



PHILADELPHIA GAS WORKS

800 West Montgomery Avenue • Philadelphia, PA 19122

Case filed 6/24/18

Danielle Leva, Paralegal
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December 20, 2018

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Floyd Tillman v. PGW, Docket No. C – 2018 – 3004383

Dear Secretary Chiavetta:

Pursuant to 52 Pa. Code §5.342(g)(1), the Philadelphia Gas works ("PGW") hereby responds to the Complainant's filing dated December 10, 2018.

Thank you for your assistance in the matter.

Sincerely,

Danielle Leva
Danielle Leva

Enclosure

cc: Floyd Tillman
Administrative Law Judge Darlene Heep
Jessica Glace (PGW Mail)
Wendy Vacca (PGW Mail)

RECEIVED

FEB 11 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|--------------------------------|---|----------------------------------|
| Floyd Tillman, | : | |
| Complainant | : | |
| | : | Docket No. C-2018-3004383 |
| v. | : | |
| | : | |
| Philadelphia Gas Works, | : | |
| Respondent | : | |

**Philadelphia Gas Works Response to
Complainant's Submission of December 10, 2018**

Pursuant to the instruction of the presiding officer, Administrative Law Judge Darlene D. Heep, at the conclusion of the hearing held on November 19, 2018, Philadelphia Gas Works (PGW) hereby responds to the Complainant's filing dated December 10, 2018 which is attached hereto as Appendix "A" in the above captioned matter.¹ For the reasons stated herein, the Complainant does not merit the grant of another payment arrangement following the payment arrangement that was defaulted upon in September 2018. Neither does the Complainant merit the waiver of any late payment charges. PGW responds as follows:

Background

The Complaint, in the above captioned matter is a request for a payment arrangement on the account which is managed by the Complainant, Mr. Floyd Tillman. Mr. Tillman is the husband of the Customer of Record, Martha Tillman ("Complainants") for PGW gas service at 4944-4946 N. Broad Street, Philadelphia, PA (Service Address). The Complainants own and manage the Service Address, which is an income producing rental property containing mixed commercial and residential end use. The Complainants do not reside at the

¹ The filing dated December 10, 2018 was sent to the presiding Administrative Law Judge and to PGW. The document states that it is, "Re Floyd Tillman, Subject Liens." It does not appear to be drafted or verified by the Complainant, but rather it appears to be authored by Mr. Michael Brown who appeared as a witness for the Complainant. To the extent that the filing by Mr. Brown considered proper as a statement of Complainants' agent, it should be given the appropriate evidentiary weight.

Service Address. The Complainants reside at 1513 Gywned View Road, North Whales, Pennsylvania.

The initial purpose for which the parties were afforded the opportunity to file these statements was to allow the Complainants to state the amount of "fees and penalties" that are included in the total outstanding account balance. The only additional charges added to the account are Late Payment Charges as authorized PGW Gas Service Tariff Section 4.2 Finance Charge on Late Payments ("LPC's"). These are assessed when an outstanding account balance is not part of a payment arrangement and remains unpaid.

The Complainants' filing of December 10, 2018 states that the amount in dispute is \$11,230.94. Presumably this is meant as the Complainants estimate of LPC's on the account. There are no other "fees and penalties" included in the account balance. The Statement of Account showing the Bills, Payments and LPC's is attached hereto as Appendix "B." As shown herein, the Complainants' estimation of LPC's is inaccurate.

In the instant matter, the Complainant seeks a payment agreement for the service at the Service Address. The Complainant did not request the removal of LPC's in their complaint. Prior to the instant matter, the Complainants had a payment arrangement on the account for the Service Address pursuant to the Commission's Final Order entered May 31, 2018 in the consolidated matters, *Floyd Tillman v. PGW*, Docket No. F-2017-2634002 and *Floyd & Martha Tillman v. PGW*, Docket No. F-2017-2633954 which adopted the Initial Decision of April 20, 2018, which are attached hereto as Appendix "C." That decision lets stand the provision of the payment arrangement issued by decision of the Commission's Bureau of Consumer Services ("BCS") dated September 17, 2017. (See Appendix "C.")

The Complainants' outstanding account balance is in excess of \$26,700. The Complainants are not entitled to another. That payment arrangement, now in default, was provided to the Complainants as a result of the following.

On September 19, 2017, the Complainants' agent, Mr. Michael Brown of the Northwest Counseling Services, Inc. ("NWCS") contacted PGW to prevent

service termination. PGW informed Mr. Brown that payment in full would be required to prevent service termination. The Complainants filed an informal complaint with the BCS.

The decision of the BCS decision dated September 22, 2017 concluded, *inter alia*, that the Complainant will have a payment agreement of \$4,885 per month. This is the PGW EZ Way Budget of \$351 plus \$4,534 per month until the outstanding balance is paid in full. The payment arrangement was to begin in October 2017 ("BCS decision of September 22, 2017").

The Service Address is the Complainants' income producing commercial enterprise. A payment arrangement to a commercial account of this type is a generous accommodation of the Commission's BCS.

The Complainants filed a timely notification of appeal the BCS decision dated September 22, 2017. On November 16, 2017, the Complainants filed a Formal Complaint at Docket No. F-2017-2634002.² By operation of 52 Pa. Code §56.172(c), the BCS decision dated September 22, 2017 was stayed with the timely filing of the notice of appeal. That six-month payment arrangement would be held in abeyance until the conclusion of the formal complaint.

On February 12, 2018, a call in telephonic hearing of the matter was held with Administrative Law Judge Benjamin Myers presiding. The Complainants failed to call in to participate in the hearing. PGW moved to dismiss the complaint for failure to prosecute. The Complainants called PGW later in the day and were aware that they had missed the call in telephonic hearing. The parties notified the presiding officer that they would have settlement discussion while the Initial Decision was pending. The Complainants sought a payment arrangement of a longer duration.

With no settlement reached, on April 20, 2018, the Commission issued the Initial Decision dismissing the Complainants' appeal which let stand the payment arrangement contained in BCS decision of September 22, 2017. No party filed

² PGW filed an appeal of the BCS decision dated September 22, 2017 under Docket No. F-2017-2633954. The two formal complaints were consolidated pursuant to 52 Pa. Code §5.81(a). PGW later petitioned to withdraw its appeal under Docket No. F-2017-2633954, pursuant to 52 Pa. Code §5.94. PGW's petition to withdraw was approved by final order at the conclusion of the consolidated proceedings.

exceptions to the Initial Decision. On May 31, 2018, the Final Order for the consolidated matters adopting the Initial Decision was entered without further Commission action. By June 30, 2018 the Complainants time to appeal the Commission's decision had run.

On July 5, 2018, PGW placed on the Complainants' account the six month payment arrangement. This consisted of the payment of the current monthly bill plus \$4,925 until outstanding balance is paid in full as prescribed by the BCS. PGW requested payment under that payment arrangement with the bills for July, August and September 2018. The Complainants failed to make the payments in the prescribed amount. The Complainants defaulted on that payment arrangement. (See this proceeding PGW Exhibit 3.) The Complainants are not entitled to another payment arrangement.

Previous Complaints

As stated in the November 19, 2018 hearing of the instant matter, Mr. Tillman has been attempting to dispute a bill for previously unbilled services \$5,208.89, since the issue of the bill in May 10, 2008.

Tillman v. PGW, Docket No. F-2009-2146728

Previously, the Complainants had a formal complaint under Docket F-2009-2146728. The Complainants filed the formal complaint on December 11, 2009 (disputing \$5,208.89). The Commission scheduled a hearing for August 23, 2010. The Complainants failed to appear for the hearing. PGW moved to dismiss the matter with prejudice for lack prosecution. The Initial Decision issued on November 18, 2010 dismissed the matter. The final order issued January 18, 2011, dismissed the matter with prejudice for lack of prosecution. For the period of time after that final decision the balance the Complainants' account was not subject to a payment agreement. Such a balance was subject to the assessment of LPC's.

Tillman v. PGW, Docket No. C-2014-2445229

In October 2014 the Complainants filed another for complaint under Docket No. C-2014-2445229, disputing the bill issued in May 2008 for \$5,208.89. The Commission scheduled a hearing for January 9, 2015. On the day of the hearing the presiding officer and the parties turned it into a discussion about, *inter alia*, the application of the order dismissing the Complainants previous complaint for lack of prosecution and the need to retain counsel. The Complainants requested a continuance in order to obtain legal representation. A further hearing in the matter was held on May 14, 2015.

The Initial Decision issued on November 4, 2015 dismissed the matter on the grounds of *res judicata* from the PUC's decision in the previous complaint (Docket No. F-2009-2146728). On March 8, 2016 the Commission issued an order which reversed that Initial Decision and remanded the case for further proceedings so that the Complainant could have an opportunity to further articulate his claims.

A further telephonic hearing was held on April 29, 2016. On January 26, 2017 the Commission issued an Initial Decision on Remand finding, *inter alia*, that the Complainants failed to meet the burden of proof concerning the disputed bill and that the Complainants are precluded from filing further informal and formal complaints pertaining to the issues already adjudicated with respect to the inaccurate rebilling referred to in BCS Case No. 2391518. A copy of that Initial Decision on Remand is attached hereto as Appendix "D."

By order dated March 16, 2017, the Commission adopted the Initial Decision on Remand. A copy of the Commission's final order is attached hereto as Appendix "E."

Tillman v. PGW, Docket No. F-2017-2634002 (consolidated with)
Floyd & Martha Tillman v. PGW, Docket No. F-2017-2633954

As stated above, the Complainants received a payment arrangement on the outstanding balance of the account at the conclusion of the consolidated matters above.

The decision of the BCS decision dated September 22, 2017 concluded, *inter alia*, that the Complainant will have a payment agreement of \$4,885 (PGW EZ Way Budget of \$351 plus \$4,534 per month until the outstanding balance is

On May 31, 2018, the Final Order for the consolidated matters adopting the Initial Decision was entered without further Commission action. By June 30, 2018 the Complainants time to appeal the Commission's decision had run.

On July 5, 2018, PGW placed on the Complainants' account the six month payment arrangement. This consisted of the payment of the current monthly bill plus \$4,925 until outstanding balance is paid in full as prescribed by the BCS. PGW requested payment under that payment arrangement with the bills for July, August and September 2018. The Complainants failed to make the payments in the prescribed amount. The Complainants defaulted on that payment arrangement. (See this proceeding PGW Exhibit 3.)

Assessment of Late Payment Charges

Since the Complainants' original attempt to dispute the bill issued May 10, 2008 a total of \$9,797.48 in LPC's has been assessed. Late Payment Charges appear as a "Transaction Type" "LPC" on Appendix "B." The assessment of LPC's has been interrupted during the intervals in which the Complainants had an active formal complaint. The longest interval during which no late payment charges were assessed on the Complainants' account was for the period from August 2014 through April 2017. This period represents a time of an active dispute(s) on the account.

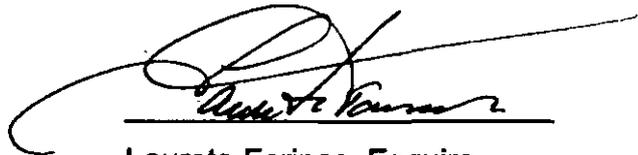
The assessment of LPC's on the Complainants' account is proper since the Complainants failed to pay the bill when required. When the Complainant filed a complaint concerning the account, PGW did not assess LPC's while that Complaint was pending. Conversely, after the Complainants were unsuccessful in the Complaints, the Complainants continued their refusal to pay the account balance after litigation had concluded. Hence, the assessment of LPC's is proper.

While it may be considered discretionary to waive LPC's for residential accounts to address circumstances of hardship, the Complainants' testimony presented no substantial evidence concerning the hardship occasioned by the payment of the account balance or the assessment LPC's. The Complainants' contained some income information that would not place the Complainants in a poverty or hardship category. The Complainants do not live at the Service Address, but rather derive income from it. The Complainants make their home in North Wales, Pennsylvania. Further, the Complainant had the opportunity to comply with the 6 month payment arrangement provided by the BCS, but refused to make payments on gas bills save the payment of a most recent gas bill. The Complainants seem fixated on the continued litigation concerning the bill issued in May 2008, now disguised in the request to remove charges for lateness in paying a bill in a dispute that has been long concluded. The Commission should not waive any of the LPC's assessed on the Complainants account.

Wherefore, PGW respectfully requests that this Commission find against the Complainant, deny the Complainants' request for a yet another payment arrangement, deny the Complainant' request for the waiver of LPC's and dismiss the Complaint

Respectfully submitted,

December 20, 2018

A handwritten signature in black ink, appearing to read "Laureto Farinas", is written over a horizontal line. The signature is stylized and cursive.

Laureto Farinas, Esquire
Attorney I.D. 50415
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6982

Appendix “A”

December 10, 2018

Attention: Honorable Darlene Heep

CC: Laureto Farinas, Esq; Jessica Glace dheep@pa.gov;
Laureto.Farinas@pgworks.com; Jessica.Glace@pgworks.com

4944-4946 N. Broad Street Phila, Pa 19141

Re: Floyd Tillman

Subject: PGW Liens

Good day, in reference to the Tillman account it is our belief that (based on the original past due bill of \$5218.10 from the 5/8/08 billing cycle and subsequent fines, penalties and interest associated with the current delinquency of \$26,741.80 that) the amount of \$11,230.94 is what we are in dispute of. Please be advised that Mr. Tillman would request proof of payments to PGW since the date of the original bill to add to his files.

