

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Aaron Roman	:	
	:	
v.	:	F-2020-3018889
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision denies, in part, Aaron Roman’s formal Complaint to the extent he failed to sustain his burden of proving that Philadelphia Gas Works wrongfully held him responsible for theft of service charges covering the period from October 4, 2011 to November 14, 2019. This Initial Decision grants, in part, Mr. Roman’s formal Complaint to the extent he carried his burden of proving that Philadelphia Gas Works failed to provide him with reasonable service when it failed to investigate multiple consecutive zero readings in his account.

HISTORY OF THE PROCEEDING

On February 24, 2020, Aaron Roman (Complainant or Mr. Roman) filed a formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission) alleging that the Respondent has shut off gas service at his property and has improperly charged him for unauthorized gas usage covering the period from October 4, 2011 through November 14, 2019. Mr. Roman avers that the Respondent has read his meter for years without any problems, and that his low gas usage is the result of his

working overnight and using electric space heaters. He states that he was not aware of the presence of a tampered gas meter at his property because he had leased it to his “brother Rich and his girlfriend Liz.” He also maintains that while he is prepared to pay a fine for the tampered meter, he considers the bypass charges assessed by PGW to be unfair and seeks the Commission’s assistance in resolving the issue.

This Complaint is a timely appeal of a decision issued by the Commission’s Bureau of Consumer Services (BCS) at BCS Case No. 3754326, which denied his informal complaint.

On March 16, 2020, PGW filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

A Hearing Notice dated April 28, 2020, notified the parties that a telephonic hearing for this case was scheduled for Friday, June 5, 2020, at 10:00 a.m.

A Prehearing Order was issued on May 26, 2020, reminding the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

The initial hearing convened as scheduled on June 5, 2020. Aaron Roman appeared *pro se* and testified in support of the Complaint. Laureto Farinas, Esq., represented the Respondent, and presented the testimony of Jessica Glace, who is a senior customer review officer with PGW, as well as the testimony of Jason Holder, who is a field service technician with PGW. The Respondent sponsored five exhibits, four of which were admitted into the record.

At the hearing, I did not admit PGW Exhibit 3 which reflected PGW’s calculation of the charges connected to theft of service. PGW based the theft of service charges on the historical usage at the Service Address during the period from June 8, 2006 through May 9, 2007, when Mr. Roman did not reside there. In denying the admission of PGW Exhibit 3, I instructed PGW to submit as a late-filed exhibit the calculations of the theft of service charges

based on the Complainant's historical usage at the Service Address during any 12-month period between November 2007 and October 4, 2011, when Mr. Roman resided at the property. The Complainant expressed interest in submitting a late-filed exhibit of his own consisting of pictures of his electric clothes dryer. I instructed the parties that they had until July 6, 2020, to file their respective late-filed exhibits, and until July 20, 2020, to submit any written objections to the opposing party's late-filed exhibits.

On June 15, 2020, Mr. Roman submitted Complainant late-filed Exhibit 1. On July 7, 2020, PGW submitted PGW late-filed Exhibit 3-a in which PGW explained the reasons why it believed that Mr. Roman's historical usage at the Service Address did not provide a reliable basis for the calculations of the theft of service charges. Neither party submitted written objections to the opposing party's late-filed exhibits.

The record in this matter closed on July 20, 2020, when the time for filing written objections to the late-filed Exhibits expired.

FINDINGS OF FACT

1. The Complainant is Aaron Roman whose mailing Address is 3938 N. Percy Street, Philadelphia, PA 19140 (Service Address). Tr. 8.
2. Respondent is Philadelphia Gas Works.
3. Mr. Roman purchased the Service Address on November 15, 2007. Tr. 10, 60, PGW Exhibit 5.
4. The Service Address is a row house with two floors and a basement. Tr. 29, 36.
5. The Service Address has three bedrooms, a living room, a dining room and a kitchen. Tr. 29.

6. Mr. Roman became the customer of record with PGW for the Service Address on November 23, 2007. PGW Exhibit 3-a.

7. On January 10, 2008, PGW generated an estimated bill for usage at the Service Address, which was later cancelled. PGW Exhibit 3-a.

