

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Gerald Jones	:	
	:	
v.	:	F-2019-3013781
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Angela T. Jones  
Administrative Law Judge

**INTRODUCTION**

This decision finds that the Complainant failed to sustain his burden of proving that the Respondent provided him with inadequate service, when it required the Complainant to pay the outstanding balance associated with the service address. Therefore, this decision denies the formal Complaint (Complaint).

**HISTORY OF THE PROCEEDING**

On October 19, 2019, Gerald Jones (Complainant) filed a Complaint with the Pennsylvania Public Utility Commission (PUC or Commission) against the Philadelphia Gas Works (PGW, Respondent or Company). The Complainant requested the Commission order PGW to provide a new service account to the Complainant without requiring payment of the outstanding balance at 235 S. Ithan Street, Philadelphia, Pennsylvania (service address). The Complaint is a timely appeal of an informal complaint filed with the Commission's Bureau of Consumer Services (BCS) at Case No. 3731837.

Counsel for the Respondent, Graciela Christlieb, Esquire, filed an Answer on November 12, 2019. The Answer denied that the Respondent refused to provide gas service to the Complainant at the service address. The Answer further states that the Complainant owns the service address with his wife, Trina Jones, who held gas service in her name at the service address from September 1, 2014 to August 29, 2019. On August 29, 2019, service was terminated for non-payment. On September 5, 2019, the Complainant requested service at the service address and was informed he would need to pay the outstanding balance, a reconnection fee and a security deposit to restore service. The Respondent requested that the Commission find against the Complainant and dismiss the Complaint.

By Hearing Notice dated November 18, 2019, this matter was scheduled for an initial in-person hearing for Thursday, January 9, 2020 and was assigned to the undersigned.

By Prehearing Order dated November 19, 2019, the undersigned provided the procedural rules for this proceeding and confirmed the scheduled hearing date.

The initial in-person hearing convened as scheduled. The Complainant was present and represented himself. The Respondent was present and was represented by Attorney Christlieb. The Respondent was accompanied by one witness.

The Complainant presented the following exhibits:

- (1) Complainant Exhibit 1 – documents for other than service address;
- (2) Complainant Exhibit 2 – Rental Lease of service address;<sup>1</sup>
- (3) Complainant Exhibit 3 – Title search of service address;
- (4) Complainant Exhibit 4 – Application of gas service for service address; and
- (5) Complainant Exhibit 5 – Disability parking privilege in Pennsylvania.

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<sup>1</sup> This document was not signed by the landlord. The Complainant admitted the exhibit presented was not executed. Tr. 15.

The Complainant's exhibits, except for Complainant Exhibit 2, were admitted into the record.

The Respondent presented Tiffany Jones, a Senior Customer Review Officer of PGW, as its witness. The witness sponsored the following exhibits:

- (1) PGW Exhibit 1 – Ownership by Complainant of service address in 2016;
- (2) PGW Exhibit 2 – Customer contacts regarding service address;  
and
- (3) PGW Exhibit 3 – Account statement of service address.

All PGW exhibits were admitted into the record.

The evidentiary hearing generated 154 pages of transcribed testimony. The record closed on February 6, 2020, when the transcript was received.

By Order dated March 6, 2020, the undersigned reopened the record to obtain evidence concerning payment and, if necessary, illness of the Complainant.

A Hearing Notice dated March 6, 2020, scheduled a further call-in telephonic hearing for Thursday, April 23, 2020. Following the Commission's work from home orders related to the COVID-19 pandemic, the hearing was cancelled.

A Cancellation/Reschedule Hearing Notice dated April 22, 2020, rescheduled a further call-in telephonic hearing for Wednesday, June 10, 2020 at 10:00 a.m. The hearing convened as scheduled. The Complainant appeared representing himself. Attorney Christlieb, appeared representing the Respondent and was accompanied by one witness, Tiffany Jones.

After discussion, the parties informed the undersigned that they could stipulate to certain facts rather than develop a record through testimony. The undersigned directed that the parties file a written stipulation of facts to request that it be admitted into the record.

By letter dated June 11, 2020, a Joint Stipulation was filed by Attorney Christlieb requesting the facts be admitted into the record.

By Order dated June 12, 2020, the Joint Stipulation was admitted into the record and the record was closed.

