW or Company or Respondent). The Complainant alleged gas service from the Respondent at 2014 Garnet Street, Philadelphia, Pennsylvania (service address)¹ was to be paid by his landlord. The Complainant's current address is 2434 W. Sergeant Street, Philadelphia, Pennsylvania (current address). The Complainant alleged that the landlord put gas service in the

¹ The Complainant in his Complaint had the service address as 2012 Garnet Street, to which the Respondent answered it had no record of service for the Complainant at that address. The Complainant subsequently agreed that the address was 2014 Garnet Street. Tr. 29.

Complainant's name leading to a large bill. The Complainant provided the name of counsel as representing him in this proceeding. The Complainant requested that the disputed charges be removed and that the gas service at his current address be restored.

The Complaint was served electronically (eService) by the Commission's Secretary on June 22, 2017, according to the audit history of the docket. The eService is pursuant to the Waiver of Section 702 program, under which the Respondent waives the service requirements in 66 Pa.C.S. § 702.

On July 12, 2017, Graciela Christlieb, Esquire, counsel for the Respondent, filed an Answer to the Complaint. The Answer denied that the actions of the Respondent were improper.

Specifically, the Respondent stated that the Complainant requested gas service to begin at his current address on September 9, 2014. The gas service was terminated at the current address for non-payment on April 5, 2017. The Respondent requested that the Commission find against the Complainant and dismiss the Complaint.

A Hearing Notice dated July 21, 2017, notified the parties that an initial in-person hearing was scheduled for Tuesday, September 5, 2017, at 9:30 a.m. This Notice indicated that the case was assigned to the undersigned Administrative Law Judge (ALJ) as the presiding officer.

A Prehearing Order dated July 21, 2017, provided procedural rules and guidelines for the proceeding and emphasized the following:

- (1) a request to change the scheduled hearing should be sent at least five days prior to the hearing date;
- (2) the request for a hearing change is to be in writing and sent to all parties of record; and
- (3) a caution that Complainant may lose the case if he does not take part in the hearing and present evidence on the issues raised.

On September 1, 2017, a Notice of Appearance was filed, which changed the counsel representing the Respondent to Laureto Farinas, Esquire.

A letter sent by facsimile dated September 5, 2017, by a professor from the Temple University Legal Aid office represented that his student's name was given as counsel for the Complainant. The letter confirmed that neither the student nor the legal aid office is representing the Complainant.

The evidentiary hearing convened as scheduled. At the commencement of the hearing it was determined that the hearing would address the gas service at the Complainant's service address at 2014 Garnet Street, Philadelphia, Pennsylvania. The Complainant was directed to file another formal complaint regarding any dispute of his gas service at his current address, 2434 W. Sergeant Street, Philadelphia, Pennsylvania.

Mr. Bullock appeared representing himself. Mr. Farinas appeared accompanied by one witness, Tiffany Jones, representing the Respondent.

Mr. Bullock did not submit any documents to be admitted into the record.

Mr. Farinas presented one witness, Tiffany Jones. The witness supported testimony for the following three exhibits:

- (1) PGW Exhibit 1 – Account Statement for current address;
- (2) PGW Exhibit 3 – Payment Arrangement history; and
- (3) PGW Exhibit 4 – Contacts for account.

All three exhibits were admitted into the record without objection. The transcript consists of 84 pages of transcribed testimony. The record closed on October 11, 2017, when the transcript was received by the undersigned. This matter is ripe for decision.

FINDINGS OF FACT

1. The Complainant is Vincent Bullock, who currently resides at 2434 W. Sergeant Street, Philadelphia, Pennsylvania (current address). Tr. 10.
2. The Respondent is Philadelphia Gas Works, a jurisdictional public utility that provides gas distribution service in the Commonwealth of Pennsylvania.
3. The Complainant previously received residential gas service from the Respondent at 2014 Garnet Street, Philadelphia, Pennsylvania (service address). Tr. 11, 29.
4. The Complainant applied for gas service on January 14, 2011, and activated service at the service address on January 16, 2011. PGW Exhibits 1 and 4.
5. The billing address for the Complainant's account is the service address, which is 2014 Garnet Street, Philadelphia, Pennsylvania. Tr. 62-63.
6. The Complainant was a renter at the service address from January 2011 to March 2012. Tr. 11, 69, PGW Exhibit 1.
7. The gas appliances at the service address were:
 - a. stove;
 - b. furnace; and
 - c. hot water heater. Tr. 13-14.
8. The Complainant's household at the service address was the Complainant and his daughter, who was a minor. Tr. 34-35, 40, PGW Exhibit 3.
9. While the Complainant had gas service at the service address, he established a customer responsibility program (CRP) agreement on January 18, 2011. Tr. 51-52, PGW Exhibit 4.

