

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

WILLIAM TOWNE,

Complainant,

v.

PITTSBURGH WATER AND SEWER
AUTHORITY,

Respondent.

Docket No. C-2019-3008437

REPLY TO NEW MATTER

FILED ON BEHALF OF
COMPLAINANT:
WILLIAM TOWNE

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NOW COMES Complainant, William Towne, and sets forth this Reply to New Matter as required and noted in the Notice To Plead, responding to factual allegations contained therein.

REPLY TO INTRODUCTION

Complainant denies that "PWSA almost immediately corrected" effectively the shutoff notice that prompted this Complaint. Further, it is denied that "the Complainant did not first seek to speak to a PWSA representative before filing the Formal Complaint." The complaint specifically notes that Complainant attempted to do so over 30 times, all during business hours, but the utility wasn't answering/accepting calls. See also ¶5(3)2-3) and ¶17-18 below.

REPLY TO NUMBERED PARAGRAPHS

1-3. No response is required.

4. It is denied that the Authority rectified what it describes was an error as described.

Additional Responses (c-d) are also specifically disputed, as the Complaint **does** allege such violations by PWSA, especially of rules surrounding proper pre-shutoff notices.

5. It is denied that "the Complainant is not entitled to the requested relief." For example, one of the points of requested relief is to not terminate service, and another is to receive available information regarding any request to shut off water at Complainant's address, both of which Complainant is clearly entitled to. It is denied that this situation is accurately characterized as "One mistake, promptly corrected."

5(1). It is denied that "Complainant was never in danger of having his service shut off" based on information received directly from Respondent, as well as based on surrounding context with a serial attacker who had previously caused problems with other utility services. Complainant did not believe that he would have been in danger of **legitimate** disconnection of service, but from experience did not believe that to be relevant as to whether or not he was in practical danger of actual cutoff. This is because Complainant has repeatedly experienced issues with utility billing accuracy, and prior no-notice interruptions of utility services. Complainant had also been regularly hearing/reading news stories reporting wider problems with regulatory compliance and other aspects of management at PWSA. Receipt of the alleged correction call is denied, and even if attempted may have been not delivered depending on how the computer was set up to place calls and leave voicemail messages; Complainant was on the phone with an attorney at that time. Even if Respondent used an automated system in an attempt to leave a message, if the message played and call disconnected prior to the end of the voicemail greeting, it would not have been delivered.

5(2). See ¶6 below.

5(3). 52 Pa. Code §56.93b states that calls made to contact telephone numbers provided by the customer shall be deemed to be calls to the residence for the purposes of that section. In this case, Complainant does not have land-line phone service at his residence, and has provided

PWSA with a phone number that rings on his mobile device, to which the call informing Complainant of termination of service was routed.

5(3)1). Making a call the next day to the Authority to obtain further information would likely have been a feasible option if the Authority had provided Complainant with 10 days' written notice of impending shutoff (whether or not Complainant's inclusion in the list of customers to receive shutoff notices was legitimate) as required by 52 Pa. Code §56.91. However, the Authority chose not to do this, and with only 3 days notice of pending shutoff the situation appeared much more urgent, with little time to complete paperwork which appeared necessary to stave off the shutoff (which often takes several days) and get that paperwork to the right individuals (which if mailing is required, takes a few days) to effectively avert a shutoff.

5(3)2-3). Respondent's automated message informing Complainant of pending shutoff did not list or mention the PUC's Bureau of Consumer Services or Office of Consumer Advocate at all, but instead (especially in combination with other available information) indicated that a **formal** complaint filed with the Public Utility Commission was needed to be able to stave off the near-immediate shutoff if a PFA could not be completed in time, and the formal complaint could only have that effect if properly filed before the shutoff date. Complainant assumed that either the filing of the complaint or PWSA getting notice of it might require mailing time between Pittsburgh and Harrisburg as part of the 3 available days, requiring great urgency in utilizing that formal channel. Complainant hoped that the delay in shutoff during proceedings would be made permanent by a PUC order blocking shutoff altogether, once it became evident that no amount was past due. Stated again for clarity, no mention of any Bureau of Consumer Services or Office of Consumer Advocate was mentioned in the list of options for how a shutoff might be delayed or avoided, nor are those steps required. Further, even if Complainant had known about these

organizations, attempting to go through their processes clearly would have taken more time than the three days available before shutoff, as noted on the final page of the PUC's formal complaint form in the statement requiring nonelectronic **paper mailing** for complaints in cases where less formal BCS inquiries had previously been filed. Thus, attempting to contact BCS appeared likely actively counterproductive to the goal of preventing a near-immediate shutoff.

5(3)4). A "fine fund" is a fund into which fines, or financial civil penalties, are paid. Where such amounts are paid into the Commonwealth of Pennsylvania's General Fund, that is the fund referred to in the requested relief. Such civil penalties are within the PUC's jurisdiction.

5(3)5). Complainant will play the recording before a PUC ALJ as evidentiary support in demonstration of his assertion that the Respondent's phone number (and certain other components of the message) are difficult to understand.

6. While the information contained in Respondent's ¶5(2) and ¶6 is, to the extent that the facts *implied* are accurate, responsive to Requested Relief part 2, ¶6 in the Complaint regarded the most likely facts given the evidence available to Complainant at the time of receiving the shutoff notice call.

7. If the Authority keeps detailed call records as its implied claim in ¶5(1), it should have sufficient information to admit the allegations. The Complainant is without sufficient information to admit or deny the new matter following the first sentence of this responsive paragraph and strict proof is demanded at the time of hearing in this matter.