8. On January 26, 2008, PGW completed a meter exchange at the property. PGW Exhibit 3-a.

9. Beginning on April 9, 2008, there was little to no usage recording on the meter. PGW Exhibit 3-a.

10. Tilt counts were recorded on Mr. Roman's gas meter on August 6 and September 5, 2008, and on June 8, 2009 through October 4, 2011. PGW Exhibit 3-a.

11. Mr. Roman was the sole resident at the Service Address during the period from November 2007 to July 2016. Tr. 10-11, 34.

12. When Mr. Roman resided at the Service Address, he kept his thermostat at 72 degrees Fahrenheit in the colder months. Tr. 33, 36.

13. Beginning in July of 2016, Complainant rented the Service Address to one of his brothers, who resided there with another person. Tr. 12.

14. In May of 2018, Mr. Roman rented the property to a different brother, who resided there with his girlfriend. Tr. 13.

15. Mr. Roman's brothers kept the thermostat between 72- and 75-degrees Fahrenheit in the colder months. Tr. 33.

16. Mr. Roman has always been the customer of record for gas service at the Service Address. Tr. 11, 19-20, 37-38, PGW Exhibit 1.

17. On October 4, 2011, a PGW technician, John Andrews, visited the Service Address to investigate a malfunctioning gas appliance. Tr. 54-55.

18. Mr. Andrews did not report observing any meter tampering or meter switching following his visit to the Service Address on October 4, 2011. Tr. 56-57.

19. On November 14, 2019, PGW technician, Jason Holder, visited the Service Address, as part of a gas leak investigation prompted by reports of a foreign odor throughout the City of Philadelphia. Tr. 88-89, PGW Exhibits 2 and 4.

20. Mr. Holder checked the curb valve serving the Service Address and found gas on at the property. Tr. 109-110.

21. Once inside the property, Mr. Holder noted that four gas appliances were connected to the service line: a house heater, a water heater, a range and a clothes dryer. Tr. 90-91, 101-103, PGW Exhibit 2.

22. During his November 14, 2019 visit to the Service Address, Mr. Holder found Meter No. 1595783 in the basement of the Service Address, attached to Mr. Roman's gas line. Tr. 90, 92, PGW Exhibit 2.

23. According to PGW's records, Meter No. 1595783 was installed at 3135 North Darian Street. Tr. 90, 105, PGW Exhibit 2.

24. At the time of Mr. Holder's visit to the Service Address, Meter No. 1595783 was missing its Encoder Receiver Transmitter, (ERT head). Tr. 93, PGW Exhibit 2.

25. If the ERT head is missing from the meter, the meter will not register gas readings. Tr. 93-94.

26. According to PGW's records, the meter of record for the Service Address was Meter No. 1859645. Tr. 92-93, 96, 103-104, PGW Exhibit 2.

27. During the November 14, 2019 visit to the Service Address, Mr. Holder found Meter No. 1859645 lying on the basement floor of the Service Address, with the ERT head still attached to it. Tr. 92-93, 96, 103-104, PGW Exhibit 2.

28. The ERT head is attached to PGW's gas meter with removable screws. Tr. 94, 107-108.

29. If the ERT head from one meter is placed on another meter, it could record and report gas usage until it was removed again. Tr. 107-108.

30. At the conclusion of his investigation, Mr. Holder shut the gas off at the Service Address, removed both meters, installed locking plugs, and placed an expander outside of the property where PGW's curb valve is located. Tr. 91, PGW Exhibit 2.

31. No leaks were detected at the Service Address. Tr. 95-96, PGW Exhibit 2.

32. On December 20, 2019, PGW charged Mr. Roman account \$7,220.97 in connection with the unauthorized usage of gas detected by Mr. Holder during his November 14, 2019, visit to the Service Address. Tr. 53, PGW Exhibit 1.

33. The amount of \$7,220.97 covers the period from October 4, 2011 through November 14, 2019 and is calculated based on the historic usage at the Service Address during the period from June 8, 2006 through May 9, 2007. Tr. 57-59, PGW Exhibits 3 and 3-a.