10. To apply for CRP the Complainant had to provide personal identification, household income, social security numbers for all occupants of the service address, proof of income and proof of occupancy of the service address. Tr. 51-53.

11. The Complainant applied for CRP in-person. Tr. 54-55, 67, PGW Exhibit 4.

12. The Complainant had to provide a social security card showing the social security number; not just recite the number alone and proof of income. Tr. 53-54, 67.

13. The Complainant broke the CRP agreement on October 25, 2011. Tr. 56, PGW Exhibit 1.

14. The Complainant's account for the service address was finalized on March 16, 2012, and he owed \$1,353.62 for gas service rendered. Tr. 69, PGW Exhibit 1.

15. All payments made for the service account associated with the service address were in cash before the account was closed in 2012. Tr. 67-68, PGW Exhibit 1.

16. The Complainant moved to his current address in September 2014, and obtained gas service at the service address from the Respondent. Tr. 14, 16.

17. In applying for gas service at his current address, the Complainant wrote his social security number on the application to obtain gas service from the Respondent. Tr. 18-19.

18. The Complainant's account was reactivated on September 9, 2014. PGW Exhibit 1.

19. The request for gas service at the Complainant's current address caused the reactivation of the finalized account balance of \$1,353.62 for the service address. Tr. 70.

20. The finalized account balance of \$1,353.62 was transferred to Complainant's account at his current address on September 10, 2014. PGW Exhibit 1.

21. The Complainant then received a bill attributed to the outstanding balance from his service address which the Respondent connected to the Complainant through his social security number. Tr. 20-21.

22. On October 18, 2016, the Complainant established a payment arrangement over a 24-month period for a down-payment of \$134.79, a reconnection fee of \$123.23, a monthly payment towards the outstanding balance of \$130.00 and a budget billed monthly amount of \$59.00, for a total monthly payment of $(\$130.00 + \$59.00 = \$189.00)$ \$189.00. Tr. 24, 57-59, PGW Exhibits 3 and 4.

23. The Complainant was not able to keep the payment arrangement, which was broken on January 28, 2017. Tr. 26, PGW Exhibit 3.

24. In April or May 2017, the Complainant attempted to contact the landlord at the service address but the landlord sold the property and moved to India. Tr. 23-24, 33.

25. The Complainant does not have a copy of the lease or other documents he filled out for the landlord at the service address. Tr. 36.

26. Tiffany Jones is employed by the Respondent as a senior customer review officer for 1½ years and an employee for 11 years. Tr. 44-45.

27. A customer review officer investigates informal and formal complaints customers file against PGW with the Commission. Tr. 44.

28. On May 11, 2017, Ms. Jones was informed of a situation involving possible identity theft of the Complainant. Tr. 60-61, PGW Exhibit 4.

29. In October 2016, the Complainant reported identity theft to the police department. Tr. 36-37.

30. The Complainant does not have a copy of the police report. Tr. 41.

31. The Complainant was to get a form from the Respondent to confirm the identity theft, but did not receive the form. Tr. 37-38.

32. The Complainant asked the Respondent about the form to document the identity theft in June, July and August 2017, but did not receive it. Tr. 38.

33. Respondent did not receive a police report. Tr. 61, 69-70, PGW Exhibit 4.

34. As of April 19, 2017, the Complainant had an outstanding balance of \$801.56 attributed to gas service at the service address. Tr. 50, PGW Exhibit 1.

DISCUSSION

In this Complaint, the Complainant alleged that incorrect charges for his billed gas usage at the service address. The issue in this proceeding is determined by whether the Complainant sustained his burden of proof. The Complainant failed to sustain his burden of proof by substantial evidence, and therefore, the Complaint is dismissed.

I. Applicable Legal Standard

As the proponent of a rule or order seeking affirmative relief from the Commission, the Complainant in this proceeding bears 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. PUC 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa. PUC 300 (1976).

A preponderance of the evidence is that which is more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 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. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980).

If the Complainant presents evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the Complainant shifts to the Respondent. If the evidence presented by the Respondent is of co-equal weight, the Complainant has not satisfied his burden of proof. The Complainant would be required to provide additional evidence to rebut the evidence of the Respondent. *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa.Cmwlth. 1982), *aff'd*, 501 Pa. 433, 461 A.2d 1234 (1983).

While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa.Cmwlth. 2001).