Civil liens/judgments:

- a. No. 140931924 - \$11,726.41
- b. No. 150831207- \$4397.79
- c. No. 161130555 - \$2171.40
- d. No. 171130152 - \$6134.51

Sincerely

Mike Brown

Mike Brown
Northwest Counseling Service (NWCS), Inc.
6521 N. Broad Street
Philadelphia PA 19141
215-324-7500
Fax 215-324-8753
www.nwcsinc.org
Email: Mike@nwcsinc.org

NWCS
Northwest Counseling Service, Inc.

Appendix “B”

Specific Service Agreement Statement of Account SA- 9961301576

| | | | | | |
|---|---------|-----------------------|-------------------|--------------|-------------------|
| Customer Name | | From Date | To Date | | |
| MARTHA | TILLMAN | 1/1/2008 | 12/3/2018 | | |
| Service Address | | Account Number | S A Number | Meter | Rate/Class |
| 4946 N BROAD ST Apt HH PHIL, PA 191412227 | | 6113005732 | 9961301576 | 2236423 | GS |

STATEMENT

| Transaction Date | Transaction Type | Read Reading | Read Code | # of Days | CCF Usage | Average CCF/Day | Heating DDDs | Payment Type | Due Date | Transaction Amount | Current Balance | Actual Balance |
|------------------|------------------|--------------|-----------|-----------|-----------|-----------------|--------------|--------------|------------|--------------------|-----------------|----------------|
| 1/11/2008 | PAY | | | | | | | Check | | (\$228.86) | \$0.00 | \$0.00 |
| 1/11/2008 | BILL | 8724 | Y | 31 | 146 | 4.71 | 781 | | 2/6/2008 | \$303.99 | \$303.99 | \$303.99 |
| 2/7/2008 | PAY | | | | | | | Check | | (\$303.99) | \$0.00 | \$0.00 |
| 2/11/2008 | BILL | 8868 | Y | 29 | 144 | 4.97 | 802 | | 3/6/2008 | \$300.49 | \$300.49 | \$300.49 |
| 3/11/2008 | LPC | | | | | | | | | \$4.50 | \$304.99 | \$304.99 |
| 3/11/2008 | BILL | 9023 | Y | 31 | 155 | 5 | 857 | | 4/4/2008 | \$310.05 | \$615.04 | \$615.04 |
| 3/13/2008 | PAY | | | | | | | Check | | (\$300.49) | \$314.55 | \$314.55 |
| 4/10/2008 | LPC | | | | | | | | | \$4.71 | \$319.26 | \$319.26 |
| 4/10/2008 | BILL | 0 | R | 30 | 2666 | 88.87 | 544 | | 5/5/2008 | \$5,208.89 | \$5,528.15 | \$5,528.15 |
| 4/14/2008 | PAY | | | | | | | Check | | (\$310.05) | \$5,218.10 | \$5,218.10 |
| 5/9/2008 | BILL | 0 | R | 29 | 0 | 0 | 157 | | 6/4/2008 | \$12.84 | \$5,230.94 | \$5,230.94 |
| 5/14/2008 | REVADJ | | | | | | | | | (\$37.03) | \$5,193.91 | \$5,193.91 |
| 6/3/2008 | PAY | | | | | | | Check | | (\$12.84) | \$5,181.07 | \$5,181.07 |
| 6/10/2008 | BILL | 0 | R | 32 | 0 | 0 | 120 | | 7/3/2008 | \$12.84 | \$5,193.91 | \$5,193.91 |
| 7/11/2008 | BILL | 0 | R | 30 | 0 | 0 | 0 | | 8/4/2008 | \$12.84 | \$5,206.75 | \$5,206.75 |
| 8/8/2008 | BILL | 0 | R | 29 | 0 | 0 | 0 | | 9/3/2008 | \$12.84 | \$5,219.59 | \$5,219.59 |
| 8/14/2008 | PAY | | | | | | | Check | | (\$12.84) | \$5,206.75 | \$5,206.75 |
| 9/9/2008 | BILL | 0 | R | 32 | 0 | 0 | 0 | | 10/2/2008 | \$12.84 | \$5,219.59 | \$5,219.59 |
| 9/10/2008 | PAY | | | | | | | Check | | (\$12.84) | \$5,206.75 | \$5,206.75 |
| 10/1/2008 | PAY | | | | | | | Check | | (\$12.84) | \$5,193.91 | \$5,193.91 |
| 10/8/2008 | BILL | 0 | R | 29 | 0 | 0 | 51 | | 10/31/2008 | \$12.84 | \$5,206.75 | \$5,206.75 |
| 11/5/2008 | PAY | | | | | | | Check | | (\$12.84) | \$5,193.91 | \$5,193.91 |
| 11/6/2008 | BILL | 106 | R | 29 | 106 | 3.66 | 285 | | 12/3/2008 | \$247.08 | \$5,440.99 | \$5,440.99 |
| 12/10/2008 | BILL | 435 | R | 34 | 329 | 9.68 | 782 | | 1/7/2009 | \$717.82 | \$6,158.81 | \$6,158.81 |
| 12/18/2008 | PAY | | | | | | | Check | | (\$247.08) | \$5,911.73 | \$5,911.73 |
| 1/12/2009 | BILL | 896 | R | 31 | 461 | 14.87 | 833 | | 2/5/2009 | \$1,032.71 | \$6,944.44 | \$6,944.44 |

| Transaction Date | Transaction Type | Reading | Read Code | # of Days | CCF Usage | Average CCF/Day | Heating DDDs | Payment Type | Due Date | Transaction Amount | Current Balance | Actual Balance |
|------------------|------------------|---------|-----------|-----------|-----------|-----------------|--------------|--------------|-----------|--------------------|-----------------|----------------|
| 1/13/2009 | PAY | | | | | | | Check | | (\$677.82) | \$6,266.62 | \$6,266.62 |
| 2/9/2009 | PAY | | | | | | | Check | | (\$1,032.44) | \$5,234.18 | \$5,234.18 |
| 2/10/2009 | BILL | 1297 | R | 31 | 401 | 12.94 | 1105 | | 3/6/2009 | \$817.94 | \$6,052.12 | \$6,052.12 |
| 3/11/2009 | BILL | 1297 | R | 29 | 0 | 0 | 748 | | 4/3/2009 | \$12.84 | \$6,064.96 | \$6,064.96 |
| 3/13/2009 | PAY | | | | | | | Check | | (\$817.94) | \$5,247.02 | \$5,247.02 |
| 4/9/2009 | PAY | | | | | | | Check | | (\$12.84) | \$5,234.18 | \$5,234.18 |
| 4/9/2009 | BILL | 1496 | R | 29 | 199 | 6.86 | 501 | | 5/5/2009 | \$383.18 | \$5,617.36 | \$5,617.36 |
| 5/11/2009 | BILL | 1546 | R | 30 | 50 | 1.67 | 261 | | 6/4/2009 | \$104.73 | \$5,722.09 | \$5,722.09 |
| 5/15/2009 | PAY | | | | | | | Check | | (\$383.18) | \$5,338.91 | \$5,338.91 |
| 6/5/2009 | PAY | | | | | | | Check | | (\$104.73) | \$5,234.18 | \$5,234.18 |
| 6/11/2009 | BILL | 1549 | R | 32 | 3 | 0.09 | 50 | | 7/6/2009 | \$18.58 | \$5,252.76 | \$5,252.76 |
| 7/6/2009 | PAY | | | | | | | Check | | (\$18.58) | \$5,234.18 | \$5,234.18 |
| 7/11/2009 | BILL | 1552 | R | 30 | 3 | 0.1 | 3 | | 8/4/2009 | \$17.92 | \$5,252.10 | \$5,252.10 |
| 8/4/2009 | PAY | | | | | | | Check | | (\$17.92) | \$5,234.18 | \$5,234.18 |
| 8/11/2009 | BILL | 1555 | R | 29 | 3 | 0.1 | 0 | | 9/2/2009 | \$17.92 | \$5,252.10 | \$5,252.10 |
| 9/9/2009 | PAY | | | | | | | Check | | (\$17.92) | \$5,234.18 | \$5,234.18 |
| 9/10/2009 | BILL | 1558 | R | 32 | 3 | 0.09 | 0 | | 10/5/2009 | \$17.87 | \$5,252.05 | \$5,252.05 |
| 10/9/2009 | BILL | 1561 | R | 29 | 3 | 0.1 | 51 | | 11/2/2009 | \$17.74 | \$5,269.79 | \$5,269.79 |
| 10/13/2009 | PAY | | | | | | | Check | | (\$17.87) | \$5,251.92 | \$5,251.92 |
| 11/4/2009 | PAY | | | | | | | Check | | (\$17.74) | \$5,234.18 | \$5,234.18 |
| 11/7/2009 | LPC | | | | | | | | | \$78.51 | \$5,312.69 | \$5,312.69 |
| 11/7/2009 | BILL | 1821 | R | 29 | 260 | 8.97 | 307 | | 12/3/2009 | \$435.06 | \$5,747.75 | \$5,747.75 |
| 12/10/2009 | LPC | | | | | | | | | \$85.03 | \$5,832.78 | \$5,832.78 |
| 12/10/2009 | BILL | 2355 | R | 33 | 534 | 16.18 | 527 | | 1/6/2010 | \$981.50 | \$6,814.28 | \$6,814.28 |
| 12/16/2009 | PAY | | | | | | | Check | | (\$513.57) | \$6,300.71 | \$6,300.71 |
| 1/12/2010 | BILL | 3053 | R | 31 | 698 | 22.52 | 979 | | 2/5/2010 | \$1,153.51 | \$7,454.22 | \$7,454.22 |
| 1/12/2010 | PAY | | | | | | | Check | | (\$981.50) | \$6,472.72 | \$6,472.72 |
| 2/9/2010 | BILL | 3673 | R | 31 | 620 | 20 | 988 | | 3/5/2010 | \$1,059.05 | \$7,531.77 | \$7,531.77 |
| 2/17/2010 | PAY | | | | | | | Check | | (\$1,153.51) | \$6,378.26 | \$6,378.26 |
| 3/10/2010 | BILL | 4253 | R | 29 | 580 | 20 | 835 | | 4/5/2010 | \$980.55 | \$7,358.81 | \$7,358.81 |
| 3/12/2010 | PAY | | | | | | | Cash | | (\$561.23) | \$6,797.58 | \$6,797.58 |
| 3/25/2010 | PAY | | | | | | | Check | | (\$459.05) | \$6,338.53 | \$6,338.53 |
| 4/5/2010 | PAY | | | | | | | Check | | (\$500.00) | \$5,838.53 | \$5,838.53 |
| 4/10/2010 | BILL | 4507 | R | 30 | 254 | 8.47 | 330 | | 5/4/2010 | \$562.68 | \$6,401.21 | \$6,401.21 |
| 5/11/2010 | BILL | 4510 | R | 29 | 3 | 0.1 | 198 | | 6/3/2010 | \$18.14 | \$6,419.35 | \$6,419.35 |

