

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Geraldine Weston	:	
	:	
v.	:	C-2016-2524994
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Marta Guhl  
Administrative Law Judge

This Initial Decision grants the Formal Complaint of Geraldine Weston filed against Philadelphia Gas Works with the Pennsylvania Public Utility Commission at Docket No. C-2016-2524994. The Complainant met her burden of proof that she is not responsible for the charges on her account between September 2014 and July 20, 2015.

**HISTORY OF THE PROCEEDING**

On January 19, 2016, Geraldine Weston (Ms. Weston or Complainant) filed a formal Complaint (Complaint) against Philadelphia Gas Works (Respondent, PGW or the Company) with the Pennsylvania Public Utility Commission (Commission) alleging PGW was threatening or had shut off her utility service. Ms. Weston averred that she did not use the amount of gas for which PGW is charging her. As relief, Ms. Weston requested that PGW remove charges from her account as her health required her to leave the Service Address. The Complainant also requested a payment plan.

On February 10, 2016, the Respondent filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated February 23, 2016, notified the parties that an initial hearing was scheduled for Friday, April 8, 2016, at 10:00 a.m.

A Prehearing Order was issued on February 24, 2016, advising the parties of the date and time of the scheduled hearing and informing them of the procedures applicable to this proceeding.

The hearing convened as scheduled. The Complainant appeared *pro se*, and testified in support of the Complaint. The Complainant sponsored four exhibits, which were admitted into the record in this matter. Graciela Christlieb, Esq. represented the Respondent, and presented the testimony of Jennifer Pearson, who is a customer review officer with PGW in charge of reviewing and investigating formal complaints filed with the Commission. The Respondent sponsored seven exhibits, all of which were admitted into the record. At the close of the hearing, I determined that I needed additional testimony and evidence from the Complainant regarding her medical condition and treatment. I indicated that a further hearing would be scheduled for that matter.

On April 15, 2016, a Further Hearing Notice was issued indicating a further hearing was scheduled for Tuesday, June 28, 2016, at 10:00 a.m.

The hearing took place as scheduled on June 28, 2016. The Complainant appeared for the hearing and again testified on her own behalf and presented the testimony of her sister, Corrina Fleming. The Complainant presented ten additional exhibits which were entered into the record. Respondent was represented by Ms. Christlieb and did not offer any additional testimony or evidence. Counsel for PGW offered to file a late filed exhibit No. 8 to show if there were any other parties associated with the Service Address. The late filed exhibit was due July 1, 2016 and any written objections from the Complainant were due by July 11, 2016.

On July 1, 2016, PGW submitted late filed exhibit No. 8. The Complainant did not submit any objections to the exhibit.<sup>1</sup>

The record closed on July 26, 2016, when I received a copy of the second hearing transcript.

### FINDINGS OF FACT

1. The Complainant is Geraldine Weston, whose mailing address is 1811 North 24<sup>th</sup> Street, Philadelphia, PA 19121 (Service Address). Tr. 6.
2. Respondent is Philadelphia Gas Works.
3. The Complainant owns the Service Address. Tr. 7.
4. The Complainant had utility service with PGW in her name. Tr. 7.
5. The Complainant vacated the Service Address in September 2014, due to an accident which caused her to be hospitalized. Tr. 7, 46.
6. After her hospitalization, the Complainant stayed at a rehabilitation facility. Tr. 7, 46.
7. The Complainant has not returned to live at the Service Address since September 2014. Tr. 7, 47.
8. The Complainant lives with her son, Quintell Weston, at 354 Church Lane, Philadelphia, Pennsylvania. Tr. 7, 47.

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<sup>1</sup> As there was no objection to the exhibit, PGW's Late Filed Exhibit No. 8 is entered into the record through this decision.

9. The Complainant suffered from memory issues after her accident and has not been able to manage her affairs. Tr. 7.

10. Prior to her hospitalization, the Complainant was living with her niece and the niece's husband at the Service Address. Tr. 8-9, 12.

11. The Complainant went through eviction proceedings against her niece and her niece's husband. Tr. 8, 12; Complainant Exh. 1.

12. At the time the Complainant was hospitalized in September 2014, the eviction process was complete, and the niece and her niece's husband were to vacate the Service Address. Tr. 10; Complainant Exh. 2.

13. On July 20, 2015, PGW abandoned gas service to the Service Address by digging up the service line at the street due to refusal of entrance to the Service Address and no curb valve. Tr. 19; PGW Exh. 1.

14. The Complainant has not been charged for gas usage since July 20, 2015. Tr. 20.

15. In the last bill before September 2014, dated August 22, 2014, the Complainant's outstanding balance on her gas service account for the Service Address was \$5,077.69. Tr. 20; PGW Exh. 3.