II. Whether Complainant Sustained Burden of Proof

The Complainant alleged that he was not responsible for payment of the gas service at the service address. Tr.13. The Complainant alleged that his landlord was

responsible for said payment. *Id.* The Complainant alleged that the Respondent had the wrong social security number associated with the gas service at the service address. Complainant claimed that when the appropriate person corresponding to the errant social security number obtained gas service from the Respondent in 2016, he obtained a sufficient bill for gas service at the service address. Consequently, the Complainant claimed he did not discover the identity theft until October 2016. Complainant alleged that he filed a police report of the identity theft. The Complainant disputes responsibility for the outstanding balance for gas service at the service address and requests that any balance associated with the gas service at the service address be removed from his current bill. Tr. 39.

The Complainant does not provide any documentation to corroborate his claims of identity theft. The Complainant does not provide the police report. The Complainant does not provide the lease showing that not he, but his landlord, was responsible for payment of gas service at the service address. Rather, the Complainant when questioned in cross-examination, stated,

Q. So, what evidence do you offer here that all of what you're saying is true, that he [the landlord] stole your identity—putting gas in your name when you understood the gas was to be in his name?

A. I don't have any of the physical documentation. The one thing I would really need is the lease from that address which would of clearly shown the gas was not in my name and I paid the electric and water, and I don't have that.

Tr. 33-34.

Furthermore, the Complainant seems to change theories of identity theft. He first claimed that the Respondent had the wrong social security number for him when his service account was established. Tr. 14. The Complainant claimed that some unknown individual applied for service with PGW subsequent to his application with the same social security number, which resulted in PGW correcting the error and in 2016 back-billing him for gas service. Tr. 14-15. However, as stated above, the Complainant stated that the landlord used his identity to obtain gas at the service address in the Complainant's name. Both theories cannot be correct.

The Respondent provided evidence that the Complainant applied for gas service on January 14, 2011, and established the service account for the service address on January 16, 2011. PGW Exhibits 1 and 4. The Respondent provided evidence that the Complainant enrolled in its CRP program on January 18, 2011. Tr. 52. The Respondent provided evidence that the application for the CRP program entails proof through documentation of social security number and income of the members of the household of the applicant. The Respondent stated that the Complainant participated in the CRP program until October 25, 2011. Tr. 56, PGW Exhibit 1. Because of PGW's procedure for participation in the CRP program, documented proof of the Complainant's social security number must have been supplied. Furthermore, the Complainant appeared in person at a district office of the Respondent to apply for the CRP program and not over the phone. Consequently, the information was provided such that the receiver was in eyesight to confirm the identity of the Complainant and not in a remote location.

Additionally, the Respondent provided evidence that the Complainant's service at the service address was finalized on March 16, 2012. Tr. 69, PGW Exhibit 1. The Complainant initiated service at his current address on September 9, 2014. PGW Exhibit 4. The bill for the outstanding balance at the service address was transferred to the Complainant's current address on September 10, 2014. PGW Exhibit 1. What occurred in October 2016, was a payment arrangement between the Respondent and the Complainant for an amount owed that included the outstanding balance at the service address. Tr. 57-59, PGW Exhibits 3 and 4. However, the Complainant was billed for the outstanding balance at the service address in September 2014, and not later in October 2016, as the Complainant stated that was when it was revealed to him about the identity theft.

The Complainant admits that the lease for the service address would substantiate his testimony, but he fails to supply the lease. The Complainant fails to supply evidence of a police report that he claimed he reported. The Complainant fails to corroborate his testimony with documentation.

The Complainant complained about identity theft in October 2016, when the significant amount due for the balance of the service address where the identity theft allegedly took place occurred in September 2014. The Complainant's timeline of events does not reasonably align with the testimony he provided.

The Complainant used his social security number to apply for the Respondent's CRP program on January 14, 2011. The application for the CRP program occurred in person by the Complainant. The application for the CRP program involved personal identification. Any error in the Complainant's social security number should have been detected through the CRP application process because personal identification was involved which should have been easily verified through eyesight since the Complainant applied in person.

There are simply too many inconsistencies with the Complainant's claims.

I find that the Complainant is not credible because of the lack of corroboration of his testimony with documents and the lack of consistency in his testimony. Consequently, I find that Complainant failed to sustain his burden of proof for his dispute in this formal Complaint.

CONCLUSIONS OF LAW

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

2. "Burden of proof" means a duty to establish one's case by a preponderance of the evidence, which requires that the evidence be more convincing by even the smallest degree, than the evidence presented by the other side. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

3. As the party seeking affirmative relief from the Commission, the Complainant bears the burden of proof. 66 Pa.C.S. § 332(a).

4. The Complainant failed to sustain his burden of proof that he is not responsible for the billed gas service. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal complaint of Vincent Bullock against Philadelphia Gas Works at Docket No. C-2017-2610748 is dismissed.
2. That the Docket No. C-2017-2610748 is to be marked closed.

Dated: November 30, 2017

_____/s/
Angela T. Jones
Administrative Law Judge