This matter is now ripe for decision.

### STIPULATED FACTS

1. There exists a deed for the service address effective the 30<sup>th</sup> day of April 2016. Tr. 10, 12.
2. The balance of \$4,432.01, which is reflected in PGW Exhibit 3, page 4, was paid by [the Complainant] on May 19, 2020. Joint Stipulation.
3. There is currently no outstanding balance at [the service address]. Joint Stipulation.
4. Gas service to the service address was restored by PGW on June 4, 2020. Joint Stipulation.
5. Gas service at the service address is now in the name of [the Complainant]. Joint Stipulation.
6. [The Complainant] does not have gas service from PGW at any address other than the service address. Joint Stipulation.
7. [The Complainant] is still disputing liability for the balance of \$4,432.01, which he has since paid and wishes to amend the relief sought in the Complaint to include a request for a refund in the amount of \$4,432.01. Joint Stipulation.

8. [The Respondent] does not object to [Complainant's] amending the relief sought in the Complaint to include a request for a refund. Joint Stipulation.

### FINDINGS OF FACT

1. The Complainant is Gerald Jones who lives at 235 S. Ithan Street, Philadelphia, Pennsylvania (service address). Tr. 13.

2. The Respondent is Philadelphia Gas Works, a gas distribution utility company with the service territory of Philadelphia, Pennsylvania.

3. The Complainant owned the service address with his spouse, Trina Jones, from April 2016 through July 2019. Tr. 13, 18-19.

4. Trina Jones owned the service address after July 2019 through September 2019. Tr. 18-19.

5. The Respondent provides gas heat service to the service address for the hot water heater, stove and furnace. Tr. 21.

6. Ownership of the service address was transferred to the Complainant and his spouse by his wife's mother, Sarah Brown, effective on April 30, 2016. Tr. 24, 26, 34, 47, 68-69, Complainant Exhibit 3, PGW Exhibit 1.

7. While the Complainant and his spouse owned the service address, the gas service was in the name of the Complainant's spouse, Trina Jones. Tr. 37.

8. The Complainant did not reside at the service address during the period of December 2015 through September 2019. Tr. 28-31, Complainant Exhibit 1.

9. The Complainant has a health issue which requires him to have access to hot water and heat. Tr. 57-58, Complainant Exhibit 5.

10. On August 25, 2016, the Complainant called PGW to restore gas service through a medical certification for 30 days on the account at the service address and to inquire about a payment arrangement. Tr. 71-73, PGW Exhibit 2.

11. Medical certifications cannot be obtained for service at a property a person owns but does not reside because residing at the property is required in order to obtain medical certification. Tr. 73, 123.

12. On July 12, 2017, the Complainant called PGW to restore service for the service address through a payment arrangement. Tr. 74, PGW Exhibit 2.

13. On October 12, 2017, the Complainant called PGW to restore service for the service address through medical certification. Tr. 75-76, PGW Exhibit 2.

14. On June 27, 2019, Trina Jones called PGW to request medical certification for the service address. Tr. 76-77. PGW Exhibit 2.

15. On June 28, 2019, the medical certification form was sent and received and used to restore service to the service address. Tr. 77-78, PGW Exhibit 2.

16. On August 30, 2019, Trina Jones called PGW to request a payment arrangement because the gas service was terminated. Tr. 80, PGW Exhibit 2.

17. On September 5, 2019, the Complainant went to Respondent's district office in South Philadelphia (SPDO) to request gas service at the service address in his name. Tr. 53-54, 81-82, PGW Exhibit 2.

18. During the Complainant's visit on September 5, 2019, to the SPDO, the Respondent told the Complainant that he would have to accept the outstanding balance that accrued at the service address to obtain gas service in his name, which caused the Complainant to file an informal complaint with the PUC because the Complainant did not feel he was responsible for the outstanding balance. Tr. 54-55, 83, PGW Exhibit 2.

19. On November 18, 2019, the Complainant submitted two checks to cover the outstanding balance at the service address, applied for gas service at the service address and presented his driver's license as picture identification. Tr. 55, Complainant Exhibit 4.

20. The checks provided as payment for the outstanding balance at the service address were dishonored by the bank, and therefore, the gas service at the service address was not reconnected. Tr. 56.

