

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Fran Mestichelli	:	
	:	
v.	:	F-2018-3006752
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Alphonso Arnold III  
Special Agent

**INTRODUCTION**

This Initial Decision grants in part, and denies in part, a Complaint filed by a customer of a gas utility raising overbilling allegations and seeking a Commission-issued payment arrangement. The customer’s request for a payment arrangement is granted because the customer met her burden of proving that she is eligible for a payment arrangement. The customer’s overbilling allegations are denied because the customer did not meet her burden of proving that the gas utility overbilled her in violation of the Public Utility Code, a Commission regulation or order, or a Commission-approved tariff.

**HISTORY OF THE PROCEEDINGS**

On December 26, 2018, Fran Mestichelli (Complainant or Ms. Mestichelli) filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (Respondent or PGW). The Complaint is a timely appeal of a determination made by the Commission’s Bureau of Consumer Services (BCS) at BCS No. 3659358, wherein the Complainant was granted a payment arrangement. In her Complaint, the

Complainant requested a payment arrangement with terms lower than the one granted at BCS No. 3659358. Additionally, in her Formal Complaint, the Complainant challenged her bills as being too high.

On January 15, 2019, PGW filed its Answer, admitting and denying the various averments in the Complaint. PGW requested that the Commission find against the Complainant and dismiss the Complaint.

By Hearing Notice served on the parties on January 22, 2019, the Commission scheduled this matter for a telephonic hearing on March 1, 2019 and assigned the case to me as presiding officer.

A Prehearing Order was served on the parties on January 31, 2019, addressing, inter alia, the procedures applicable to the hearing.

By Hearing Cancellation/Reschedule Notice served on the parties on March 1, 2019, the telephonic hearing scheduled for March 1, 2019, was cancelled and rescheduled to March 29, 2019, at 10:00 a.m.

I conducted the March 29, 2019, telephonic hearing as scheduled. Ms. Mesticelli was present for the hearing and testified on her own behalf. Ms. Mesticelli sponsored no exhibits for the record. Attorney Laureto Farinas was present at the hearing on behalf of PGW and presented the testimony of Jessica Glace, a senior customer review officer employed by PGW. Ms. Glace sponsored the following three exhibits, all of which were admitted into the record:

- PGW Exhibit 1 – Statement of Account
- PGW Exhibit 2 – Payment Arrangements
- PGW Exhibit 3 – BCS Decision

During the hearing, the parties agreed that PGW would perform a meter test on Ms. Mesticelli's PGW meter. The parties agreed to communicate with one another to establish

a date whereupon PGW would meet with Ms. Mestichelli at the service address to test her meter. Following the meter test, PGW agreed to submit the meter test results as late-filed exhibits. Therefore, the evidentiary record was not closed at the conclusion of the March 29, 2019 hearing.

On June 12, 2019, PGW sent a letter to Ms. Mestichelli and me. The letter indicated that the meter test of Ms. Mestichelli's meter had not yet been performed. The letter detailed the efforts that PGW has taken in communicating with Ms. Mestichelli to schedule a date to perform a meter test at Ms. Mestichelli's address. The letter invited Ms. Mestichelli to contact PGW to schedule a date for the meter test. On June 20, 2019, I issued an Interim Order Requiring Status Report to the parties. The Interim Order required Ms. Mestichelli to submit a Status Report to me and PGW by July 5, 2019 concerning the status of the meter test to be performed on her PGW meter. Ms. Mestichelli did not submit a Status Report as ordered; therefore, the record was closed by Interim Order Closing the Record issued on July 8, 2019. The record in this matter consists of the March 29, 2019 hearing transcript and PGW's three exhibits that were admitted into the record during that hearing.

For the reasons discussed below, the Complaint will be granted in part, and denied in part.

#### FINDINGS OF FACT

1. The Complainant is Fran Mestichelli.
2. The Respondent is Philadelphia Gas Works.
3. Ms. Mestichelli resides at 2335 South 4<sup>th</sup> Street, Philadelphia, Pennsylvania (service address).

4. Ms. Mestichelli currently lives alone at the service address but has a daughter who lives with her approximately eight months out of the year to help around the home. (Tr. 10).

5. Ms. Mestichelli's gross monthly income is \$1,289 from social security. (Tr. 10).

6. Ms. Mestichelli's home at the service address consists of three bedrooms. (Tr. 11).

7. Ms. Mestichelli has the following gas appliances in her home: gas range, hot water heater, clothing dryer, and house heater. (Tr. 14, 15).