| Transaction Date | Transaction Type | Reading | Read Code | # of Days | CCF Usage | Average CCF/Day | Heating DDDs | Payment Type | Due Date | Transaction Amount | Current Balance | Actual Balance |
|------------------|------------------|---------|-----------|-----------|-----------|-----------------|--------------|--------------|-----------|--------------------|-----------------|----------------|
| 5/12/2010 | PAY | | | | | | | Check | | (\$562.68) | \$5,856.67 | \$5,856.67 |
| 6/10/2010 | BILL | 4513 | R | 32 | 3 | 0.09 | 75 | | 7/2/2010 | \$18.04 | \$5,874.71 | \$5,874.71 |
| 6/10/2010 | PAY | | | | | | | Check | | (\$25.30) | \$5,849.41 | \$5,849.41 |
| 6/21/2010 | PAY | | | | | | | Check | | (\$18.04) | \$5,831.37 | \$5,831.37 |
| 7/10/2010 | BILL | 4515 | R | 30 | 2 | 0.07 | 0 | | 8/3/2010 | \$16.19 | \$5,847.56 | \$5,847.56 |
| 7/22/2010 | PAY | | | | | | | Check | | (\$16.19) | \$5,831.37 | \$5,831.37 |
| 8/10/2010 | BILL | 4518 | R | 29 | 3 | 0.1 | 0 | | 9/1/2010 | \$17.79 | \$5,849.16 | \$5,849.16 |
| 9/9/2010 | BILL | 4521 | R | 33 | 3 | 0.09 | 0 | | 10/4/2010 | \$17.90 | \$5,867.06 | \$5,867.06 |
| 9/17/2010 | PAY | | | | | | | Check | | (\$17.79) | \$5,849.27 | \$5,849.27 |
| 10/9/2010 | BILL | 4524 | R | 29 | 3 | 0.1 | 42 | | 11/2/2010 | \$18.11 | \$5,867.38 | \$5,867.38 |
| 10/11/2010 | PAY | | | | | | | Check | | (\$17.90) | \$5,849.48 | \$5,849.48 |
| 11/9/2010 | BILL | 4678 | R | 29 | 154 | 5.31 | 248 | | 12/3/2010 | \$293.64 | \$6,143.12 | \$6,143.12 |
| 11/12/2010 | PAY | | | | | | | Check | | (\$18.11) | \$6,125.01 | \$6,125.01 |
| 12/2/2010 | PAY | | | | | | | Check | | (\$293.64) | \$5,831.37 | \$5,831.37 |
| 12/8/2010 | BILL | 5121 | R | 32 | 443 | 13.84 | 595 | | 1/5/2011 | \$777.78 | \$6,609.15 | \$6,609.15 |
| 1/7/2011 | PAY | | | | | | | Check | | (\$293.64) | \$6,315.51 | \$6,315.51 |
| 1/11/2011 | BILL | 5793 | R | 34 | 672 | 19.76 | 1127 | | 2/4/2011 | \$1,042.89 | \$7,358.40 | \$7,358.40 |
| 2/9/2011 | LPC | | | | | | | | | \$110.37 | \$7,468.77 | \$7,468.77 |
| 2/9/2011 | BILL | 6505 | R | 29 | 712 | 24.55 | 1023 | | 3/7/2011 | \$1,128.44 | \$8,597.21 | \$8,597.21 |
| 2/11/2011 | PAY | | | | | | | Check | | (\$1,042.89) | \$7,554.32 | \$7,554.32 |
| 3/11/2011 | LPC | | | | | | | | | \$113.31 | \$7,667.63 | \$7,667.63 |
| 3/11/2011 | BILL | 7167 | R | 30 | 662 | 22.07 | 739 | | 4/5/2011 | \$1,157.64 | \$8,825.27 | \$8,825.27 |
| 3/22/2011 | PAY | | | | | | | Check | | (\$1,128.44) | \$7,696.83 | \$7,696.83 |
| 4/8/2011 | LPC | | | | | | | | | \$115.45 | \$7,812.28 | \$7,812.28 |
| 4/8/2011 | BILL | 7579 | R | 28 | 412 | 14.71 | 523 | | 5/4/2011 | \$721.14 | \$8,533.42 | \$8,533.42 |
| 5/4/2011 | PAY | | | | | | | Check | | (\$913.08) | \$7,620.34 | \$7,620.34 |
| 5/10/2011 | LPC | | | | | | | | | \$114.30 | \$7,734.64 | \$7,734.64 |
| 5/10/2011 | BILL | 7689 | R | 32 | 110 | 3.44 | 210 | | 6/3/2011 | \$226.80 | \$7,961.44 | \$7,961.44 |
| 5/31/2011 | PAY | | | | | | | Check | | (\$226.80) | \$7,734.64 | \$7,734.64 |
| 6/9/2011 | LPC | | | | | | | | | \$116.01 | \$7,850.65 | \$7,850.65 |
| 6/9/2011 | BILL | 7689 | R | 30 | 0 | 0 | 16 | | 7/5/2011 | \$12.96 | \$7,863.61 | \$7,863.61 |
| 7/11/2011 | LPC | | | | | | | | | \$116.21 | \$7,979.82 | \$7,979.82 |
| 7/11/2011 | BILL | 7689 | R | 30 | 0 | 0 | 0 | | 8/3/2011 | \$12.96 | \$7,992.78 | \$7,992.78 |
| 7/25/2011 | PAY | | | | | | | Check | | (\$12.96) | \$7,979.82 | \$7,979.82 |
| 8/9/2011 | LPC | | | | | | | | | \$116.40 | \$8,096.22 | \$8,096.22 |

| Transaction Date | Transaction Type | Reading | Read Code | # of Days | CCF Usage | Average CCF/Day | Heating DDDs | Payment Type | Due Date | Transaction Amount | Current Balance | Actual Balance |
|------------------|------------------|---------|-----------|-----------|-----------|-----------------|--------------|--------------|-----------|--------------------|-----------------|----------------|
| 8/9/2011 | BILL | 7689 | R | 31 | 0 | 0 | 0 | | 9/1/2011 | \$12.96 | \$8,109.18 | \$8,109.18 |
| 9/9/2011 | LPC | | | | | | | | | \$116.60 | \$8,225.78 | \$8,225.78 |
| 9/9/2011 | BILL | 7689 | R | 31 | 0 | 0 | 1 | | 10/4/2011 | \$12.96 | \$8,238.74 | \$8,238.74 |
| 10/10/2011 | PAY | | | | | | | Check | | (\$116.80) | \$8,121.94 | \$8,121.94 |
| 10/10/2011 | LPC | | | | | | | | | \$116.79 | \$8,238.73 | \$8,238.73 |
| 10/10/2011 | BILL | 7689 | R | 29 | 0 | 0 | 68 | | 11/2/2011 | \$12.96 | \$8,251.69 | \$8,251.69 |
| 11/8/2011 | LPC | | | | | | | | | \$116.99 | \$8,368.68 | \$8,368.68 |
| 11/8/2011 | BILL | 7863 | R | 31 | 174 | 5.61 | 292 | | 12/5/2011 | \$308.35 | \$8,677.03 | \$8,677.03 |
| 11/14/2011 | PAY | | | | | | | Check | | (\$129.56) | \$8,547.47 | \$8,547.47 |
| 12/8/2011 | LPC | | | | | | | | | \$121.61 | \$8,669.08 | \$8,669.08 |
| 12/8/2011 | BILL | 8222 | R | 30 | 359 | 11.97 | 402 | | 1/5/2012 | \$714.98 | \$9,384.06 | \$9,384.06 |
| 12/9/2011 | PAY | | | | | | | Check | | (\$308.35) | \$9,075.71 | \$9,075.71 |
| 1/10/2012 | LPC | | | | | | | | | \$132.34 | \$9,208.05 | \$9,208.05 |
| 1/10/2012 | BILL | 8928 | R | 33 | 706 | 21.39 | 801 | | 2/3/2012 | \$1,240.44 | \$10,448.49 | \$10,448.49 |
| 1/11/2012 | PAY | | | | | | | Check | | (\$714.98) | \$9,733.51 | \$9,733.51 |
| 2/9/2012 | LPC | | | | | | | | | \$146.00 | \$9,879.51 | \$9,879.51 |
| 2/9/2012 | BILL | 9561 | R | 30 | 633 | 21.1 | 768 | | 3/6/2012 | \$1,151.49 | \$11,031.00 | \$11,031.00 |
| 2/14/2012 | PAY | | | | | | | Check | | (\$1,134.37) | \$9,896.63 | \$9,896.63 |
| 3/12/2012 | LPC | | | | | | | | | \$148.44 | \$10,045.07 | \$10,045.07 |
| 3/12/2012 | BILL | 124 | R | 30 | 563 | 18.77 | 673 | | 4/4/2012 | \$999.77 | \$11,044.84 | \$11,044.84 |
| 4/5/2012 | PAY | | | | | | | Check | | (\$500.77) | \$10,544.07 | \$10,544.07 |
| 4/11/2012 | LPC | | | | | | | | | \$158.16 | \$10,702.23 | \$10,702.23 |
| 4/11/2012 | BILL | 275 | R | 32 | 151 | 4.72 | 341 | | 5/4/2012 | \$315.04 | \$11,017.27 | \$11,017.27 |
| 5/10/2012 | LPC | | | | | | | | | \$162.88 | \$11,180.15 | \$11,180.15 |
| 5/10/2012 | BILL | 285 | R | 29 | 10 | 0.34 | 205 | | 6/5/2012 | \$29.09 | \$11,209.24 | \$11,209.24 |
| 5/17/2012 | PAY | | | | | | | Check | | (\$315.04) | \$10,894.20 | \$10,894.20 |
| 6/11/2012 | LPC | | | | | | | | | \$163.32 | \$11,057.52 | \$11,057.52 |
| 6/11/2012 | BILL | 287 | R | 30 | 2 | 0.07 | 16 | | 7/5/2012 | \$18.76 | \$11,076.28 | \$11,076.28 |
| 6/14/2012 | PAY | | | | | | | Check | | (\$191.97) | \$10,884.31 | \$10,884.31 |
| 7/5/2012 | PAY | | | | | | | Check | | (\$18.76) | \$10,865.55 | \$10,865.55 |
| 7/11/2012 | LPC | | | | | | | | | \$162.98 | \$11,028.53 | \$11,028.53 |
| 7/11/2012 | BILL | 290 | R | 32 | 3 | 0.09 | 0 | | 8/3/2012 | \$17.35 | \$11,045.88 | \$11,045.88 |
| 8/8/2012 | PAY | | | | | | | Check | | (\$17.35) | \$11,028.53 | \$11,028.53 |
| 8/9/2012 | LPC | | | | | | | | | \$163.24 | \$11,191.77 | \$11,191.77 |
| 8/9/2012 | BILL | 292 | R | 29 | 2 | 0.07 | 0 | | 9/4/2012 | \$15.89 | \$11,207.66 | \$11,207.66 |

| Transaction Date | Transaction Type | Read Reading | Read Code | # of Days | CCF Usage | Average CCF/Day | Heating DDDs | Payment Type | Due Date | Transaction Amount | Current Balance | Actual Balance |
|------------------|------------------|--------------|-----------|-----------|-----------|-----------------|--------------|--------------|-----------|--------------------|-----------------|----------------|
| 9/6/2012 | PAY | | | | | | | Check | | (\$15.89) | \$11,191.77 | \$11,191.77 |
| 9/11/2012 | LPC | | | | | | | | | \$163.48 | \$11,355.25 | \$11,355.25 |
| 9/11/2012 | BILL | 295 | R | 33 | 3 | 0.09 | 0 | | 10/4/2012 | \$17.41 | \$11,372.66 | \$11,372.66 |
| 10/10/2012 | LPC | | | | | | | | | \$163.74 | \$11,536.40 | \$11,536.40 |
| 10/10/2012 | BILL | 297 | R | 29 | 2 | 0.07 | 57 | | 11/2/2012 | \$16.00 | \$11,552.40 | \$11,552.40 |
| 11/8/2012 | BILL | 513 | R | 29 | 216 | 7.45 | 302 | | 12/5/2012 | \$341.07 | \$11,893.47 | \$11,893.47 |
| 11/12/2012 | PAY | | | | | | | Check | | (\$179.74) | \$11,713.73 | \$11,713.73 |
| 12/10/2012 | PAY | | | | | | | Check | | (\$341.07) | \$11,372.66 | \$11,372.66 |
| 12/11/2012 | LPC | | | | | | | | | \$169.09 | \$11,541.75 | \$11,541.75 |
| 12/11/2012 | BILL | 1126 | R | 33 | 613 | 18.58 | 638 | | 1/8/2013 | \$970.89 | \$12,512.64 | \$12,512.64 |
| 1/9/2013 | PAY | | | | | | | Check | | (\$970.89) | \$11,541.75 | \$11,541.75 |
| 1/11/2013 | LPC | | | | | | | | | \$173.12 | \$11,714.87 | \$11,714.87 |
| 1/11/2013 | BILL | 1930 | R | 31 | 804 | 25.94 | 778 | | 2/6/2013 | \$1,361.04 | \$13,075.91 | \$13,075.91 |
| 2/12/2013 | LPC | | | | | | | | | \$193.54 | \$13,269.45 | \$13,269.45 |
| 2/12/2013 | BILL | 2583 | R | 29 | 653 | 22.52 | 879 | | 3/7/2013 | \$1,067.98 | \$14,337.43 | \$14,337.43 |
| 3/12/2013 | LPC | | | | | | | | | \$209.56 | \$14,546.99 | \$14,546.99 |
| 3/12/2013 | BILL | 3164 | R | 31 | 581 | 18.74 | 818 | | 4/5/2013 | \$960.81 | \$15,507.80 | \$15,507.80 |
| 3/18/2013 | PAY | | | | | | | Check | | (\$500.00) | \$15,007.80 | \$15,007.80 |
| 4/5/2013 | PAY | | | | | | | Check | | (\$960.81) | \$14,046.99 | \$14,046.99 |
| 4/10/2013 | LPC | | | | | | | | | \$210.70 | \$14,257.69 | \$14,257.69 |
| 4/10/2013 | BILL | 3542 | R | 29 | 378 | 13.03 | 598 | | 5/3/2013 | \$612.32 | \$14,870.01 | \$14,870.01 |
| 5/9/2013 | LPC | | | | | | | | | \$219.88 | \$15,089.89 | \$15,089.89 |
| 5/9/2013 | BILL | 3574 | R | 29 | 32 | 1.1 | 228 | | 6/4/2013 | \$67.70 | \$15,157.59 | \$15,157.59 |
| 5/15/2013 | PAY | | | | | | | Check | | (\$612.32) | \$14,545.27 | \$14,545.27 |
| 6/11/2013 | LPC | | | | | | | | | \$218.17 | \$14,763.44 | \$14,763.44 |
| 6/11/2013 | BILL | 3577 | R | 30 | 3 | 0.1 | 60 | | 7/5/2013 | \$17.93 | \$14,781.37 | \$14,781.37 |
| 6/12/2013 | PAY | | | | | | | Check | | (\$67.10) | \$14,714.27 | \$14,714.27 |
| 7/10/2013 | LPC | | | | | | | | | \$218.44 | \$14,932.71 | \$14,932.71 |
| 7/10/2013 | BILL | 3579 | R | 32 | 2 | 0.06 | 0 | | 8/2/2013 | \$16.31 | \$14,949.02 | \$14,949.02 |
| 7/11/2013 | PAY | | | | | | | Check | | (\$218.17) | \$14,730.85 | \$14,730.85 |
| 8/8/2013 | LPC | | | | | | | | | \$218.69 | \$14,949.54 | \$14,949.54 |
| 8/8/2013 | BILL | 3582 | R | 29 | 3 | 0.1 | 0 | | 9/3/2013 | \$18.27 | \$14,967.81 | \$14,967.81 |
| 8/12/2013 | PAY | | | | | | | Check | | (\$16.31) | \$14,951.50 | \$14,951.50 |
| 9/10/2013 | LPC | | | | | | | | | \$218.96 | \$15,170.46 | \$15,170.46 |
| 9/10/2013 | BILL | 3585 | R | 33 | 3 | 0.09 | 0 | | 10/3/2013 | \$18.19 | \$15,188.65 | \$15,188.65 |

