

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Teresa Dolge	:	
	:	
v.	:	F-2018-2644385
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Complainant’s formal Complaint because she failed to sustain her burden of proving that Philadelphia Gas Works violated any Commission orders or regulations regarding the due date for her bills.

HISTORY OF THE PROCEEDING

On January 22, 2018, Teresa Dolge (Complainant or Ms. Dolge) filed a formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant indicated that she needed a due date for her bills between the 10th and the 15th of the month.

On February 14, 2018, Respondent filed an Answer which acknowledged the Complaint but indicated that PGW was unable to guarantee a specific billing due date for the Complainant. The Respondent asserted that the Complaint should be dismissed.

On February 28, 2018, a Hearing Notice was issued which indicated an initial hearing was scheduled in the matter for April 27, 2018 at 10:00 a.m. and assigned to me. I issued a Prehearing Order on March 8, 2018.

The initial hearing in this matter was held as scheduled on April 27, 2018. The Complainant appeared *pro se* and testified on her own behalf. The Complainant did not present any exhibits. Respondent appeared and was represented by Graciela Christlieb, Esquire. The Respondent did not present any witnesses or exhibits.

The hearing resulted in 24 pages of transcript. The record closed on May 30, 2018, when I received the transcript of the hearing.

FINDINGS OF FACT

1. The Complainant in this case is Teresa Dolge who resides at 3157 Stamford Street, Philadelphia, Pennsylvania 19136 (Service Address). Tr. 10.
2. The Respondent in this proceeding is Philadelphia Gas Works.
3. The Complainant wants to choose her billing due date. Tr. 11.
4. The Complainant is aware of budget billing but chooses not to participate in that program from PGW. Tr. 16.
5. The Complainant is aware of the Customer Responsibility Program (CRP) but has not applied for that program. Tr. 16.
6. Both the budget billing and CRP programs provide customers with more stability in their billing so they will know what they owe to PGW each month. Tr. 16.

7. The Complainant has not contacted anyone related to the technology of gas meters. Tr. 19.

8. The Complainant did not attempt to obtain any information regarding the latest in gas meter technology. Tr. 19-20.

9. PGW does not create, invent, or design any of the technology that is used in gas metering. Tr. 21.

DISCUSSION

The Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, complainant has the burden of proof in this matter pursuant to 66 Pa.C.S. § 332(a).

To establish a sufficient case and satisfy the burden of proof, complainant must show that the respondent public utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Telephone Co. of Pa.*, 72 Pa. PUC 196 (1990), *Feinstein v. Philadelphia Suburban Water Co.*, 50 Pa. PUC 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa.Cmwlt. 1990), *alloc. den.*, 602 A.2d 863 (Pa. 1992). That is, by presenting evidence 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). Additionally, 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.Cmwlt. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa.Cmwlt. 1993); 2 Pa.C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 194 Pa.Super. 278, 166 A.2d 96 (1960); *Murphy v. Commonwealth, Dep't of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa.Cmwlt. 1984).

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).

Billing Date and Procedure

The Complainant indicated that her billing due date fluctuated and was not in line with her retirement payment. The Complainant requested that her billing due date be moved to a time frame between the 10th and 15th of each month.

A public utility shall render a bill once every billing period to every residential customer in accordance with approved rate schedules. 52 Pa.Code § 56.11(a).

The Complainant wants to choose her billing due date. Tr. 11. The Complainant is aware of budget billing but chooses not to participate in that program from PGW. Tr. 16. The Complainant is aware of the Customer Responsibility Program (CRP) but has not applied because she believes that she would not qualify. Tr. 16. Both the budget billing and CRP programs provide customers with more stability in their billing so they will know what they owe to PGW each month. Tr. 16.

The Complainant has not met her burden regarding this issue. The Complainant did not present any evidence that PGW is violating the Public Utility Code, Commission

regulations or Commission order. The Complainant acknowledged that PGW has not violated any part of the Public Utility Code, the Commission's regulations or any Commission Order. Tr. 20. The Complainant simply believed that there was technology available to PGW which would allow her to choose her billing due date. However, the Complainant did not present any testimony or evidence that such technology exists or is available to PGW. The Complainant has not contacted anyone related to the technology of gas meters. Tr. 19. The Complainant did not attempt to obtain any information regarding the latest in gas meter technology or billing systems. Tr. 19-20. The Complainant also acknowledged that PGW does not create, invent, or design any of the technology that is used in gas metering. Tr. 21.

Further, the Complainant did not demonstrate that the billing cycle is unreasonable. The Complainant has not submitted any evidence that PGW is not billing the Complainant once a billing period in accordance with its approved rate schedules. *See* 52 Pa. Code § 56.11(a). PGW cannot accommodate all customers related to when they receive pay checks, social security payments or retirement payments. Such an accommodation would become unruly and confusing. As such, the Complainant's complaint in this regard must be dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and 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.
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.