8. Ms. Mestichelli's bills are based on the actual usage of the gas appliances that are being used in the home. (Tr. 26; PGW Exhibit 1).

9. The gas meter previously servicing Ms. Mestichelli's service address was changed on April 27, 2018. (Tr. 24).

10. After removal, Ms. Mestichelli's old meter tested slightly fast; therefore, Ms. Mestichelli was provided a credit towards her account on August 2, 2018 in the amount of \$41.31. (PGW Exhibit 1, p. 3; Tr. 24).

11. Ms. Mestichelli filed an Informal Complaint with the BCS at BCS No. 3659358, seeking a payment arrangement. (PGW Exhibit 3).

12. On November 5, 2018, the BCS granted Ms. Mestichelli's payment arrangement request at BCS No. 3659358. (PGW Exhibit 3).

13. The instant Formal Complaint is a timely appeal of the BCS determination at BCS No. 3659358.

14. Based on the income and household size provided at the hearing, Ms. Mestichelli qualifies for PGW's Customer Responsibility Program (CRP), which is PGW's Customer Assistance Program. (Tr. 30).

15. Thirty-two payments have been made on Ms. Mestichelli's PGW account during the span of the Statement of Account (September 30, 2014 to February 26, 2019). (PGW Exhibit 1).

16. Ms. Mestichelli has made one payment on her account since July 17, 2017, in the amount of \$100 on February 6, 2019. (PGW Exhibit 1, pp. 3, 4).

17. Ms. Mestichelli last entered into Company-payment arrangements with PGW in 2015 – one on May 27, 2015 and another on June 17, 2015. (PGW Exhibit 2).

18. Ms. Mestichelli defaulted on the two 2015 Company-payment arrangements. (PGW Exhibit 2).

19. At the time of the hearing, the outstanding balance of Ms. Mestichelli's account was \$3,230.35. (Tr. 24).

### DISCUSSION

Section 701 of the Public Utility Code (Code) provides that any person may complain, in writing, about any act or thing done or omitted to be done by a public utility in violation, or claimed violation, of any law which the Commission has the jurisdiction to administer, or of any regulation or order of the Commission. 66 Pa.C.S. § 701.

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). To satisfy this burden, the Complainant must show that the named utility is responsible or accountable for the problem described in the Complaint. Patterson v. Bell Telephone Co. of Pa., 72 Pa. PUC 196 (1990);

Feinstein v. Philadelphia Suburban Water Co., 50 Pa. PUC 300 (1976). This must be shown by a preponderance of the evidence, that is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n, 578 A.2d 600 (Pa.Cmwlt. 1990), alloc. den., 602 A.2d 863 (Pa. 1992); Se-Ling Hosiery v. Margulies, 70 A.2d 854 (Pa. 1950).

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, the Complainant will prevail. If the utility rebuts the Complainant's evidence, the burden of going forward with the evidence shifts back to the 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. Milkie v. Pa. Pub. Util. Comm'n, 768 A.2d 1217 (Pa.Cmwlt. 2001); see also, Burleson v. Pa. Pub. Util. Comm'n, 443 A.2d 1373 (Pa.Cmwlt. 1982).

Additionally, this Commission's decision must be supported by substantial evidence in the record. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n, 413 A.2d 1037 (Pa. 1980).

In this matter, Ms. Mestichelli filed a Complaint challenging her bills as being too high and requesting a payment arrangement. This matter is a *de novo* review of a BCS Informal Complaint decision, which means that the decision issued in this matter will be based on the evidence presented at the evidentiary hearing. 52 Pa. Code § 56.173(a). The burden of proof is on Ms. Mestichelli to show that PGW overbilled her and that she is eligible for a payment arrangement.

### **High Billing Allegations**

In cases of alleged high billing, the Commission applies the Waldron rule, which provides that to establish a prima facie case of overbilling, a complainant must show: (1) that the number of occupants in the household has not changed, (2) that the potential for energy utilization was low and (3) that complainant's billing history shows no prior abnormalities. Once the complainant makes out a prima facie case, the burden of proof then shifts to the utility; however, the ultimate burden of persuasion always remains with the complainant. Waldron v. Philadelphia Electric Company, 54 Pa. PUC 98 (1980) (Waldron); Repogle v. Pa. Electric Company, 54 Pa. PUC 528 (1980).