| Transaction Date | Transaction Type | Reading | Read Code | # of Days | CCF Usage | Average CCF/Day | Heating DDDs | Payment Type | Due Date | Transaction Amount | Current Balance | Actual Balance |
|------------------|------------------|---------|-----------|-----------|-----------|-----------------|--------------|--------------|-----------|--------------------|-----------------|----------------|
| 9/11/2013 | PAY | | | | | | | Check | | (\$18.27) | \$15,170.38 | \$15,170.38 |
| 10/7/2013 | PAY | | | | | | | Check | | (\$218.96) | \$14,951.42 | \$14,951.42 |
| 10/10/2013 | LPC | | | | | | | | | \$219.23 | \$15,170.65 | \$15,170.65 |
| 10/10/2013 | BILL | 3587 | R | 29 | 2 | 0.07 | 41 | | 11/1/2013 | \$16.50 | \$15,187.15 | \$15,187.15 |
| 11/6/2013 | PAY | | | | | | | Check | | (\$235.73) | \$14,951.42 | \$14,951.42 |
| 11/8/2013 | LPC | | | | | | | | | \$219.48 | \$15,170.90 | \$15,170.90 |
| 11/8/2013 | BILL | 3789 | R | 29 | 202 | 6.97 | 262 | | 12/5/2013 | \$342.02 | \$15,512.92 | \$15,512.92 |
| 12/10/2013 | LPC | | | | | | | | | \$224.61 | \$15,737.53 | \$15,737.53 |
| 12/10/2013 | BILL | 4232 | R | 30 | 443 | 14.77 | 608 | | 1/6/2014 | \$691.01 | \$16,428.54 | \$16,428.54 |
| 12/12/2013 | PAY | | | | | | | Check | | (\$342.02) | \$16,086.52 | \$16,086.52 |
| 1/7/2014 | PAY | | | | | | | Check | | (\$446.80) | \$15,639.72 | \$15,639.72 |
| 1/9/2014 | LPC | | | | | | | | | \$234.59 | \$15,874.31 | \$15,874.31 |
| 1/9/2014 | BILL | 4997 | R | 33 | 765 | 23.18 | 1025 | | 2/4/2014 | \$1,149.63 | \$17,023.94 | \$17,023.94 |
| 2/11/2014 | LPC | | | | | | | | | \$251.84 | \$17,275.78 | \$17,275.78 |
| 2/11/2014 | BILL | 5790 | R | 30 | 793 | 26.43 | 1023 | | 3/7/2014 | \$1,208.40 | \$18,484.18 | \$18,484.18 |
| 2/20/2014 | PAY | | | | | | | Check | | (\$400.00) | \$18,084.18 | \$18,084.18 |
| 3/10/2014 | PAY | | | | | | | Check | | (\$500.00) | \$17,584.18 | \$17,584.18 |
| 3/13/2014 | LPC | | | | | | | | | \$263.76 | \$17,847.94 | \$17,847.94 |
| 3/13/2014 | BILL | 6548 | R | 32 | 758 | 23.69 | 1019 | | 4/7/2014 | \$1,143.93 | \$18,991.87 | \$18,991.87 |
| 4/11/2014 | LPC | | | | | | | | | \$280.92 | \$19,272.79 | \$19,272.79 |
| 4/11/2014 | BILL | 7053 | R | 29 | 505 | 17.41 | 607 | | 5/7/2014 | \$794.95 | \$20,067.74 | \$20,067.74 |
| 4/17/2014 | PAY | | | | | | | Check | | (\$500.00) | \$19,567.74 | \$19,567.74 |
| 5/2/2014 | PAY | | | | | | | Check | | (\$794.00) | \$18,773.74 | \$18,773.74 |
| 5/10/2014 | LPC | | | | | | | | | \$281.60 | \$19,055.34 | \$19,055.34 |
| 5/10/2014 | BILL | 7210 | R | 29 | 157 | 5.41 | 242 | | 6/4/2014 | \$268.48 | \$19,323.82 | \$19,323.82 |
| 6/10/2014 | LPC | | | | | | | | | \$285.63 | \$19,609.45 | \$19,609.45 |
| 6/10/2014 | BILL | 7212 | R | 32 | 2 | 0.06 | 23 | | 7/3/2014 | \$16.53 | \$19,625.98 | \$19,625.98 |
| 6/11/2014 | PAY | | | | | | | Check | | (\$268.48) | \$19,357.50 | \$19,357.50 |
| 7/10/2014 | PAY | | | | | | | Check | | (\$16.53) | \$19,340.97 | \$19,340.97 |
| 7/11/2014 | LPC | | | | | | | | | \$285.88 | \$19,626.85 | \$19,626.85 |
| 7/11/2014 | BILL | 7215 | R | 30 | 3 | 0.1 | 0 | | 8/5/2014 | \$18.38 | \$19,645.23 | \$19,645.23 |
| 8/9/2014 | LPC | | | | | | | | | \$286.15 | \$19,931.38 | \$19,931.38 |
| 8/9/2014 | BILL | 7217 | R | 29 | 2 | 0.07 | 0 | | 9/3/2014 | \$16.96 | \$19,948.34 | \$19,948.34 |
| 8/15/2014 | PAY | | | | | | | Check | | (\$18.38) | \$19,929.96 | \$19,929.96 |
| 9/8/2014 | PAY | | | | | | | Check | | (\$16.96) | \$19,913.00 | \$19,913.00 |

| Transaction Date | Transaction Type | Reading | Read Code | # of Days | CCF Usage | Average CCF/Day | Heating DDDs | Payment Type | Due Date | Transaction Amount | Current Balance | Actual Balance |
|------------------|------------------|---------|-----------|-----------|-----------|-----------------|--------------|--------------|------------|--------------------|-----------------|----------------|
| 9/9/2014 | LPC | | | | | | | | | \$286.41 | \$20,199.41 | \$20,199.41 |
| 9/9/2014 | BILL | 7220 | R | 32 | 3 | 0.09 | 0 | | 10/3/2014 | \$18.54 | \$20,217.95 | \$20,217.95 |
| 9/30/2014 | LPCWVE | | | | | | | | | (\$286.41) | \$19,931.54 | \$19,931.54 |
| 10/6/2014 | PAY | | | | | | | Check | | (\$18.54) | \$19,913.00 | \$19,913.00 |
| 10/9/2014 | BILL | 7222 | R | 29 | 2 | 0.07 | 37 | | 10/31/2014 | \$16.69 | \$19,929.69 | \$19,929.69 |
| 11/3/2014 | PAY | | | | | | | Check | | (\$16.69) | \$19,913.00 | \$19,913.00 |
| 11/7/2014 | BILL | 7358 | R | 29 | 136 | 4.69 | 214 | | 12/3/2014 | \$252.33 | \$20,165.33 | \$20,165.33 |
| 12/9/2014 | PAY | | | | | | | Check | | (\$252.33) | \$19,913.00 | \$19,913.00 |
| 12/10/2014 | BILL | 8097 | R | 33 | 739 | 22.39 | 710 | | 1/6/2015 | \$1,115.46 | \$21,028.46 | \$21,028.46 |
| 1/10/2015 | BILL | 8713 | R | 31 | 616 | 19.87 | 822 | | 2/4/2015 | \$975.14 | \$22,003.60 | \$22,003.60 |
| 2/10/2015 | BILL | 9316 | R | 29 | 603 | 20.79 | 993 | | 3/6/2015 | \$898.87 | \$22,902.47 | \$22,902.47 |
| 3/11/2015 | BILL | 9833 | R | 31 | 517 | 16.68 | 1174 | | 4/2/2015 | \$685.11 | \$23,587.58 | \$23,587.58 |
| 4/9/2015 | BILL | 9896 | R | 30 | 63 | 2.1 | 597 | | 5/4/2015 | \$97.55 | \$23,685.13 | \$23,685.13 |
| 5/8/2015 | BILL | 9899 | R | 29 | 3 | 0.1 | 197 | | 6/3/2015 | \$17.46 | \$23,702.59 | \$23,702.59 |
| 6/8/2015 | PAY | | | | | | | Check | | (\$17.46) | \$23,685.13 | \$23,685.13 |
| 6/10/2015 | BILL | 9902 | R | 32 | 3 | 0.09 | 32 | | 7/6/2015 | \$17.58 | \$23,702.71 | \$23,702.71 |
| 7/6/2015 | PAY | | | | | | | Check | | (\$15.58) | \$23,687.13 | \$23,687.13 |
| 7/9/2015 | BILL | 9905 | R | 30 | 3 | 0.1 | 0 | | 8/3/2015 | \$17.22 | \$23,704.35 | \$23,704.35 |
| 8/11/2015 | BILL | 9907 | R | 30 | 2 | 0.07 | 0 | | 9/2/2015 | \$15.84 | \$23,720.19 | \$23,720.19 |
| 9/9/2015 | BILL | 9910 | R | 32 | 3 | 0.09 | 0 | | 10/2/2015 | \$17.18 | \$23,737.37 | \$23,737.37 |
| 10/7/2015 | PAY | | | | | | | Check | | (\$17.18) | \$23,720.19 | \$23,720.19 |
| 10/8/2015 | BILL | 9912 | R | 29 | 2 | 0.07 | 40 | | 11/2/2015 | \$15.90 | \$23,736.09 | \$23,736.09 |
| 11/4/2015 | PAY | | | | | | | Check | | (\$15.90) | \$23,720.19 | \$23,720.19 |
| 11/6/2015 | BILL | 9984 | R | 29 | 72 | 2.48 | 186 | | 12/3/2015 | \$133.27 | \$23,853.46 | \$23,853.46 |
| 12/3/2015 | PAY | | | | | | | Check | | (\$133.27) | \$23,720.19 | \$23,720.19 |
| 12/8/2015 | BILL | 204 | R | 32 | 220 | 6.88 | 455 | | 1/5/2016 | \$353.36 | \$24,073.55 | \$24,073.55 |
| 1/6/2016 | PAY | | | | | | | Check | | (\$353.36) | \$23,720.19 | \$23,720.19 |
| 1/12/2016 | BILL | 481 | R | 32 | 277 | 8.66 | 548 | | 2/4/2016 | \$478.31 | \$24,198.50 | \$24,198.50 |
| 2/9/2016 | BILL | 1013 | R | 31 | 532 | 17.16 | 879 | | 3/4/2016 | \$730.40 | \$24,928.90 | \$24,928.90 |
| 3/9/2016 | BILL | 1380 | R | 29 | 367 | 12.66 | 747 | | 4/4/2016 | \$502.19 | \$25,431.09 | \$25,431.09 |
| 4/6/2016 | PAY | | | | | | | Check | | (\$502.19) | \$24,928.90 | \$24,928.90 |
| 4/9/2016 | BILL | 1423 | R | 30 | 43 | 1.43 | 369 | | 5/3/2016 | \$83.53 | \$25,012.43 | \$25,012.43 |
| 5/6/2016 | PAY | | | | | | | Check | | (\$83.53) | \$24,928.90 | \$24,928.90 |
| 5/10/2016 | BILL | 1444 | R | 29 | 21 | 0.72 | 284 | | 6/3/2016 | \$40.51 | \$24,969.41 | \$24,969.41 |
| 6/7/2016 | PAY | | | | | | | Check | | (\$40.51) | \$24,928.90 | \$24,928.90 |