34. From January 2011 through November 2019, gas usage at the Service Address did not exceed 47 CCFs per month (approximately 1.57 CCFs per day) even in the coldest months. PGW Exhibit 1, Tr. 59.

35. The only exception is the bill of November of 2017 reporting 77 CCFs of usage. PGW Exhibit 1.

36. Mr. Roman's Account Statement for the Service Address includes six zero-usage bills: one in October 2013 and five consecutive bills showing zero usage covering the period from July 2017 to November 2017. PGW Exhibit 1.

DISCUSSION

In his formal Complaint, Mr. Roman alleged that the Respondent has shut off gas service at his property and has improperly charged him for unauthorized gas usage covering the period from October 4, 2011 through November 14, 2019. Mr. Roman avers that, while he is prepared to pay a fine for the tampered meter, he considers the bypass charges assessed by PGW to be unfair and seeks the Commission's assistance in resolving the issue.

As the proponent of a rule or order, 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.A. § 332(a). In *Waldron v. Philadelphia Elec. Co.*, 54 Pa. PUC 98 (1980) (*Waldron*), the Commission explained the process for initially meeting the burden of proof. A complainant must first establish a *prima facie* case, showing that the utility breached some duty owed to the complainant, in that the utility violated the Public Utility Code or a regulation or order of the Commission. 66 Pa.C.S.A. § 701. If the complainant establishes a *prima facie* case, then the burden of going forward with the evidence, but not the ultimate burden of proof, shifts to the utility to rebut the *prima facie* case with evidence which is at least co-equal. If the utility presents co-equal evidence, the burden of going forward shifts back to the complainant, to rebut the utility's case by a preponderance of the evidence. *Poorbaugh v. West Penn Power Co.*, 1994 Pa. PUC LEXIS 95, *vacated* on other grounds, 666 A.2d 744 (Pa.Cmwlth. 1995) (*Poorbaugh*).

Preponderance of the evidence means that the party with the burden of proof has presented evidence that is more convincing than that presented by the other party. *Samuel Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa.Cmwlth. 1990) *alloc. den.*, 529 Pa. 654, 602 A.2d 863 (1992). 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).

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 Ry. Co. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980).

At the hearing, Mr. Roman testified that he purchased the Service Address on November 15, 2007. The Service Address is a row house with two floors and a basement. Tr. 29, 36. It has three bedrooms, a living room, a dining room and a kitchen. Tr. 29. The Service Address is equipped with a gas stove, a gas house heater, a gas water heater, and a gas clothes dryer, which the Complainant claims is non-operational. Tr. 21-22.

Mr. Roman testified that he was the sole resident at the Service Address during the period from November 2007 to July 2016. Tr. 10-11, 34. In July of 2016, Complainant rented the Service Address to one of his brothers, who resided there with another person. Tr. 12. In May of 2018, he rented the property to a different brother, who resided there with his girlfriend. Tr. 13. Despite renting the property to his brothers, Mr. Roman has always been the customer of record for gas service at the Service Address. Tr. 11, 19-20, 37-38.

When asked about his gas usage history at the Service Address, Complainant testified that he worked overnight shifts for five years and that he kept his thermostat at 72 degrees Fahrenheit when he lived there. Tr. 33, 36. He further explained that his gas usage did

not change much through the years although he never looked at the gas usage recorded in his bills. Tr. 30, 36.

As for his brothers' gas usage patterns, Mr. Roman testified that they kept the thermostat between 72- and 75-degrees Fahrenheit in the colder months. Tr. 33.

In response to Mr. Roman's testimony, PGW's witness, Ms. Glace, testified that on October 4, 2011, Complainant called PGW from telephone number (267) 575-8299 to report that the house heater at the Service Address would not shut off. Tr. 54-55. PGW technician, John Andrews, visited the Service Address the same day and noted that the customer's house heater was not operable and could not be turned off. Gas at the property was on but the customer had no parts and labor plan (PLP) with PGW. Tr.55. Mr. Andrews did not report observing any meter tampering or meter switching following his visit to the Service Address on October 4, 2011. Tr. 56-57.