In Milkie, *supra*, the Commonwealth Court of Pennsylvania further refined the Waldron rule by holding:

While the [Waldron] rule is often explained by stating that the ratepayer must establish certain specific elements in order to make out a prima facie case of overbilling by a utility company, we believe this view is too restrictive. Rather, the controlling principle is that even where the utility can present evidence that it has tested the customer's meter and found it to be accurate, the customer may, nonetheless, prove his case by circumstantial evidence which would support a finding that the metered usage exceeded the actual usage. Thus, as our Supreme Court has explained, the rule operates as a device by which the complainant is protected from dismissal because of his inability to marshal *direct* proof that his meter had malfunctioned.

Id. at 1219-1220 (footnote omitted) (emphasis in original). In Thomas v. PECO Energy Company, Docket No. C-2010-2187197 (Opinion and Order entered November 15, 2011), the Commission explained that:

[C]onsistent with our holding in Charisse Bennett v. Peoples Natural Gas Co., Docket No. C-2009-2122979 (Order entered October 13, 2010), the Waldron Rule allows a complainant to establish a *prima facie* case in a “high bill” complaint by showing that the disputed bill is abnormally high when compared to prior usage patterns and his or her pattern of usage has not changed *or by providing other relevant evidence showing that the disputed bill is unreasonably high*. In evaluating a “high bill” complaint, the Commission may consider such evidence as “the billing history of the account, any change in usage patterns (such as a change in the number of occupants residing in the household or potential energy utilization), *and any other relevant facts or circumstances that come to light during the proceeding.*”

Id. at 5 (emphasis in original).

At the hearing, Ms. Mestichelli stated, “My Complaint is, like I said off the record, that something was – maybe is wrong with my – with the gas meter because it was too high. I don’t understand how I used so much gas. My thermostat isn’t high. I don’t use the oven. I don’t use the gas a lot. I just don’t understand.” (Tr. 8). Ms. Mestichelli did not specify any specific bills as being too high; however, she complained about receiving bills in the range of \$300 a month. (Tr. 12). With respect to Ms. Mestichelli’s household, Ms. Mestichelli’s home consists of three bedrooms. The home has the following gas appliances: gas range, hot water heater, clothing dryer, and house heater. Ms. Mestichelli testified that she has a daughter who lives with her approximately eight months out of the year in order to help around the home.

In response to Ms. Mestichelli’s high billing allegations, PGW presented the testimony of Jessica Glace, a senior customer review officer employed by PGW. Regarding Ms. Mestichelli’s claims about her usage, Ms. Glace noted that Ms. Mestichelli’s bills are based on the actual usage of the gas appliances that are being used in the home. Ms. Glace testified to the effect that Ms. Mestichelli’s usage is seasonal in nature, in that more gas is used in the colder months as compared to the warmer months. (Tr. 26). In direct response to Ms. Mestichelli’s claim that she does not keep her thermostat high, Ms. Glace testified that gas is used in the colder months when the temperature drops to maintain the temperature level that the thermostat is set to in the home. (Tr. 27).

Concerning the accuracy of Ms. Mestichelli’s meter, Ms. Glace testified that the gas meter that previously served Ms. Mestichelli’s home was replaced on April 27, 2018. After its removal, the meter was tested. The meter tested slightly fast and as a result, Ms. Mestichelli was provided a credit towards her account on August 2, 2018 in the amount of \$41.31. PGW offered to test Ms. Mestichelli’s current gas meter and submit the meter test results as a late-filed exhibit. (Tr. 26, 33, 38, 39). As noted previously in this Decision, Ms. Mestichelli did not cooperate with PGW’s attempts to test her meter. Therefore, the meter currently servicing Ms. Mestichelli’s home was not tested as of the date the record closed.

Under the Waldron Rule, Ms. Mestichelli has failed to establish a *prima facie* case of overbilling by PGW. As noted, when evaluating a high bill complaint, the Commission may consider the billing history of the account. A review of Ms. Mestichelli’s Statement of Account shows that Ms. Mestichelli’s bills are the highest during the colder months, supporting Ms. Glace’s testimony that Ms. Mestichelli’s gas usage is seasonal in nature. (PGW Exhibit 1). It is reasonable that Ms. Mestichelli receives a spike in billing in the colder months, as more gas is used by the Mestichelli household in the colder months to heat the home. As shown below, Ms. Mestichelli’s gas usage increases as the heating degree days<sup>1</sup> increase in the colder months.

