

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg Pennsylvania 17120**

**Maria Morales**  
v.  
**Philadelphia Gas Works**

**Public Meeting held June 14, 2018**  
**2623492-ALJ**  
**Docket No. F-2017-2623492**

**MOTION OF COMMISSIONER DAVID W. SWEET**

This matter before us is the Initial Decision (ID) of Administrative Law Judge F. Joseph Brady (ALJ) which dismisses the formal complaint filed by Maria Morales against the Philadelphia Gas Works (PGW). Ms. Morales objects to PGW's termination of her service and back-billing for estimated usage upon the finding of tampering of Ms. Morales' meter.

Relevant facts are as follows: Complainant and her husband purchased the subject home in May 2007, where Ms. Morales has lived ever since. Her husband moved out in September 2007 but visits their children several times per month.

Gas service was established in 2007, and at some undetermined point thereafter, she enrolled in PGW's Customer Responsibility Program (CRP), under which she was billed \$99.00 per month, an amount based upon her income and not her usage. After her meter stopped recording usage on February 20, 2014, Ms. Morales continued to pay her CRP amount for the next 23 months. On February 1, 2016, Complainant visited PGW's North Philadelphia District Office to recertify her enrollment in CRP, which must be done annually. During that visit, PGW determined that her CRP bill would be \$87.88 per month but that her usage of zero meant that it would be cheaper to pay her bill based on usage, or approximately \$12.00 per month. PGW billed her for that amount until her meter was disconnected on July 27, 2017.

PGW knew or should have known that there was an issue with Complainant's meter when it stopped registering usage in February of 2014 but did not send a technician to Ms. Morales house until October 2014. He was unable to gain access to the meter, and a PGW employee did not return until January 2017. This second employee was also unable to access the meter and PGW did not send another technician until July 25, 2017. The third employee was also unable to access the meter and a fourth was sent two days later. This employee did access the meter and found evidence of meter tampering.

As is customary and consistent with the finding of a tampered meter, and consistent with Commission regulations,<sup>1</sup> PGW calculates an estimate for unbilled usage and bills the customer for it. Accordingly, PGW determined that the overall usage from February 19, 2014 to July 27, 2017 was \$4,923.47. PGW then subtracted her CRP payments made of \$2,510.61 from that amount and reached the amount billed, \$2,412.86.<sup>2</sup>

In this situation, the Complainant paid her CRP bill every month. CRP participants must recertify annually, which means that she recertified for CRP during that 23-month period, and it

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<sup>1</sup> 52 Pa. Code §59.22 (c).

<sup>2</sup> Tr. 79-80.

wasn't until she attempted to recertify again in February 2016 that she was told that her usage of zero meant that she would be better off paying for her actual usage. From February 2016 through July 2017, she paid the \$12-\$15 usage charges. When the ALJ asked the PGW witness whether the zero usage should have raised a red flag for PGW, the answer was yes.<sup>3</sup>

Ms. Morales testified that after PGW tried to access her meter in 2014 when she was not at home, PGW did not follow up for nearly three years. PGW's records support this statement. It is clear that, if PGW had been diligent, the matter could have been addressed much earlier, with less confusion and less accrual for unbilled gas usage. She also testified credibly that her husband had filled the area around her meter with his tools and that she could not access it. The PGW technician corroborated her testimony with his own by testifying that he had to move a wood or aluminum frame blocking the meter.<sup>4</sup>

When the bills dropped from the CRP amount to the customer charge amount after her reenlistment in CRP was declined, Ms. Morales believed that a LIHEAP grant might have taken effect. She did not understand that she was being charged for the customer charge only and not for any usage.<sup>5</sup>

At issue is the amount for which PGW billed Ms. Morales for estimated gas usage beginning at the time that the meter stopped registering usage, February 2014. They subtracted her actual payments from the estimate in order to determine her final bill.

However, Ms. Morales continued to pay her CRP rate for 23 months after the meter stopped registering use and only stopped paying the CRP rate when a PGW employee removed her from CRP because her usage was lower than the CRP rate when she appeared at a PGW facility to recertify on February 1, 2016. Therefore, it is from the date of that failed recertification to the date that the meter was removed, July 27, 2017, that any theft of gas can be figured. Prior to that date, she paid the lawful charges and cannot be said to have benefitted from the tampered meter. In other words, theft of gas cannot have occurred while she was paying the rate that she had been given under CRP. The amount to be paid due to meter tampering will be adjusted accordingly.

PGW, on the other hand, knew or should have known that there was an issue with Ms. Morales' meter. Whether it was due to a defective meter or a tampered meter, the meter was not registering usage, and PGW had a duty to address that fact as soon as possible after February 2014 but did not follow up until October 2014. The fact that PGW's records show that the next effort did not occur until January 10, 2017, just short of three years later, constitutes unreasonable service.

As meter tampering constitutes fraud, and no statute of limitations applies to the utility's ability to recoup unbilled usage, there seems to be little incentive for PGW to act quickly upon a suspicion of a faulty meter. But a defective meter would yield the same large bill for unbilled

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<sup>3</sup> Tr. 92.

<sup>4</sup> Tr. 45-46.

<sup>5</sup> Tr. 16-18.

usage, and PGW is warned that a single failed attempt to view the meter, followed by three years of inactivity, is not acceptable.

Nevertheless, gas was consumed and PGW should receive appropriate compensation for its consumption. Accordingly, the total amount of estimated usage should be figured from February 2016 and should be figured at the CRP rate that Ms. Morales would have paid had the problem been identified earlier. The regulation provides that “Exceptions will be made only if the facts clearly show that the stated method does not give the correct consumption for the period”,<sup>6</sup> and I believe that the correct amount owed for her consumption was the CRP rate that she tried to pay.

THEREFORE,

I MOVE:

1. That the complaint filed by Maria Morales against Philadelphia Gas Works at this docket is granted in part and denied in part.
2. That the amount that Philadelphia Gas Works may charge for unbilled usage to Maria Morales is the amount accrued from February 1, 2016 to the date of termination.
3. That the Office of Special Assistants prepare an appropriate order consistent with this motion.

June 14, 2018  
DATE

  
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DAVID W. SWEET  
COMMISSIONER

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<sup>6</sup> 52 Pa. Code §59.22(c).