Regardless of those facts within PWSA, the PUC needs to protect the public interest by demonstrating that it is worth it for utilities including but not limited to PWSA to make investments necessary to prevent shutoff notices from being sent to customers who should not be receiving them. The PUC's ruling in this case regarding the consequences of making

unwarranted shutoff calls and not answering inquiries received in response to those notices will set or signal the incentive structure which applies to public utilities in PA. The PUC's ruling in this case will be relevant to other utilities' decision-making regarding policies, technologies, and partnerships for the placement of shutoff notice calls, as well as for capacities which utilities could choose to implement to handle mistakes when they do not choose notification systems with sufficiently reliable accuracy to avoid these types of issues in the first place.

8-10. No response is required.

11. Admitted.

12. Four days after the shutoff notice, which gave notice of shutoff as early as 3 days from the message and stated it was valid for 60 days thereafter, Complainant's water service was significantly degraded, including severe reduction in water pressure indicating a partial shutoff of service. Later the next day, Complainant lifted the tap on his kitchen sink and found no water coming out at all, consistent with the shutoff PWSA had warned about, despite Complainant having filed a formal Complaint at the PUC and posted a notice on his door, partially readable from the water shutoff access point and even across the street, describing legal reasons why PWSA should not shut the water off, if it sent a representative to do so at that access point. This notice reduced Complainant's privacy in a way that tended to degrade perception of the Complainant's good standing in the community, but seemed better than having the water shut off in light of the worse consequences such a shutoff could have. Complainant had to pay a fee for a plumber to come restore service, including removal of a small, apparently metal, object that had come through and caused blockage in the supply line. Complainant believes that the degradation in service as well as the blockage were the Authority's doing, even if they were the unintentional results of construction work replacing service lines nearby in the neighborhood, or an intentional

response to the filing of this Complaint or other cause. The possibility of the construction-related cause is based on observations that the Authority had previously cut off the water supply at Complainant's address without notice during planned line maintenance, as did the natural gas supplier (twice), on separate occasions.

13. Admitted.

14. Complainant is uncertain regarding the truth of this allegation, given the available evidence and communication from the Authority. If it is true, Complainant requests that Respondent quickly consent to an enforceable order from the PUC prohibiting shutoff of the Complainant's service, to resolve a point PWSA appears to not be disputing the validity of, prior to a hearing in this case.

15. Complainant did incur fees for restoration of service as noted in ¶12 above. Additionally, Respondent sent a regular monthly email to Complainant on March 20, 2019 stating the amount which would be automatically debited from Complainant's account for an Auto Draft payment, reflecting the highest monthly water bill Complainant has ever received in Allegheny County with the sole exception of a month in which a burst pipe dropped ≈19,000 gallons of water into his home. Complainant has not filed any separate complaint regarding these higher charges because he does not wish to at all further increase his risk of shutoff due to lack of payment in full of all demanded amounts, and because reimbursements of extra costs related to this shutoff threat should already be covered by this already-filed case.

See Trigg v. Middle Tenn. Elec. Membership Corp, 533 SW 2d 730 – (TN Court of Appeals, Middle Section 1975, Supreme Court Certorari Denied 1976) for a case in which a customer contesting just a \$1.51 later-payment fee on a utility bill they allegedly did not receive until after the relevant payment deadline led to shutoff of service and extensive damages which

the customer had specifically warned the utility about. Complainant wishes to avoid an experience similar to the Triggs'.

This effect of ensuring prompt payment in full for all demanded amounts, as well as Plaintiff's extra efforts to verify successful payment immediately upon receiving the shutoff notice, constitute effective use of the termination notice as a collection device with no other apparent legitimate purpose, in violation of 52 Pa. Code §56.99.

16. As discussed in ¶12 and ¶15, Plaintiff did incur such fees, and may be entitled to recovery of such charges, even if recovery by an order of the PUC may be limited due to constraints on the PUC's ability to award cost recovery to individual utility customers.

17. As noted in this paragraph, Complainant attempted over 30 times to speak with someone at PWSA by phone prior to the filing of this Formal Complaint. Complainant believes that these efforts satisfy relevant requirements prerequisite to the filing of a Complaint, and that no utility should be able to have complaints against it deemed invalid because of the utility's own refusal to answer dozens of calls from a Complainant customer attempting contact. Complainant further anticipated that the filing of this Complaint would initiate appropriate steps, including reply by Respondent, pursuant to PUC's process for complaint resolution.

18. The Complainant did not have sufficient time to reach a personal conversation with any member of the Commission on this topic before filing this Formal Complaint, but such a step is not required. The Complainant did contact the PUC to file this Complaint and for a small amount of additional pre-filing communication, such as gathering publicly available information needed to prepare and file the complaint reasonably correctly under the PUC's requirements.

Respectfully submitted,

William Towne

William Towne

VERIFICATION

I, William Towne, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).



William Towne

DATE: April 21, 2019

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the within Reply to New Matter was mailed by First Class U.S. Mail, postage prepaid, to the following on Monday, the 22nd day of April, 2019, in addition to electronic service provided by the PUC's eFiling service.

Daniel Clearfield and/or Carl Shultz
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101

The PUC's eFiling system interface states that no paper filing is required in addition to the eFiling, and thus no paper copy has been sent to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

though I am willing to send a paper copy to Secretary Chiavetta upon further request.



William Towne