16. The final balance on the Complainant's gas service account on July 24, 2015 was \$6,718.37. Tr. 21; PGW Exh. 3.

17. The charges billed to the Complainant's gas service account for the Service Address between September 2014 and July 20, 2015 were \$1,640.68. Tr. 21.

18. All of the Complainant's bills from PGW were based on actual usage. Tr. 21; PGW Exh. 3.

19. The Complainant did not contact PGW to terminate her gas service because she was not physically able at the time she was hospitalized in September 2014. Tr. 7, 21-22; PGW Exh. 1.

### DISCUSSION

In her formal Complaint, Ms. Weston alleged that there were incorrect charges on her gas bill from Respondent. Ms. Weston averred that she was not residing at the Service Address after September 2014 due to an accident which required a hospitalization and a stay at a rehabilitation facility. Ms. Weston indicated that no one should have been living at the Service Address after September 2014. As relief, Ms. Weston requested that the Commission remove the balance accrued on her account for that timeframe.

As the proponent of a rule or order, 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). 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. Pub. Util. Comm'n*, 578 A.2d 600 (Pa.Cmwlt. 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).

Upon the presentation by the Complainant of 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).

Section 1403 of the Public Utility Code defines “Customer” as follows:

“Customer.” A natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested.

66 Pa.C.S. § 1403.

The Complainant acknowledged that she did not contact PGW before she vacated the Service Address in September 2014. Tr. 7. However, the Complainant credibly testified that she was physically unable to contact PGW due to her accident and hospitalization. Tr. 7. The Complainant also indicated that she has been unable to manage her affairs since her accident in September 2014. Tr. 7. The Complainant vacated the Service Address in September 2014 and has not returned to the Service Address since that point. Tr. 7, 47.

While the Complainant did not contact PGW to terminate her utility service at the Service Address in accordance with Section 56.266(a) of the Commission’s regulations, I find that she was physically unable to do so. Moreover, the Complainant was under the impression the Service Address should have been vacant because she had gone through eviction proceedings

against her niece and her niece's husband prior to leaving the Service Address in September 2014. Tr. 8, 10, 12; Complainant Exhs. 1 and 2. The Complainant has not returned to the Service Address since September 2014 and lives with her son, Quintell Weston. Tr. 7, 47. The Complainant has not benefited from utility service at the Service Address since she vacated the Service Address in September 2014.

Further, PGW's witness, Jennifer Pearson, testified that service was terminated at the Service Address on July 20, 2015 due to lack of access to the meter and no curb valve being present at the Service Address. Tr. 19; PGW Exh. 1. The Complainant has not been charged for gas usage since July 20, 2015. Tr. 20. Ms. Pearson indicated that on the last bill before September 2014, dated August 22, 2014, the Complainant's outstanding balance on her gas service account for the Service Address was \$5,077.69. Tr. 20; PGW Exh. 3. PGW also presented evidence that the final balance on the Complainant's gas service account on July 24, 2015 was \$6,718.37. Tr. 21; PGW Exh. 3. The charges billed to the Complainant's gas service account for the Service Address between September 2014 and July 20, 2015 were \$1,640.68. Tr. 21. Ms. Pearson testified that all the Complainant's bills from PGW were based on actual usage. Tr. 21; PGW Exh. 3.

While the Complainant is the owner of the Service Address and her name is on the account for utility service, the Complainant has met her burden of demonstrating that she has not benefited from utility service at the Service Address since September 2014. The Complainant presented credible testimony and evidence that she has not lived at the Service Address since September 2014. The Complainant also presented credible testimony that she was not able to contact PGW to terminate gas service due to her medical issues since September 2014. Further, the Complainant's credible testimony indicates that the Service Address should have been vacant after she left the Service Address in September 2014. The Complainant's service was terminated on July 20, 2015. PGW indicated that the charges accrued on her gas service account for the Service Address between September 2014 and July 20, 2015 were \$1,640.68. Based on the above, the Complainant has established that she is not responsible for charges on her account between September 2014 and July 20, 2015 in the amount of \$1,640.68.

Therefore, the Complainant's Formal Complaint is granted, and those charges are removed from the Complainant's final balance for the Service Address.

### CONCLUSIONS OF LAW

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

2. Pursuant to 66 Pa.C.S. § 332(a), the burden of proof in this proceeding is upon the Complainant. 66 Pa.C.S. § 332(a).

3. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa.Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa.Cmwlth. 1993); 2 Pa.C.S. § 704.

4. A "customer" is a natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested. 66 Pa.C.S. § 1403.

5. The Complainant has met her burden of demonstrating that she was not responsible for utility service for the Service Address between September 2014 and July 20, 2015.