	CCF Usage	Heating DDDs	Bill
December 2017	157	699	\$230
January 2018	259	1177	\$364.70
February 2018	168	721	\$276.60
March 2018	152	706	\$216.38
April 2018	129	551	\$171.78
May 2018	20	97	\$45.66
June 2018	10	8	\$28.45
July 2018	8	0	\$25.60
August 2018	7	0	\$24.26
September 2018	9	8	\$26.90
October 2018	23	130	\$45.15
November 2018	111	522	\$149.81
December 2018	162	764	\$219.56

Table 1.<sup>2</sup>

There is insufficient evidence to show that the spike in billing that Ms. Mestichelli receives in the colder months is due to overbilling on the part of PGW as opposed to reasonable seasonal usage increases. A review of the Statement of Account in its entirety does not reveal any abnormally high bills. There is no evidence that would lead to a finding that Ms. Mestichelli is being overbilled when considering the billing history of Ms. Mestichelli’s account.

<sup>1</sup> A heating degree day is a measurement of how much the average temperature on a particular day is below 65°F. Madelene Jacob v. Philadelphia Gas Works, Docket No. C-2018-3002464 (Order entered December 28, 2018). Thus, the higher the number of heating degree days, the colder the weather was during that particular period of time. Id.

<sup>2</sup> The information in Table 1 was taken from PGW Exhibit 1.

Also as noted, the Commission may consider any change in usage patterns when evaluating a high bill complaint. Regarding Ms. Mesticelli's household's potential for gas utilization, Ms. Mesticelli testified that she infrequently uses her gas appliances.<sup>3</sup> The Statement of Account supports this testimony to an extent, as Ms. Mesticelli's household does not utilize a lot of gas during the warmer months. (Table 1). Ms. Mesticelli's gas usage and bills are low in the warmer months of the year. (Id.). However, as discussed above, Ms. Mesticelli's gas usage and bills spike in the colder months. Although Ms. Mesticelli claimed that she infrequently uses her gas appliances, she did admit to using her gas heater to heat her home. (Tr. 14). It is likely that the gas appliance that contributes the most to Ms. Mesticelli's gas bills, particularly during the colder months, is her house heater. Additionally, Ms. Glace testified that every bill issued to Ms. Mesticelli was based on the actual usage of the gas appliances that are being used in the Mesticelli household. Thus, unless Ms. Mesticelli's gas meter is faulty, the usage that Ms. Mesticelli's gas meter records is the actual amount of gas that is being utilized by the gas appliances in the household. There is insufficient evidence to conclude that the Mesticelli household did not have the potential for the gas usage by which Ms. Mesticelli has been charged.

Furthermore, Ms. Mesticelli did not present evidence that the number of occupants in her home has changed. She testified at the hearing that she currently lived alone, but her daughter would frequently reside with her to help around the home. Ms. Mesticelli did not present any evidence that her household size has decreased, which potentially could lead to a decrease in gas usage at the home. There is insufficient evidence to conclude that the Mesticelli household suffered a change in its number of occupants that would affect the level of gas usage at the household.

There is no evidence that would lead to a finding that Ms. Mesticelli is being overbilled when considering any change in usage patterns of the Mesticelli household.

---

<sup>3</sup> Ms. Mesticelli also testified that her daughter, who frequently resides with her, would use the gas appliances, such as the clothing dryer, when she is around the home. (Tr. 15).

Lastly, regarding Ms. Mesticelli's concern with her gas meter being faulty, an analysis of the billing and usage of the Mesticelli household does not lead to a conclusion that her gas meter is faulty. Furthermore, there were no meter test results submitted into the record that could be analyzed to support her claim that her gas meter was faulty. Ms. Mesticelli did not comply with PGW in its attempts to test her current gas meter, nor did Ms. Mesticelli submit a Status Report as required by the June 20, 2019 Interim Order informing me of the status of the meter test to be performed at her home. PGW did admit that Ms. Mesticelli's old meter ran a little fast; however, PGW corrected this error by applying a credit to Ms. Mesticelli's account. There is insufficient evidence to conclude that the meter currently servicing Ms. Mesticelli's home is faulty.

Consequently, Ms. Mesticelli has not established a *prima facie* case of overbilling. Therefore, Ms. Mesticelli has not met her burden of proving that PGW overbilled her and this claim will be denied.

## **Payment Arrangement**

Requests for payment arrangements are governed by The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1419 (Chapter 14). This law provides strict guidelines that the Commission must follow when determining whether a payment arrangement can be issued and the length of the payment arrangement.

### **§ 1405. Payment arrangements**

**(a) General rule.--**The commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers. The commission is authorized to establish payment arrangements between a public utility, customers and applicants within the limits established by this chapter.