21. Tiffany Jones is a Senior Customer Review Officer at PGW, who investigates informal and formal complaints that customers file against the Respondent with the PUC. Tr. 64.

22. Ms. Tiffany Jones investigated the Complainant's Complaint. Tr. 65.

23. The Respondent holds the Complainant responsible for gas service at the service address up to June 20, 2019. Tr. 148, PGW Exhibit 3.

24. A final bill was issued for the gas service at the service address on September 24, 2019. Tr. 85, PGW Exhibit 3.

25. Ms. Tiffany Jones determined there are three members of the household at the service address, the Complainant, the Complainant's spouse, and the Complainant's father-in-law, based on the business records of PGW including the medical certifications and business contacts. Tr. 117, 119-20, PGW Exhibits 1 and 2.

## DISCUSSION

### I. Applicable Legal Standard

As the proponent of a rule or order or seeking affirmative relief from the Commission, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Public Utility Code (Code), 66 Pa.C.S. § 332(a). To satisfy this burden, the Complainant must demonstrate that the Respondent was responsible for the problems alleged in the Complaint through a violation of the Code or a regulation or order of the Commission. This must be shown by a preponderance of the evidence. *Patterson v. Bell Telephone Company of Pennsylvania*, 72 Pa. PUC 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa. PUC 300 (1976).

A preponderance of the evidence is that which is more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa.Cmwlth. 1990) *alloc. den.*, 602 A.2d 863 (Pa. 1992).

In addition, the Commission's decision must be supported by "substantial evidence," which consists of evidence that a reasonable mind might accept as adequate to support a conclusion. A mere "trace of evidence or a suspicion of the existence of a fact" is insufficient. *Norfolk and Western Railway Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa.Cmwlth. 1980).

If the Complainant presents evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the Complainant shifts to the Respondent. If the evidence presented by the Respondent is of co-equal weight, the Complainant has not satisfied his burden of proof. The Complainant would be required to provide additional evidence to rebut the evidence of the Respondent. *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa.Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983).

While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa.Cmwlth. 2001).

II. Whether the Complainant is an Applicant or Customer

66 Pa.C.S. § 1403 defines customer as,

“Customer.” A natural person in whose name a residential service account is listed and who is primarily responsible for bills rendered for the service or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested. **The term includes a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility.**

(emphasis added).

The record evidence shows gas service was terminated at the service address on August 30, 2019. Tr. 80, PGW Exhibit 2. The Complainant sought gas service to be reconnected at the service address on September 5, 2019. September 5, 2019, when the Complainant sought service reconnection, is within 30 days of August 30, 2019. Pursuant to 66 Pa.C.S. § 1403, the Complainant is a customer of the Respondent.

III. Whether Respondent Had Grounds for Termination of Service

Section 56.81 of the Commission’s regulations states,

A public utility may notify a customer and terminate service provided to a customer after notice... for any of the following actions:

- (1) Nonpayment of an undisputed delinquent account.
- (2) Failure to complete payment of a deposit, provide a guarantee of payment or establish credit.
- (3) Failure to permit access to meter, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.
- (4) Failure to comply with the material terms of a payment arrangement.

52 Pa.Code § 56.81.

There is an outstanding balance due in the amount of \$4,432.01 for gas service rendered to the service address. (SF 2).<sup>2</sup> The Respondent has established grounds for termination of service in accordance with 52 Pa.Code § 56.81(1) because there is an undisputed delinquent amount due for gas service rendered at the service address.

IV. Whether Complainant is Responsible for Outstanding Balance Due

The Complainant claimed that he did not live at the service address during the accrual of the outstanding balance—i.e., from April 2016 – July 2019. Tr. 24, 28-30, Complainant Exhibit 1. Complainant contended that because he did not live at the service address, he is not and should not be held responsible for the outstanding balance due.

It has been established that the Complainant is a customer of the gas service at the service address, *supra* at 7-8. Commission regulations state,

- (b) In the event of ... termination of service at a residence or dwelling in accordance with this chapter, a public utility may transfer an unpaid balance to a new residential service account of the same customer.

52 Pa.Code § 56.16(b). A “dwelling” is defined as, “A house, apartment, mobile home or single meter multiunit structure being supplied with residential service.” 52 Pa.Code § 56.2. The service address is a dwelling as defined by Commission regulation. Complainant Exhibit 3, PGW Exhibit 1.