| Transaction Date | Transaction Type | Reading | Read Code | # of Days | CCF Usage | Average CCF/Day | Heating DDDs | Payment Type | Due Date | Transaction Amount | Current Balance | Actual Balance |
|------------------|------------------|---------|-----------|-----------|-----------|-----------------|--------------|--------------|-----------|--------------------|-----------------|----------------|
| 6/8/2016 | BILL | 1446 | R | 32 | 2 | 0.06 | 79 | | 7/1/2016 | \$16.50 | \$24,945.40 | \$24,945.40 |
| 7/7/2016 | PAY | | | | | | | Check | | (\$16.50) | \$24,928.90 | \$24,928.90 |
| 7/9/2016 | BILL | 1449 | R | 30 | 3 | 0.1 | 0 | | 8/2/2016 | \$17.76 | \$24,946.66 | \$24,946.66 |
| 8/9/2016 | BILL | 1451 | R | 29 | 2 | 0.07 | 0 | | 9/1/2016 | \$16.49 | \$24,963.15 | \$24,963.15 |
| 8/10/2016 | PAY | | | | | | | Check | | (\$17.76) | \$24,945.39 | \$24,945.39 |
| 9/8/2016 | BILL | 1454 | R | 33 | 3 | 0.09 | 0 | | 10/3/2016 | \$17.79 | \$24,963.18 | \$24,963.18 |
| 9/12/2016 | PAY | | | | | | | Check | | (\$16.49) | \$24,946.69 | \$24,946.69 |
| 10/6/2016 | PAY | | | | | | | Check | | (\$17.99) | \$24,928.70 | \$24,928.70 |
| 10/7/2016 | BILL | 1457 | R | 29 | 3 | 0.1 | 18 | | 11/1/2016 | \$18.21 | \$24,946.91 | \$24,946.91 |
| 11/7/2016 | PAY | | | | | | | Check | | (\$18.21) | \$24,928.70 | \$24,928.70 |
| 11/8/2016 | BILL | 1532 | R | 29 | 75 | 2.59 | 203 | | 12/2/2016 | \$136.91 | \$25,065.61 | \$25,065.61 |
| 12/7/2016 | PAY | | | | | | | Check | | (\$136.91) | \$24,928.70 | \$24,928.70 |
| 12/8/2016 | BILL | 1869 | R | 33 | 337 | 10.21 | 544 | | 1/4/2017 | \$522.40 | \$25,451.10 | \$25,451.10 |
| 1/5/2017 | PAY | | | | | | | Check | | (\$522.40) | \$24,928.70 | \$24,928.70 |
| 1/11/2017 | BILL | 2608 | R | 34 | 739 | 21.74 | 1000 | | 2/6/2017 | \$1,037.10 | \$25,965.80 | \$25,965.80 |
| 2/6/2017 | PAY | | | | | | | Check | | (\$1,037.10) | \$24,928.70 | \$24,928.70 |
| 2/9/2017 | BILL | 3191 | R | 29 | 583 | 20.1 | 668 | | 3/7/2017 | \$972.59 | \$25,901.29 | \$25,901.29 |
| 3/10/2017 | BILL | 3680 | R | 29 | 489 | 16.86 | 563 | | 4/4/2017 | \$841.15 | \$26,742.44 | \$26,742.44 |
| 3/13/2017 | PAY | | | | | | | Check | | (\$952.59) | \$25,789.85 | \$25,789.85 |
| 4/5/2017 | PAY | | | | | | | Check | | (\$841.15) | \$24,948.70 | \$24,948.70 |
| 4/10/2017 | LPC | | | | | | | | | \$374.23 | \$25,322.93 | \$25,322.93 |
| 4/10/2017 | BILL | 4091 | R | 29 | 411 | 14.17 | 610 | | 5/4/2017 | \$600.83 | \$25,923.76 | \$25,923.76 |
| 5/9/2017 | LPC | | | | | | | | | \$383.24 | \$26,307.00 | \$26,307.00 |
| 5/9/2017 | BILL | 4116 | R | 31 | 25 | 0.81 | 170 | | 6/2/2017 | \$60.35 | \$26,367.35 | \$26,367.35 |
| 5/10/2017 | PAY | | | | | | | Check | | (\$339.45) | \$26,027.90 | \$26,027.90 |
| 6/5/2017 | PAY | | | | | | | Check | | (\$383.24) | \$25,644.66 | \$25,644.66 |
| 6/8/2017 | LPC | | | | | | | | | \$384.14 | \$26,028.80 | \$26,028.80 |
| 6/8/2017 | BILL | 4118 | R | 30 | 2 | 0.07 | 80 | | 7/3/2017 | \$17.07 | \$26,045.87 | \$26,045.87 |
| 7/10/2017 | PAY | | | | | | | Check | | (\$17.00) | \$26,028.87 | \$26,028.87 |
| 7/11/2017 | LPC | | | | | | | | | \$384.40 | \$26,413.27 | \$26,413.27 |
| 7/11/2017 | BILL | 4121 | R | 30 | 3 | 0.1 | 2 | | 8/2/2017 | \$18.43 | \$26,431.70 | \$26,431.70 |
| 8/8/2017 | LPC | | | | | | | | | \$384.68 | \$26,816.38 | \$26,816.38 |
| 8/8/2017 | BILL | 4123 | R | 31 | 2 | 0.06 | 0 | | 8/31/2017 | \$16.99 | \$26,833.37 | \$26,833.37 |
| 8/9/2017 | PAY | | | | | | | Check | | (\$18.43) | \$26,814.94 | \$26,814.94 |
| 9/9/2017 | LPC | | | | | | | | | \$384.93 | \$27,199.87 | \$27,199.87 |

| Transaction Date | Transaction Type | Read Reading | Read Code | # of Days | CCF Usage | Average CCF/Day | Heating DDDs | Payment Type | Due Date | Transaction Amount | Current Balance | Actual Balance |
|------------------|------------------|--------------|-----------|-----------|-----------|-----------------|--------------|----------------------|-----------|--------------------|-----------------|----------------|
| 9/9/2017 | BILL | 4126 | R | 31 | 3 | 0.1 | 5 | | 10/3/2017 | \$18.42 | \$27,218.29 | \$27,218.29 |
| 9/11/2017 | PAY | | | | | | | Check | | (\$16.99) | \$27,201.30 | \$27,201.30 |
| 10/10/2017 | BILL | 1 | R | 29 | 2 | 0.07 | 18 | | 11/1/2017 | \$23.57 | \$27,224.87 | \$27,224.87 |
| 11/6/2017 | PAY | | | | | | | Check | | (\$25.57) | \$27,199.30 | \$27,199.30 |
| 11/7/2017 | BILL | 45 | R | 31 | 44 | 1.42 | 136 | | 12/4/2017 | \$99.80 | \$27,299.10 | \$27,299.10 |
| 12/8/2017 | BILL | 502 | R | 31 | 457 | 14.74 | 608 | | 1/5/2018 | \$584.39 | \$27,883.49 | \$27,883.49 |
| 12/11/2017 | PAY | | | | | | | Check | | (\$99.80) | \$27,783.69 | \$27,783.69 |
| 1/8/2018 | PAY | | | | | | | Check | | (\$584.39) | \$27,199.30 | \$27,199.30 |
| 1/11/2018 | BILL | 1333 | R | 34 | 831 | 24.44 | 1200 | | 2/6/2018 | \$1,017.21 | \$28,216.51 | \$28,216.51 |
| 2/7/2018 | PAY | | | | | | | Check | | (\$1,017.21) | \$27,199.30 | \$27,199.30 |
| 2/10/2018 | BILL | 1824 | R | 29 | 491 | 16.93 | 810 | | 3/7/2018 | \$700.32 | \$27,899.62 | \$27,899.62 |
| 3/5/2018 | PAY | | | | | | | Check | | (\$700.32) | \$27,199.30 | \$27,199.30 |
| 3/13/2018 | BILL | 2144 | R | 29 | 320 | 11.03 | 614 | | 4/6/2018 | \$488.31 | \$27,687.61 | \$27,687.61 |
| 4/11/2018 | PAY | | | | | | | Check | | (\$351.00) | \$27,336.61 | \$27,336.61 |
| 4/12/2018 | BILL | 2519 | R | 32 | 375 | 11.72 | 728 | | 5/7/2018 | \$449.83 | \$27,786.44 | \$27,786.44 |
| 5/7/2018 | PAY | | | | | | | Check | | (\$351.00) | \$27,435.44 | \$27,435.44 |
| 5/11/2018 | BILL | 2580 | R | 29 | 61 | 2.1 | 247 | | 6/6/2018 | \$100.70 | \$27,536.14 | \$27,536.14 |
| 6/11/2018 | PAY | | | | | | | Check | | (\$100.70) | \$27,435.44 | \$27,435.44 |
| 6/12/2018 | LPC | | | | | | | | | \$411.53 | \$27,846.97 | \$27,846.97 |
| 6/12/2018 | BILL | 2582 | R | 30 | 2 | 0.07 | 37 | | 7/6/2018 | \$29.96 | \$27,876.93 | \$27,876.93 |
| 6/23/2018 | PAY | | | | | | | Banking Institutions | | (\$100.00) | \$27,776.93 | \$27,776.93 |
| 7/5/2018 | LPCWVE | | | | | | | | | (\$411.53) | \$27,365.40 | \$27,365.40 |
| 7/6/2018 | PAY | | | | | | | Check | | (\$29.96) | \$27,335.44 | \$27,335.44 |
| 7/12/2018 | BILL | 2585 | R | 32 | 3 | 0.09 | 2 | | 8/3/2018 | \$31.12 | \$27,366.56 | \$27,366.56 |
| 8/2/2018 | PAY | | | | | | | Check | | (\$351.00) | \$27,015.56 | \$27,015.56 |
| 8/10/2018 | BILL | 2587 | R | 29 | 2 | 0.07 | 0 | | 9/5/2018 | \$29.91 | \$27,045.47 | \$27,045.47 |
| 9/10/2018 | PAY | | | | | | | Check | | (\$351.00) | \$26,694.47 | \$26,694.47 |
| 9/11/2018 | BILL | 2590 | R | 33 | 3 | 0.09 | 8 | | 10/4/2018 | \$31.11 | \$26,725.58 | \$26,725.58 |
| 10/5/2018 | PAY | | | | | | | Check | | (\$31.11) | \$26,694.47 | \$26,694.47 |
| 10/10/2018 | BILL | 2593 | R | 29 | 3 | 0.1 | 5 | | 11/2/2018 | \$31.73 | \$26,726.20 | \$26,726.20 |
| 10/19/2018 | PAY | | | | | | | Check | | (\$31.73) | \$26,694.47 | \$26,694.47 |
| 11/8/2018 | BILL | 2772 | R | 29 | 179 | 6.17 | 322 | | 12/5/2018 | \$232.77 | \$26,927.24 | \$26,927.24 |
| 11/20/2018 | PAY | | | | | | | Check | | (\$232.77) | \$26,694.47 | \$26,694.47 |

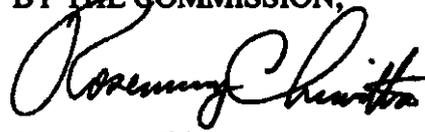
Appendix “C”

3. That the motion of Philadelphia Gas Works to withdraw its appeal at Docket No. F-2017-2633954 is granted.

4. That the appeal of Philadelphia Gas Works in Docket No. F-2017-2633954 is withdrawn.

5. That the dockets at Docket Nos. F-2017-2634002 and F-2017-2633954 are marked closed.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ENTERED: May 31, 2018



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
400 NORTH STREET, HARRISBURG, PA 17120

IN REPLY PLEASE
REFER TO OUR FILE

April 20, 2018

F-2017-2634002
F-2017-2633954

Floyd Tillman

Philadelphia Gas Works
Respondent/Appellant

v.

v.

Philadelphia Gas Works

Floyd & Martha Tillman
Complainant/Appellee

TO ALL PARTIES:

Enclosed is a copy of the Initial Decision of the Office of Administrative Law Judge.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Your signed Exceptions to the decision, if any, must be: 1) filed with the Secretary of the Commission, and 2) mailed or hand-delivered to each party of record, within twenty (20) days of the date of this letter.

To file Exceptions with the Secretary of the Commission, you must mail or hand-deliver them as follows:

If using U.S. Postal Service:

If using Overnight or Hand Delivery Service:

Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Secretary
Pa. Public Utility Commission
400 North Street
Commonwealth Keystone Building, 2nd Floor
Harrisburg, PA 17120

Or, instead of mailing or hand-delivering your Exceptions, you may electronically file them with the Secretary of the Commission. To do so, you need to establish an account on the Commission's eFiling system, which may be accessed at <http://www.puc.state.pa.us/efiling/default.aspx>. Please note that Exceptions sent to the Commission by fax or e-mail will not be accepted for filing.

In addition to filing your Exceptions with the Secretary of the Commission, a courtesy copy of your Exceptions should be e-mailed to the Commission's Office of Special Assistants (OSA) at ra-OSA@pa.gov. If the document is too large to e-mail, please mail or hand-deliver a copy on CD-ROM or DVD (or other data storage media), in Microsoft Word 2010 format or other compatible format to either address noted above.

Replies to Exceptions, if any, must be filed with the Secretary of the Commission and served on each party of record and the Commission's OSA, in the manner described above. They are due within ten (10) days of the date when Exceptions are due.

It is your responsibility to serve all the parties with your Exceptions and Replies to Exceptions. Failure to do so may render your filing unacceptable. A certificate of service (see format in 52 Pa. Code §1.58) shall be attached to the filed Exceptions or Replies to Exceptions.

Exceptions and Replies to Exceptions shall follow 52 Pa. Code §§5.533 and 5.535 particularly the 40-page limit for Exceptions and the 25-page limit for Replies to Exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)". Any reference to specific sections of the Administrative Law Judge's Initial Decision shall include the page number(s) of the cited section of the decision.

If no Exceptions are received, the decision of the Administrative Law Judge could become final without further Commission action. You will receive written notification if this occurs. However, even if no exceptions are received, the Commission may review and change the decision pursuant to Section 332(h) of the Public Utility Code, 66 Pa. C.S. § 332(h).

NW
Enclosures
Certified Mail
Receipt Requested

Very truly yours,

Rosemary Chavetta
Secretary

LFarinas.LEGAL.MONTGOM

 1563141.pdf
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XEROX®

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|------------------------|---|----------------|
| Floyd Tillman | : | |
| | : | |
| v. | : | F-2017-2634002 |
| | : | |
| Philadelphia Gas Works | : | |
| | : | |
| Philadelphia Gas Works | : | |
| Respondent/Appellant | : | |
| | : | |
| v. | : | F-2017-2633954 |
| | : | |
| Floyd & Martha Tillman | : | |
| Complainant/Appellee | : | |

INITIAL DECISION

Before
Benjamin J. Myers
Administrative Law Judge

INTRODUCTION

This decision dismisses two consolidated complaints. The complaint of Floyd Tillman v. Philadelphia Gas Works at Docket No. F-2017-2634002 is dismissed for failure to prosecute the complaint. The complaint of Philadelphia Gas Works v. Floyd and Martha Tillman at Docket No. F-2017-2633954 is dismissed because the request of Philadelphia Gas Works (PGW) to withdraw its appeal in the matter is granted.