**(b) Length of payment arrangements.--**The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment arrangement that is investigated by the commission and is entered into by a public utility and a customer shall not extend beyond:

(1) Five years for customers with a gross monthly household income level not exceeding 150% of the Federal poverty level.

(2) Three years for customers with a gross monthly household income level exceeding 150% and not more than 250% of the Federal poverty level.

(3) One year for customers with a gross monthly household income level exceeding 250% of the Federal poverty level and not more than 300% of the Federal poverty level.

(4) Six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level.

66 Pa.C.S. §§ 1405(a)-(b). “Household income” is defined as the following:

### § 1403. Definitions

**“Household income.”** The combined gross income of all adults in a residential household who benefit from the public utility service.

66 Pa.C.S. § 1403.

Generally, the Commission is permitted to establish only one payment arrangement between a customer and a utility. The Commission may only issue a second or subsequent payment arrangement under a specific set of circumstances. See 66 Pa.C.S. § 1405(d).

Ms. Mesticelli sought a payment arrangement from the Commission through the filing of an Informal Complaint with the BCS, at BCS No. 3659358, whereupon the BCS granted Ms. Mesticelli a payment arrangement. The present Formal Complaint is a timely appeal of BCS No. 3659358. A customer cannot be deemed in default of a timely appealed payment arrangement directed by a BCS informal decision until the Formal Complaint on appeal is ultimately adjudicated and a final Order is issued by the Commission. Kalamets v. Columbia Gas of PA, Inc., Docket No. Z-01701441 (Order entered October 14, 2005). Therefore, Ms. Mesticelli has not received her one Commission-issued payment arrangement permitted under 66 Pa.C.S. § 1405(a). The length of the payment arrangement that can be established for Ms.

Mestichelli is based on her gross monthly household income in relation to the Federal poverty level. 66 Pa.C.S. § 1405(b).

Ms. Mestichelli's gross monthly household income for a household of one is \$1,289, which places her below 150% of the Federal poverty level.<sup>4</sup> This makes Ms. Mestichelli a level 1 customer under 66 Pa.C.S. § 1405(b)(1). Level 1 customers are eligible for a payment arrangement of up to five years to resolve their unpaid balance. As such, the Commission is authorized to issue Ms. Mestichelli a five-year payment arrangement.

In cases where the Commission is authorized by law to establish a payment arrangement between a customer and a utility, it has the responsibility to exercise its authority very judiciously. Specifically, the Commission will exercise its discretion to issue payment arrangements only on behalf of customers who have demonstrated some evidence of a good faith effort to pay their utility bills. The Commission has refused to award payment arrangements for those who have a poor payment history and/or inability or unwillingness to comply with payment arrangements established by the utility. Getz v. Metropolitan Edison Company, Docket No. C-2014-2459964 (Order entered May 28, 2015); Hewitt v. PECO Energy Company, Docket No. F-2011-2273271 (Order entered September 12, 2013) (Hewitt).

Concerning Ms. Mestichelli's good faith effort to pay her utility bills, Ms. Mestichelli has made thirty-two payments towards her account over the span of the Statement of Account (September 2014 – February 2019). However, Ms. Mestichelli's payment history has waned in recent times, as only one payment has been made towards her account since July 17, 2017 in the amount of \$100 on February 6, 2019. Ms. Mestichelli has defaulted on her last two Company-issued payment arrangements that she entered into in 2015. Despite Ms. Mestichelli's struggles in the last two years with paying her utility bills, discretion is warranted, and a payment arrangement will be established for her through this Initial Decision. Ms. Mestichelli has not yet had the opportunity to comply with a Commission-issued payment arrangement, and she will be provided with that opportunity. I will also note that Ms. Mestichelli suffered a stroke in

---

<sup>4</sup> Federal Register, Vol. 84, No. 22 at 1168 (February 1, 2019). Also available at <http://aspe.hhs.gov/poverty> (providing that 150% of the Federal poverty level for a household of one is \$1,561).

December 2016. (Tr. 13). This event could have negatively impacted her ability to pay her utility bills.

Review of the Statement of Account shows that Ms. Mesticelli has been assessed late payment charges on her account. (PGW Exhibit 1). Chapter 14 permits the Commission to order a waiver of late payment charges for customers below 150% of the Federal poverty level. Specifically, the relevant section of Chapter 14 provides:

**§ 1409. Late payment charge waiver**

A public utility shall waive late payment charges on any customer accounts if the charges were improperly assessed. The commission may order a waiver of any late payment charges levied by a public utility as a result of a delinquent account for customers with a gross monthly household income not exceeding 150% of the Federal poverty level.