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<sup>2</sup> “SF” refers to Stipulated Fact.

The record evidence shows that the Respondent terminated service to the service address on August 30, 2019. Tr. 80, PGW Exhibit 2. Pursuant to 52 Pa.Code § 56.16(b) the Complainant is to be held responsible for the gas service rendered to the service address, and therefore, the outstanding amount due. The Respondent has presented the Complainant with a new residential service account for the unpaid balance at the service address. Tr. 81-82. The Respondent's actions have complied with Commission regulations.

Based on the record evidence and Commission regulations, I find that the Complainant is responsible for the outstanding balance due at the service address. I do not find that the Respondent committed any Commission violation by holding the Complainant responsible for the balance due at 235 S. Ithan Street, Philadelphia, Pennsylvania.

V. Whether Complainant is Due a Refund of Paid Balance

The Complainant paid the outstanding balance of \$4,432.01 to the Respondent on May 19, 2020. (SF 2). The gas service to the service address was restored by the Respondent on June 4, 2020. (SF 4). The gas service at the service address is currently in the Complainant's name. (SF 5). The Complainant currently does not have an outstanding balance. (SF 3). The Complainant continues to dispute his liability of the \$4,432.01 balance for the service address and requests a refund of that amount. (SF 7).

It has been determined that the Complainant is responsible for the outstanding balance that was due for gas service at the service address. *See supra* at 10-11. A public utility may require full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal poverty level or has defaulted on two or more payment arrangements. If a customer or applicant with household income exceeding 300% of the Federal poverty level experiences a life event, the customer shall be permitted a period of not more than three months to pay the outstanding balance required for reconnection. For purposes of this subparagraph a life event is:

- (A) A job loss that extended beyond nine months.
- (B) A serious illness that extended beyond nine months.
- (C) Death of the primary wage earner.

66 Pa.C.S. § 1407(c)(2)(i).

The issue of whether Complainant should receive a payment arrangement became moot once the Complainant paid the outstanding balance in full on May 19, 2020 to the Respondent. (SF 2). The Respondent complied with the Commission statute at Section 1407(c)(2)(i) in requiring payment of the outstanding balance from the Complainant. 66 Pa.C.S. § 1407(c)(2)(i). Because Complainant was found responsible for the outstanding balance, there is no refund due for his payment made to the Respondent on May 19, 2020.

#### VI. Conclusion

The Complainant has failed to sustain his burden of proof to show the Respondent's actions violated a Commission order, regulation, statute or precedent through,

- (1) terminating service;
- (2) holding the Complainant responsible for gas service at the service address;
- (3) failing to provide service to the Complainant upon completion of an application for service to the service address unless the outstanding balance accrued at the service address is paid.

Moreover, the record evidence supports that the Complainant is responsible for gas service at the service address, and therefore, the Complainant is liable for the outstanding balance of \$4,432.01. Although Complainant paid the outstanding balance on May 19, 2020, under protest, there is no evidence to support that the Complainant's payment to the Respondent should be refunded.

The Complaint will be denied and dismissed by the ordering paragraphs below.

## CONCLUSIONS OF LAW

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

2. “Burden of proof” means a duty to establish one’s case by a preponderance of the evidence, which requires that the evidence be more convincing by even the smallest degree, then the evidence presented by the other side. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

3. A public utility is authorized to terminate service for nonpayment of an undisputed delinquent account. 52 Pa.Code § 56.81(1).

4. A public utility may require full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal poverty level or has defaulted on two or more payment arrangements. If a customer or applicant with household income exceeding 300% of the Federal poverty level experiences a life event, the customer shall be permitted a period of not more than three months to pay the outstanding balance required for reconnection. For purposes of this subparagraph a life event is:

- (A) A job loss that extended beyond nine months.
- (B) A serious illness that extended beyond nine months.
- (C) Death of the primary wage earner.

66 Pa.C.S. § 1407(c)(2)(i).

5. In the event of termination of service at a residence or dwelling in accordance with this chapter, a public utility may transfer an unpaid balance to a new residential service account of the same customer. 52 Pa.Code § 56.16 (b).

6. The Complainant failed to sustain his burden of proof.