HISTORY OF THE PROCEEDING

On September 25, 2017, the Commission's Bureau of Consumer Services (BCS) issued a decision in the matter of Floyd & Martha Tillman v. Philadelphia Gas Works at BCS No. 3563222. That decision found a total account balance of \$27,201.30 and that a payment arrangement would be granted with a monthly budget amount of \$351.00 per month plus the amount of \$4,534.00 per month towards the outstanding account balance.

On November 6, 2017, PGW (Respondent/Appellant) filed an appeal to BCS No. 3563222 with an attached certificate of service indicating that its appeal had been served on both Floyd and Martha Tillman (Complainants/Appellees). In this appeal, PGW alleged that BCS had provided a commercial customer with residential end use a payment arrangement without consideration of payment history and lack of good faith in keeping the customer's account in good standing. In addition, PGW referred to a previous Commission decision in which the Complainants were prohibited from filing additional informal and formal complaints pertaining to claims of inaccurate meter rebilling already adjudicated.¹ PGW's appeal also took issue with those portions of the BCS decision which cited PGW for violations of various sections of the Public Utility Code at 52 Pa. Code §§ 56.1 and 56.151(2),(4). PGW requested that the Commission find that the Complainants were not eligible for a payment arrangement and that BCS had exceeded its authority in granting one to the Complainants. PGW's appeal of the BCS decision was docketed by the Secretary's Bureau as Philadelphia Gas Works v. Floyd and Martha Tillman at Docket No. F-2017-2633954.

On November 8, 2017, Floyd Tillman² filed a formal complaint with the Commission also appealing the decision in BCS No. 3563222. Mr. Tillman alleged that certain charges on the account with PGW were incorrect and requested a more reasonable payment arrangement. Mr. Tillman's appeal of the BCS decision was docketed by the Secretary's Bureau as Floyd Tillman v. Philadelphia Gas Works at Docket No. F-2017-2634002. PGW filed an answer to this complaint on December 6, 2017. In its answer PGW generally denied the

¹ Floyd Tillman v. Philadelphia Gas Works, Docket No. C-2014-2445229 (Order entered March 16, 2017).

² The gas service account with PGW is solely in the name of Martha Tillman and has been deemed a commercial account with residential end use.

avermments of the complaint. Specifically, PGW denied that there were any incorrect charges to the account. In addition, PGW again argued that the Complainants are not entitled to a payment arrangement for the account due to a poor payment history.

On January 8, 2018, the Commission issued a hearing notice in the matter of Floyd Tillman v. Philadelphia Gas Works at Docket No. F-2017-2634002 and scheduled this matter for an initial telephonic hearing on February 12, 2018 at 10:00 a.m. On January 12, 2018, a second hearing notice was issued also scheduling the matter of Philadelphia Gas Works v. Floyd and Martha Tillman at Docket No. F-2017-2633954 for an initial telephonic hearing at the same time on February 12, 2018. On January 17, 2018, a consolidation order was issued consolidating both of these docket numbers into the same proceeding as captioned above.

On January 18, 2018, a prehearing order was issued addressing, inter alia, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements. The prehearing order also reminded the parties that they were required to call the toll-free conference number at 10:00 a.m. to participate in the hearing and that their failure to participate could result in a decision being entered against that party. The hearing notices, consolidation order and prehearing order were all sent to the address provided by the Complainants in the complaint form. None of those documents were returned to the Commission as being undeliverable by the postal authorities.

On February 12, 2018 at 10:00 a.m., I dialed the toll-free conference number to begin the hearing. Laureto Farinas, Esquire, counsel for PGW, and his witness joined the conference call shortly thereafter. The start of the hearing was delayed until 10:12 a.m. to afford the Complainants additional time to join the conference call and participate in the hearing. However, despite this additional time the Complainants did not participate.

Upon commencement of the hearing, Mr. Farinas indicated that he had been in recent communication with Mr. Tillman and his non-attorney financial advisor, Mr. Brown, regarding a settlement. Mr. Farinas indicated that in those discussions Mr. Tillman and his advisor had agreed that PGW would withdraw its appeal in the matter of Philadelphia Gas Works v. Floyd and Martha Tillman at Docket No. F-2017-2633954. There was also a general

settlement discussion between the parties in the matter of Floyd Tillman v. Philadelphia Gas Works at Docket No. F-2017-2634002 but no settlement had been reached. Mr. Farinas made two motions: 1) that PGW's appeal in the matter of Philadelphia Gas Works v. Floyd and Martha Tillman at Docket No. F-2017-2633954 be withdrawn; and 2) that the complaint in the matter of Floyd Tillman v. Philadelphia Gas Works at Docket No. F-2017-2634002 be dismissed for failure to prosecute. Mr. Farinas was advised that his motions would be taken under consideration. The hearing concluded at 10:18 a.m. at which time the record in this matter was closed.

At 12:37 p.m. on February 12, 2018, the Office of Administrative Law Judge (OALJ) received a facsimile from Mr. Tillman's non-attorney financial advisor, Michael Brown of NWCS, Inc. Mr. Brown indicated in his facsimile that he had been unable to attend the 10:00 a.m. telephonic hearing that morning "due to an unforeseen issue" at his office. Mr. Brown further indicated that Mr. Tillman was willing to discuss settlement with PGW and that previous settlement discussions had occurred between the parties on February 9, 2018 at which time there had been an agreement in principle to "withdraw all motions and move towards settlement."

This facsimile was forwarded to counsel for PGW to inform him of the contact made with OALJ on the behalf of the Complainant and to advise him that the Complainant continued to wish to discuss settlement of the matter. Since that time, the parties have been in contact with OALJ on several occasions to provide updates on whether a settlement has been reached. At this time, there has been no indication that the parties have settled this matter. The two motions made by PGW at the time of hearing are ready for disposition. For the reasons discussed below, both motions will be granted.

FINDINGS OF FACT

1. The Complainants/Appellees in this matter are Floyd and Martha Tillman.
2. The Respondent/Appellant in this matter is Philadelphia Gas Works.

3. On September 25, 2017, the Commission's Bureau of Consumer Services issued a decision in the matter of Floyd & Martha Tillman v. Philadelphia Gas Works at BCS No. 3563222.

4. On November 6, 2017, PGW filed an appeal to BCS No. 3563222 with attached certificate of service indicating that its appeal had been served on the Complainants.

5. PGW's appeal was docketed by the Secretary's Bureau as Philadelphia Gas Works v. Floyd and Martha Tillman at Docket No. F-2017-2633954.

6. On November 8, 2017, Floyd Tillman filed a formal complaint also appealing the decision in BCS No. 3563222.

7. Mr. Tillman's complaint was docketed by the Secretary's Bureau as Floyd Tillman v. Philadelphia Gas Works at Docket No. F-2017-2634002.

8. On December 6, 2017, PGW filed an answer to this complaint.

9. On January 8, 2018 the Commission issued a hearing notice scheduling both of these matters for an initial telephonic hearing on February 12, 2018 at 10:00 a.m.

10. The notice of the telephonic hearing was sent to the Complainants by regular first-class mail to the address stated on the complaint.

11. The Commission's hearing notice was never returned as being undeliverable by the postal authorities.

12. On January 17, 2018, a consolidation order was issued consolidating both docket numbers into the same proceeding.

13. On January 18, 2018, a prehearing order was issued which reminded the parties that they were required to call the toll-free conference number at 10:00 a.m. to

participate in the February 12, 2018 telephonic hearing and that their failure to participate in the hearing could result in a decision being entered against that party.

14. The Complainants failed to appear at the February 12, 2018 telephonic hearing.

15. The record in this matter closed at the conclusion of the hearing on February 12, 2018.

DISCUSSION

Floyd Tillman v. Philadelphia Gas Works, Docket No. F-2017-2634002

Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. Schneider v. Pa. Pub. Util. Comm'n., 479 A.2d 10 (Pa.Cmwith. 1984). This due process requirement is satisfied, however, when the administrative agency provides the parties notice and the opportunity to be heard.

The Commission sent notice of the telephonic hearing in this case to the Complainants on January 8, 2018, by regular first-class mail to the address stated on the complaint. This notice of hearing was never returned to OALJ as being undeliverable by the postal authorities.

In addition, a prehearing order was issued on January 18, 2018, which, inter alia, reminded the parties that they must call the toll-free number shown on the hearing notice to participate in the telephonic hearing and that failure to call the number and participate in the telephonic hearing would constitute a failure to appear. The prehearing order, which was also mailed to the Complainants at the address shown on the complaint, was never returned to OALJ as being undeliverable by the postal authorities. Accordingly, it must be presumed that this mail, which was sent in the ordinary course of business, was received by the Complainants. Berkowitz v. Mayflower Securities, Inc., 317 A.2d 584 (Pa.

1974); Meierdierck v. Miller, 147 A.2d 406 (Pa. 1959); Samaras v. Hartwick, 698 A.2d 71 (Pa.Super. 1997); Judge v. Celina Mutual Insurance Co., 444 A.2d 658 (Pa.Super. 1982).

The Complainants did not appear for the scheduled hearing because they did not call the toll-free number shown on the January 8, 2018 hearing notice. Under these circumstances, it appears the Complainants had ample opportunity to appear and be heard in this proceeding, but voluntarily chose not to do so. Therefore, the due process rights of the Complainants have been fully protected. Sentner v. Bell Telephone Co. of Pa., Docket No. F 00161106 (Opinion and Order entered October 25, 1993); 52 Pa.Code § 5.245(a).

Finally, Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of any request for relief. As the party bringing this complaint, the Complainants bear the burden of proving by a preponderance of the evidence that they are entitled to relief. By failing to appear and proffer any evidence to support their complaint, the Complainants have failed to meet this burden. Under these circumstances, PGW's motion will be granted and the complaint should be dismissed with prejudice. Jefferson v. UGI Utilities, Inc., Docket No. Z-00269892 (Opinion and Order entered December 26, 1995); El-Ayazra v. West Penn Power Company, Docket No. F-2015-2509292 (Opinion and Order entered June 30, 2016); 52 Pa.Code § 5.245.

Philadelphia Gas Works v. Floyd and Martha Tillman, Docket No. F-2017-2633954

At the hearing, counsel for PGW made a motion to withdraw PGW's appeal in this matter. The Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.94 permit parties to withdraw pleadings in a contested proceeding. The provision at 52 Pa. Code § 5.94(a) allows for the withdrawal of pleadings through a petition for leave to withdraw the pleading. The petition is granted only by permission of the presiding officer or the Commission. The presiding officer or Commission must consider the petition, any objections thereto and the public interest in determining whether to permit withdrawal of the pleading. Here, PGW has requested the withdrawal of its appeal by making a motion at the time of hearing rather than through a petition for leave to withdraw a pleading as provided under 52 Pa. Code § 5.94.

The regulation at 52 Pa. Code § 1.2(a) provides that the presiding officer or Commission may disregard an error or defect of procedure which does not affect the substantive rights of the parties. PGW's error in procedure may be disregarded if it does not affect the Complainants' substantive rights. After PGW filed its appeal to the underlying BCS decision, a copy of that appeal was served on the Complainants. The Complainants did not file an answer to PGW's appeal but instead filed a formal complaint and thus an appeal of their own. At the hearing, counsel for PGW asserted that during settlement discussions the Complainants had not objected to the withdrawal of PGW's appeal. In addition, correspondence sent to OALJ by the Complainants' non-attorney financial adviser after the hearing was concluded on February 12, 2018 references those same discussions and a previous agreement that PGW would be withdrawing its appeal. PGW's motion at the time of hearing to withdraw its appeal will be treated as a petition for leave to withdraw the pleading under the provision at 52 Pa. Code § 5.94(a). This will not adversely affect the Complainants' substantive rights since the Complainants had notice of PGW's intent to withdraw its appeal and an opportunity to respond. This treatment will also help to ensure a just, speedy and inexpensive determination of this proceeding.

The Commission has considered the withdrawal of pleadings in the past. In PPLICA v. PPL Elec. Utils. Corp., Docket No. C-2010-2153656, 2012 Pa. PUC LEXIS 39 (Order entered Jan. 12, 2012), the Commission found that a request to withdraw a complaint "should be viewed as a simple procedural request, and should be granted without conditions or Commission pronouncements related to the merits of the issues raised by the Complaint, or issues that may or may not be raised in other proceedings." Id. at 14. There have been no objections raised to PGW's withdrawal of its appeal by the Complainants. There is no indication that requiring PGW to move forward with an appeal it does not wish to pursue would be in the public interest. PGW's motion to withdraw its appeal in this matter will therefore be granted.

CONCLUSIONS OF LAW

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

2. The due process rights of the Complainants have been fully protected in this proceeding. Sentner v. Bell Telephone Co. of Pa., Docket No. F-00161106 (Opinion and Order entered October 25, 1993); 52 Pa.Code § 5.245(a).

3. By failing to appear for the hearing and proffer any evidence to support the complaint, the Complainants have failed to meet their burden of proving that they are entitled to the relief that they seek from the Commission. 66 Pa.C.S. § 332(a).