66 Pa.C.S. § 1409.

As Mesticelli has a gross monthly household income of less than 150% of the Federal poverty level, the Commission may order PGW to waive the late payment charges assessed to her. PGW will be ordered to waive the late payment charges assessed to Ms. Mesticelli in the Ordering paragraphs below.

Lastly, I will note that Ms. Glace testified that Ms. Mesticelli was eligible for enrollment in PGW's CRP at the time of the hearing. Typically, customer assistance programs are the best, most affordable payment plans available for an eligible, low-income customer.<sup>5</sup> I recommend that Ms. Mesticelli inquire with PGW concerning its CRP.

CONCLUSIONS OF LAW

---

<sup>5</sup> Ms. Glace calculated that Ms. Mesticelli's payments under the CRP would be \$133.90 per month using the income and household size provided at the hearing and the outstanding account balance the day of the hearing. (Tr. 32).

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

2. The burden of proof in this proceeding is on the Complainant. 66 Pa.C.S. § 332(a).

3. A complainant can establish a *prima facie* case in a “high bill” complaint by showing that the disputed bill is abnormally high when compared to prior usage patterns and his or her pattern of usage has not changed *or by providing other relevant evidence showing that the disputed bill is unreasonably high*. In evaluating a “high bill” complaint, the Commission may consider such evidence as “the billing history of the account, any change in usage patterns (such as a change in the number of occupants residing in the household or potential energy utilization), *and any other relevant facts or circumstances that come to light during the proceeding.*” Thomas v. PECO Energy Company, Docket No. C-2010-2187197 (Opinion and Order entered November 15, 2011).

4. The Complainant has not met her burden of proving that PGW has issued her bills that are too high in violation of the Public Utility Code, a Commission regulation or order, or a Commission-approved tariff.

5. By law, a public utility is entitled to receive payment for the service it provides. Scaccia v. West Penn Power Co., 55 Pa. PUC 637 (1982); Kea v. Peoples Natural Gas Co., 60 Pa. PUC 215 (1985); Mill v. Pa. Pub. Util. Comm'n, 447 A.2d 1100 (Pa. Cmwlth. 1982).

6. The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1419, applies to this proceeding. 66 Pa.C.S. §§ 1401-1419.

7. The Commission is authorized to establish a payment arrangement between a public utility, customers and applicants. 66 Pa.C.S. § 1405(a).

8. A customer's gross monthly household income in relation to the Federal poverty level determines the length of the payment arrangement that the Commission can issue. 66 Pa.C.S. § 1405(b).

9. The Commission will exercise its discretion to issue payment arrangements only on behalf of customers who have demonstrated some evidence of a good faith effort to pay their utility bills. The Commission has refused to award payment arrangements for those who have a poor payment history and/or inability or unwillingness to comply with payment arrangements established by the utility. Hewitt v. PECO Energy Company, Docket No. F-2011-2273271 (Order entered September 12, 2013).

10. The Complainant has met her burden of proving that she is eligible for a Commission-issued payment arrangement.

11. The Commission may order a waiver of any late payment charges levied by a public utility as a result of a delinquent account for customers with a gross monthly household income not exceeding 150% of the Federal poverty level. 66 Pa.C.S. § 1409.

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Fran Mesticelli against Philadelphia Gas Works at Docket No. F-2018-3006752 is granted in part and denied in part.

2. That the Complaint at Docket No. F-2018-3006752 is denied in regard to the Complainant's high billing allegations.

3. That Fran Mesticelli's request for a payment arrangement is granted.

4. That Philadelphia Gas Works shall credit Fran Mesticelli's account the late payment charges assessed on the account.

5. That Fran Mesticelli shall make monthly payments consisting of her budget bill plus one-sixtieth (1/60th) of the balance accrued on her account, beginning with the first billing due date following the entry of a final Commission Order in this case.

6. That as long as Fran Mesticelli keeps the payment schedule stated in this order, Philadelphia Gas Works shall not suspend or terminate her utility service except for valid safety or emergency reasons or assess late payments or finance charges against her account.

7. That, if Fran Mesticelli does not keep the payment schedule stated in this order, Philadelphia Gas Works is authorized to suspend or terminate her utility service in accordance with the Commission's statute and regulations.

8. That the docket at Docket No. F-2018-3006752 is marked closed.

Date: August 1, 2019

\_\_\_\_\_/s/  
Alphonso Arnold III  
Special Agent