4. The Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.94 permit parties to withdraw pleadings in a contested proceeding by permission of the presiding officer or Commission.

5. In determining whether to permit withdrawal of the pleading, the presiding officer or Commission must consider the petition, any objections thereto and the public interest. 52 Pa. Code § 5.94.

6. A request to withdraw a complaint should be viewed as a simple procedural request and should be granted without conditions or Commission pronouncements related to the merits of the issues raised by the complaint, or issues that may or may not be raised in other proceedings. PPLICA v. PPL Elec. Utils. Corp., Docket No. C-2010-2153656, 2012 Pa. PUC LEXIS 39 (Order entered Jan. 12, 2012).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion of Philadelphia Gas Works to dismiss the complaint filed by Floyd Tillman at Docket No. F-2017-2634002 is granted.

PHILADELPHIA GAS WORKS

PUC

Closing XML

Case Number: 3563222
Company Name: PGW (PHILA. GAS WORKS (NGDC))
Company Code: 0766
Company Type: GAS TRANSPORTER
Customer First Name: FLOYD/MARTHA
Customer Middle Initial:
Customer Last Name: TILLMAN
Account Number: 6113005732
Service Address 1: 4946 N. BROAD STREET
Service Address 2: 1ST FLOOR
Service City: PHILADELPHIA
Service State: PA
Service Zip 5: 19141
Service Zip 4:
Decision Issue: Y
Oral Written: W
Violation: ACTUAL
Chapter: 56
Section Rule: 56.1, 56.151(2), 56.151(4), 56
Total Balance: 27201.30
Date Closed: 2017-09-22
Resolution: DECISION ISSUED - COMPANY ISSUED 37 DAY LANDLORD/TENANT TERMINATION NOTICE ON 9/12/2017 - COMPLAINT OPENED 9/18/2017 WHICH STOPPED TERMINATION PROCEEDINGS - COMPANY INSPECTED PROPERTY AND FOUND ONE METER SERVING 4 APARTMENTS AND A COMMERCIAL PROPERTY AND DEEMED THE ENTIRE PROPERTY AS COMMERCIAL/RESIDENTIAL - IN COMPANY CORRESPONDENCE ON 9/22/2017 THEY ACKNOWLEDGE THIS IS A RESIDENTIAL END USE LOCATION - ONE METER SERVING THE LOCATION DOES NOT REMOVE THE PRESENCE OF RESIDENTIAL END USE - COMPANY WILL RESUME CATEGORIZATION OF THIS LOCATION AS COMMERCIAL WITH RESIDENTIAL END USE AS ALL RECORDS, TAX AND PUBLIC INFORMATION RECORDS THIS PROPERTY AS COMMERCIAL WITH RESIDENTIAL END USE - PUC PAR TERMS OF LEVEL 4, BUDGET 351.00 + 4534.00 = 4885.00 BEGINNING OCT 2017 DUE DATE. - CITATIONS 56.1 - LARGE OR UNMANAGEABLE ARREARS - \$27,201.30. 56.151(2) - THE COMPANY DID NOT INVESTIGATE THE MATTER USING REASONABLE METHODS: INCORRECTLY DEFINED THE PROPERTY AS PURELY COMMERCIAL/INDUSTRIAL DESPITE ALL AVAILABLE RECORDS, INCLUDING THEIR OWN, SHOWING THIS PROPERTY AS HAVING RESIDENTIAL END USE. 56.151(4) - THE COMPANY DID NOT PROVIDE THE CUSTOMER WITH THE INFORMATION NECESSARY TO MAKE AN INFORMED JUDGMENT: THE CUSTOMER WAS PROVIDED WITH A 37-DAY (LANDLORD/TENANT) TERMINATION NOTICE BUT THE ACCOUNT WAS CHANGED TO COMMERCIAL SHORTLY AFTER. THE COMPANY DID NOT INFORM THE CUSTOMER OF HOW THIS WOULD AFFECT THE

PRESENT 37-DAY TERMINATION NOTICE. 56.163(1) – INACCURATE
REPORT: COMPANY STATES THIS PROPERTY IS SOLELY
COMMERCIAL/INDUSTRIAL. - THIS CONTRADICTS COMMUNICATION
BETWEEN PGW AND THE PUC -

Balance Date: 2017-09-22
Service Restored Pay: 0.00
Service Continue Amount: 0.00
Service Continue Date:
Terms: OCTOBER 2017 BILL DATE
Special Budget Amount: 4885.00
Regular Budget Amount: 351.00
Arrears Payment Plus: 4534.00
FinalMonthlyPayment: 0.00
CurrentMonthlyPayment: 0.00
EndMonthlyPayment: 0.00
LetterDescription:
HeadDate: 2017-09-25
Paragraph:
Bill Date:
Reconnect Amount: 0
Pay Amount: 0.00
BCS Investigator First Name: ADAM
BCS Investigator Last Name: KRICHMAR
Number Of Time Send: 1
Number Of Time Faxed: 0
PUC Fax: 7177876641



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

January 26, 2017

C-2014-2445229

Floyd Tillman
v.
Philadelphia Gas Works

TO ALL PARTIES

Enclosed is a copy of the Initial Decision on Remand of The Office of Administrative Law Judge.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Your signed Exceptions to the decision, if any, must be: 1) filed with the Secretary of the Commission, and 2) mailed or hand-delivered to each party of record, within twenty (20) days of the date of this letter.

To file Exceptions with the Secretary of the Commission, you must mail or hand-deliver them as follows:
If using U.S. Postal Service: If using Overnight or Hand Delivery Service:

Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Secretary
Pa. Public Utility Commission
400 North Street
Commonwealth Keystone Building, 2nd Floor
Harrisburg, PA 17120

Or, instead of mailing or hand-delivering your Exceptions, you may electronically file them with the Secretary of the Commission. To do so, you need to establish an account on the Commission's eFiling system, which may be accessed at <http://www.puc.state.pa.us/efiling/default.aspx>. Please note that Exceptions sent to the Commission by fax or e-mail will not be accepted for filing.

In addition to filing your Exceptions with the Secretary of the Commission, a courtesy copy of your Exceptions should be e-mailed to the Commission's Office of Special Assistants (OSA) at ra-OSA@pa.gov. If the document is too large to e-mail, please mail or hand-deliver a copy on CD-ROM or DVD (or other data storage media), in Microsoft Word 2010 format or other compatible format to either address noted above.

Replies to Exceptions, if any, must be filed with the Secretary of the Commission and served on each party of record and the Commission's OSA, in the manner described above. They are due within ten (10) days of the date when Exceptions are due.

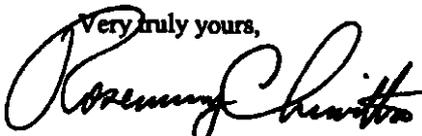
It is your responsibility to serve all the parties with your Exceptions and Replies to Exceptions. Failure to do so may render your filing unacceptable. A certificate of service (see format in 52 Pa. Code §1.58) shall be attached to the filed Exceptions or Replies to Exceptions.

Exceptions and Replies to Exceptions shall follow 52 Pa. Code §§5.533 and 5.535 particularly the 40-page limit for Exceptions and the 25-page limit for Replies to Exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)". Any reference to specific sections of the Administrative Law Judge's Initial Decision shall include the page number(s) of the cited section of the decision.

If no Exceptions are received, the decision of the Administrative Law Judge could become final without further Commission action. You will receive written notification if this occurs. However, even if no exceptions are received, the Commission may review and change the decision pursuant to Section 332(h) of the Public Utility Code, 66 Pa. C.S. § 332(h).

JF

Enclosures
Certified Mail
Receipt Requested

Very truly yours,

Rosemary Chiavetta
Secretary

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Floyd Tillman

v.

Philadelphia Gas Works

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:
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C-2014-2445229

INITIAL DECISION ON REMAND

Before
Dennis J. Buckley
Administrative Law Judge

This Initial Decision dismisses with prejudice a Complaint filed by Floyd Tillman (Complainant) against Philadelphia Gas Works (PGW or Company) due to lack of representational capacity on the part of the Complainant or, alternatively, failure by the Complainant to meet his burden of proof.

HISTORY OF THE PROCEEDING

This case originated as a Complaint filed on September 26, 2014, by Complainant against PGW. The Complaint alleged that PGW billed him improperly.

On September 30, 2014, the Secretary of the Commission served the Complaint on PGW.

On October 20, 2014, PGW filed an Answer to the Complaint, denying the allegations set forth therein.

On December 4, 2014, a hearing notice was issued setting January 9, 2015, as the date for an evidentiary hearing in this case.

On December 17, 2014, I issued a standard form Pre-Hearing Order which was served on both parties. That Order clearly stated that failure to appear and to participate in the hearing could result in the entry of a default judgment.

On January 5, 2015, counsel for PGW served proposed exhibits on myself and the Complainant in conformity with the instructions in the prehearing Order.

On January 9, 2015, a telephonic evidentiary hearing in this case convened originating from the Commission's Office at 400 North Street, Harrisburg, Pennsylvania. Counsel for PGW, Laureto A. Farinas, Esquire, was present as was Complainant. Complainant asked for a continuance of the hearing in order to consult with his counsel and to pursue possible settlement of the case.¹ Mr. Farinas did not oppose the requested continuance.

On April 3, 2015, a hearing notice was issued setting May 14, 2015, as the date for the continued hearing in this matter.

On May 11, 2015, counsel for PGW served additional proposed exhibits on myself and the Complainant.

On May 14, 2015, a telephonic evidentiary hearing in this case convened originating from the Commission's Office at 400 North Street, Harrisburg, Pennsylvania. Counsel for PGW, Laureto A. Farinas, Esquire, was present as was Complainant. It was asserted by counsel at hearing that the account for natural gas service in this matter is a commercial account, and that Complainant is supposedly a limited liability corporation. Further complicating the matter was the fact that the account is in the name of Martha Tillman, and the same bill in question had previously been the subject of adjudication in the case of

¹ It turned out that the individual Complainant was conferring with was not an attorney but one Michael Brown, a financial advisor from a firm called Northwest Counseling Service, Inc.

Martha Tillman v. Philadelphia Gas Works, Docket No. F-2009-2146728 (Final Order entered January 10, 2011). The Final Order in that case dismissed the underlying Complaint with prejudice for non-prosecution. Counsel for PGW thereupon moved for dismissal of the Complaint in this case on two grounds: first, that the LLC² was not represented by counsel; and secondly, that consideration of the case was barred in that the matter had been previously decided by the Commission.³ Complainant asked to be allowed to get his attorney on the line, and cognizant of the Commission's encouragement of flexibility in dealing with unrepresented complainants, I allowed this. Diane Barr, Esquire, was connected to the hearing in progress on behalf of the Complainant. Attorney Barr stated that she had represented Complainant in a Chapter 13 proceeding which was dismissed. Thus, counsel was not familiar with the present controversy and requested a continuance. PGW opposed that request. Counsel candidly stated that she had not been previously contacted by Complainant relative to representation in this case.⁴ Having afforded Complainant an opportunity to be represented by counsel, and finding that Complainant had *not* made use of the previous continuance to obtain counsel and to prepare with counsel for the hearing, I declined to grant a further continuance and adjourned the hearing.

On November 4, 2015, I issued an Initial Decision in which I granted the Motion to Dismiss the Complaint on the basis of the doctrine of *res judicata* at Docket No. C-2014-2445229, and dismissed the Complaint of Floyd Tillman against Philadelphia Gas Works with prejudice.

On March 8, 2016, the Commission issued an Order in this case which reversed the Initial Decision and remanded the case for further proceedings so that the Complainant could have an opportunity to further articulate his claims.

² Tillman filed the complaint as an individual and not an LLC for the very sound reason that the business is not incorporated.

³ Though counsel did not expressly use the term, I inferred that he was arguing for dismissal on the theory of *res judicata*.

⁴ On April 26, 2016, attorney Barr filed a letter restating that she does not represent Complainant in this case and that she would not attend the hearing on April 29, 2016.

Consistent with the Commission's Order, a hearing on remand was held on April 29, 2016. This was a telephonic evidentiary hearing originating from the Commission's Office at 400 North Street, Harrisburg, Pennsylvania. Counsel for PGW, Laureto A. Farinas, Esquire, was present as was Complainant. Complainant testified but offered no exhibits. PGW presented the testimony of Patricia Bernard, a customer review officer employed by PGW. PGW offered four exhibits, previously served on Complainant and the presiding officer, that were received into evidence: PGW-1A, a Statement of Account; PGW-3A Contacts for Account; PGW-6, a shut off notice; and, post-hearing, PGW-7, a Return Receipt from Fed Ex. These exhibits and a 40 page transcript were filed with the Secretary of the Commission on May 25, 2016.

The record in this case consists of three hearing transcripts, that of January 9, 2015, that of May 14, 2015, and that of April 29, 2016 and related exhibits. The record closed on June 1, 2016, with the filing of the transcript and exhibits from the April 29, 2016 hearing.

This case is now ready for decision.

FINDINGS OF FACT

1. Floyd Tillman, the Complainant in this case, is the spouse of Martha Tillman. Tr. May 14, 2015, at 7.
2. Philadelphia Gas Works is a Commission jurisdictional provider of natural gas service.
3. The account in this case is a commercial account located at 4946 North Broad Street, Philadelphia, Pennsylvania, in the name of Martha Tillman. Tr. at 24, 32, 36; PGW Exhibit 1A.
4. The business is a clothing store/boutique, Tillman's Boutique, that being a fictitious name registered in 2002 with the Commonwealth's Corporation Bureau. Tr. at 27, 31; <https://www.corporations.pa.gov/search/corpsearch>.

5. The Tillman's reside at 1513 Gwynedd View Road, North Wales, Pennsylvania. Tr. at 34.

6. Floyd Tillman is not an attorney licensed to practice in the Commonwealth of Pennsylvania.

7. Floyd and Martha Tillman filed separate but identical Complaints alleging that Martha Tillman's business account had been incorrectly billed by Philadelphia Gas Works for natural gas service at 4946 North Broad Street, Philadelphia, Pennsylvania in the amount of circa \$5,252.05 due to an inaccurate meter rebilling. Tr. at 7, 36.

8. The formal Complaint of Martha Tillman at Docket No. F-2009-2146728 (Final Order entered January 10, 2011), was dismissed with prejudice by the Commission.

9. Both the present Complaint and that at Docket No. F-2009-2146728 are based on the same faulty meter billing recalculation. Tr. at 7.

10. As of April 9, 2016, the balance owed on Martha Tillman's commercial account was \$25,012.43. Tr. at 17-18.

DISCUSSION

Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. *Schneider v. Pa Pub.Util. Comm'n.*, 479 A.2d 10 (Pa. Cmwlth. 1984). This due process requirement is satisfied, however, when the parties are afforded notice and the opportunity to appear and be heard. *Id.*

As the proponent of a rule or order, the Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S.A. § 332(a). Thus, the Complainant has the burden of proving that PGW violated a provision of the Public Utility Code or a regulation of the Commission. The Complainant has not met this burden, and his Complaint must be dismissed.

To establish a sufficient case and satisfy the burden of proof, a complainant must show that the respondent public utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Telephone Company of Pennsylvania*, 72 Pa. PUC 196 (1990); *Feinstein v. Philadelphia Suburban Water Company*, 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*, 134 Pa.Cmwth. 218; 221-222, 578 A.2d 600; 602 (1990), app. denied, 602 A.2d 863 (1992). A preponderance of the evidence is established 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*, 67 Pa.Cmwth. 597, 447 A.2d 1100 (1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 154 Pa.Cmwth. 21, 623 A.2d 6 (1993); 2 Pa.C.S. § 704. Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Bethenergy Mines, Inc. v. Workmen's Compensation Appeal Bd. (Skirpan)*, 531 Pa. 287, 612 A.2d 434 (1992). 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. Dep't. of Public Welfare, White Haven Center*, 85 Pa.Cmwth. 23, 480 A.2d 382 (1984).

If a complainant establishes a prima facie case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, a complainant will prevail. If the utility rebuts complainant's evidence, the burden of going forward with the evidence shifts back to a complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. *Replogle v. Pennsylvania Electric Company*, 54 Pa. PUC 528 (1980), and *Waldron v. Philadelphia Electric Company*, 54 Pa. PUC 98 (1980).

If respondent submits evidence of "co-equal" weight to refute Complainant's evidence, Complainant has not satisfied the burden of proof unless she presents additional evidence opposing Respondent's evidence. *Morrissey v. PA Dept. of Highways*, 424 Pa. 87, 225 A.2d 895 (1967), and *Burleson v. Pa. Pub. Util. Comm'n.* 66 Pa. Cmwlth Ct. 282, 443, A.2d 1373 (1982), *aff'd.* 501 Pa. 443, 461 A.2d 1234.

Setting aside for the moment the fact that Complainant presented no evidence of mis-billing by PGW at any point in this case, it is clear that Floyd Tillman has sought to re-litigate the same Complaint that had already been filed by his spouse, Martha Tillman. However, the Commission found in its Remand Order of March 8, 2016:

... [W]e do not believe it is clear that all of the issues raised in Mr. Tillman's Complaint were or should have been litigated in Mrs. Tillman's Complaint. Some of those issues may have been litigated previously, and the doctrine of issue preclusion may preclude Mr. Tillman from re-litigating those issues. Nevertheless, we believe the ALJ's Initial Decision dismissing the case should be reversed and the matter should be remanded for further proceedings so that the Complainant may have an opportunity to further articulate his claims.

Similarly, since we do not believe it is clear that all of the issues raised in Mr. Tillman's Complaint were or should have been litigated in Mrs. Tillman's Complaint, we believe it is premature at this time to dismiss Mr. Tillman's Complaint based on Section 316 of the Code.

Opinion and Order of March 8, 2016, at 8.

According to the Commission's records, Martha Tillman claimed that she had been incorrectly billed for service at 4946 North Broad Street, Philadelphia, Pennsylvania. That is the address of Tillman's Boutique, which is a sole proprietorship operated by Martha Tillman. The Final Order in that case, *Martha Tillman v. Philadelphia Gas Works*, Docket No. F-2009-2146728 (Final Order entered January 10, 2011), dismissed the underlying Complaint *with prejudice* for non-prosecution. The amount in controversy in that Complaint was \$5,252.05. That case was an appeal of a determination by the Commission's Bureau of Consumer Services at Case No. 2391518.

As Floyd Tillman ultimately conceded, the faulty meter re-billing in 2008 is the genesis of both the present case and the underlying case at Docket No. F-2009-2146728. (Tr. at 7) This is dispositive of the present Complaint, and though imperfectly argued at the time was, no doubt, the basis for PGW's original Motion for Dismissal of the present Complaint under the doctrine of *res judicata*. It is clear that all of the issues raised in Mr. Tillman's Complaint were or should have been litigated in Mrs. Tillman's Complaint.

That re-billing was being contested by Martha Tillman in the 2009 proceeding, but she failed to prosecute that case. Thereafter, Floyd Tillman "took charge," of the matter (Tr. at 7, 36) and filed the present Complaint. As this case was remanded because it was felt that there may exist some distinction between the allegations of Martha Tillman and those of Floyd Tillman, it is critical to understand that Floyd Tillman specifically testified at the hearing on April 29, 2016, that this matter has been going on since 2008 and is based on the same faulty meter billing recalculation. Tr. at 7. Floyd Tillman's Complaint cited no specific dollar amount in controversy, but alleged mis-billing and asked for mediation. Complainant unequivocally testified at the hearing on April 29, 2016, that his sole issue in this case is the re-billing by PGW of \$5,230.94 [sic] on June 8, 2008. Both cases involve the same account, Account Number 6113005732.

As the Commission directed, at the hearing on April 29, 2016, Complainant was afforded an opportunity to further articulate his claims. Complainant unequivocally testified that his sole issue in this case is the billing by PGW of \$5,230.94 [sic] on June 8, 2008, which Complainant claims was a mis-billing, based upon the inaccurate meter re-billing referred to in BCS Case No. 2391518, appealed at Docket No. F-2009-2146728. Tr. April 29, 2016 at 6-7. Setting aside for the moment the issue as to whether Floyd Tillman could represent Martha Tillman in her capacity as the owner of Tillman's Boutique, the fact is that Floyd Tillman offered no evidence at any hearing in this case to demonstrate that a mis-billing had occurred.

With respect to the issue of Floyd Tillman's capacity to file a Complaint or to represent Tillman's Boutique in this case, it was previously established that Floyd Tillman and Martha Tillman are husband and wife. Tr. May 14, 2015, at 7. The service address for Tillman's Boutique is 4946 North Broad Street, Philadelphia, Pennsylvania. PGW Exhibit 1-A. It is now

clear that the business is run by Martha Tillman with occasional and incidental maintenance help from her husband, Floyd Tillman. Tr. at 27-29. Mr. Tillman is not the owner/proprietor of the business, nor is he a partner, nor is he an attorney licensed to practice in the Commonwealth of Pennsylvania. Mr. Tillman stated that the account is not his, that he did not open it, but asserted that he is taking "personal charge," to "settle" what he characterizes as a mis-billing. Tr. 35-37.

I note that from the outset, Complainant delayed the evidentiary hearing and then obfuscated the facts, demonstrating that he is not a credible witness. Prior to the hearing on January 9, 2015, Complainant claimed that he was represented by a Mr. Mark Brown, who turned out to be not an attorney, but a financial counselor at Northwest Counseling Services, Inc., in Philadelphia, Pennsylvania. At the hearing on May 14, 2015, Complainant claimed that he was represented by counsel, one Diane Barr, Esquire. This claim, which proved to be false, only served to further complicate the proceedings. Complainant, who is not an attorney or a partner in the business of Martha Tillman, then misled the presiding officer and the Commission to believe that he was legally qualified to speak on behalf of the account holder, Martha Tillman. Tr. at 39. Complainant continued this pose even through the hearing on April 29, 2016, until it was ultimately established that Mr. Tillman has no legal standing vis-à-vis his wife's business. Finally, Complainant falsely claimed that he did not receive PGW's hearing exhibits when in fact he had, as proved by PGW Exhibit 7, a receipt from FedEx with proof of delivery.

PGW established that Complainant is not disputing any bills in his name or that were incurred after the time period covered by the decision in *Martha Tillman v. Philadelphia Gas Works*, Docket No. F-2009-2146728 (Final Order entered January 10, 2011). Tr. April 29, 2016 at 7-8; 16-17. PGW moved for dismissal of the present Complaint as Floyd Tillman is not legally qualified to bring the instant Complaint or to represent Martha Tillman in her capacity as sole proprietor of Tillman's Boutique.

I agree with PGW. The account in this case is a commercial account, therefore Floyd Tillman cannot represent Martha Tillman, as she is a sole proprietor. See 52 Pa. Code § 1.21. Even if we accepted, *arguendo* and against the weight of the evidence, that Floyd Tillman had a proprietary role or interest in Tillman's Boutique, he failed to establish mis-billing by PGW or that

PGW has violated any provision of the Public Utility Code or a regulation of the Commission. Floyd Tillman is precluded from re-litigating the same Complaint that was dismissed with prejudice in *Martha Tillman v. Philadelphia Gas Works*, Docket No. F-2009-2146728 (Final Order entered January 10, 2011). For each and all of these reasons, the Complaint which he improvidently filed at this docket will be dismissed.

Finally, the Commission has on occasion precluded a party from filing further informal and formal complaints when the party has been an abuser of the system. In *Sheri Seidenstricker v. Metropolitan Edison Company*, Docket No. F-2008-2019388 (Final Order entered July 28, 2009), the Commission adopted the Administrative Law Judge's Initial Decision which, *inter alia*, ordered that complainant in that case be precluded from filing further informal and formal complaints pertaining to the same account until such time as the current balance on that account was paid in full, after finding that complainant had abused the system by using its provisions to prevent termination of service over the course of many years while receiving electric utility service from respondent and accruing a large outstanding balance. Similarly, in the instant case, the Complainant should be precluded from filing further informal and formal complaints pertaining to the inaccurate meter re-billing referred to in BCS Case No. 2391518, and appealed at *Martha Tillman v. Philadelphia Gas Works*, Docket No. F-2009-2146728 (Final Order entered January 10, 2011).

For all of the foregoing reasons, the Complaint of Floyd Tillman at Docket No. C-2014-2445229 is dismissed with prejudice.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 701.
2. The due process rights of Complainant have been fully protected in this proceeding. *Sentner v. Bell Telephone Company of Pennsylvania*, Docket No. F-00161106 (Order entered October 25, 1993); and 52 Pa.Code § 5.245(a).

3. Individuals may represent themselves in proceedings before the Commission, but otherwise persons in adversarial proceedings shall be represented in accordance with 52 Pa. Code § 1.22 (relating to appearance by attorneys and legal interns). 52 Pa. Code § 1.21.

4. As the proponent of a rule or order, the Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S.A. § 332(a).

5. The Commission has on occasion precluded a party from filing further informal and formal complaints when the party has been an abuser of the system. In *Sheri Seidenstricker v. Metropolitan Edison Company*, Docket No. F-2008-2019388 (Final Order entered July 28, 2009).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion to Dismiss the Complaint of Floyd Tillman at Docket No. C-2014-2445229 due to lack of representational capacity is hereby granted.

2. That, alternatively, the Complaint of Floyd Tillman at Docket No. C-2014-2445229 is dismissed because Complainant failed to meet his burden of proof pursuant to 66 Pa.C.S.A. § 332(a).

3. That the Complainant is precluded from filing further informal and formal complaints pertaining to the issues already adjudicated with respect to the inaccurate meter re-billing referred to in BCS Case No. 2391518, and appealed at *Martha Tillman v. Philadelphia Gas Works*, Docket No. F-2009-2146728 (Final Order entered January 10, 2011).

2. That, alternatively, the Complaint of Floyd Tillman at Docket No. C-2014-2445229 is dismissed because Complainant failed to meet his burden of proof pursuant to 66 Pa.C.S.A. § 332(a).

3. That the Complainant is precluded from filing further informal and formal complaints pertaining to the issues already adjudicated with respect to the inaccurate meter re-billing referred to in BCS Case No. 2391518, and appealed at Martha Tillman v. Philadelphia Gas Works, Docket No. F-2009-2146728 (Final Order entered January 10, 2011).

4. That the Complaint of Floyd Tillman against Philadelphia Gas Works at Docket No. C-2014-2445229 is hereby dismissed with prejudice.

5. That the docket in this case is closed.

BY THE COMMISSION



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: March 16, 2017

ORDER ENTERED: March 16, 2017