Mr. Holder visited the Service Address on November 14, 2019 as part of a gas leak investigation prompted by reports of a foreign odor throughout the City of Philadelphia. Tr. 88-89, PGW Exhibits 2 and 4. He checked the curb valve serving the Service Address and found gas on at the property. Tr. 109-110. Once inside the property, Mr. Holder noted that four gas appliances were connected to the service line: a house heater, a water heater, a range and a clothes dryer. Tr. 90-91, 101-103, PGW Exhibit 2.

More importantly, during his November 14, 2019 visit to the Service Address, Mr. Holder found Meter No. 1595783 in the basement of the Service Address, attached to Mr. Roman' gas line. Tr. 90, 92, PGW Exhibit 2. Mr. Holder testified that Meter No. 1595783 should not have been at the Service Address at all. Tr. 90, 105, PGW Exhibit 2. According to PGW's records, Meter No. 1595783 was installed at 3135 North Darian Street. *Id.* Additionally, Mr. Holder noticed that Meter No. 1595783 was missing its ERT head. Tr. 93, PGW Exhibit 2. He explained that if the ERT head is missing from the meter, the meter will not register gas readings. Tr. 93-94.

Mr. Holder further testified that the meter of record for the Service Address, Meter No. 1859645, was found lying on the basement floor of the Service Address, with the ERT head still attached to it. Tr. 92-93, 96, 103-104, PGW Exhibit 2.

At the conclusion of his investigation, Mr. Holder shut the gas off at the Service Address, removed both meters, installed locking plugs and placed an expander outside of the property where PGW's curb valve is located. Tr. 91, PGW Exhibit 2. No leaks were detected at the Service Address. Tr. 95-96, PGW Exhibit 2.

On December 20, 2019, PGW charged Mr. Roman's account \$7,220.97 in connection with the unauthorized usage of gas detected by Mr. Holder during his November 14, 2019 visit to the Service Address. Tr. 53, PGW Exhibit 1. The amount of \$7,220.97 covers the period from October 4, 2011 through November 14, 2019 and is calculated based on the historic usage at the Service Address during the period from June 8, 2006 through May 9, 2007. Tr. 57-59, PGW Exhibits 3 and 3-a.

At the hearing, Mr. Roman did not attempt to either refute or dispute PGW's finding of tampered meter and unauthorized usage at property. What he did dispute, however, was PGW's calculations of the charges related to the theft of service. Tr. 14, 21. According to Mr. Roman, he had resided at the Service Address from November 2007 to July of 2016, had had a gas account for even longer than that, and PGW had never raised any concerns or found any problems with his gas usage. Tr. 14, 21. His position questions the date chosen by PGW to start its calculations of theft of service charges, October 4, 2011. Although he did not propose a different date for the beginning of said calculations, he pointed out that he had been receiving monthly bills from PGW until the day of the meter bypass discovery on November 14, 2019. Tr. 10.

In response, Mr. Holder explained that the ERT head is attached to PGW's gas meter with removable screws. Tr. 94, 107-108. He further explained that if the ERT head from the meter of record (Meter No. 1859645) was placed on the stolen meter (Meter No. 1595783), it

could record and report gas usage until it was removed again. According to PGW, a repetition of this activity would ensure monthly billing that reflected nominal to no usage. Tr. 107-108.

As for the October 4, 2011 date selected by PGW to begin the calculation of charges, Ms. Glace explained that that was the last date that PGW was at the Service Address when no meter tampering was detected or reported. Tr. 56. This raised questions concerning PGW's basing its theft of service charges on the historical usage at the Service Address during the period from June 8, 2006 through May 9, 2007 when Mr. Roman did not reside there, and not on any twelve month period between November 2007 and October 4, 2011 when he resided there. Tr. 63-64. Because PGW was unable to provide an answer at the hearing, I instructed PGW's counsel to submit an updated PGW Exhibit 3 reflecting calculations based on Mr. Roman's historical usage at the Service Address. Tr. 64.

On July 7, 2020, PGW submitted PGW late-filed Exhibit 3-a explaining the reasons why PGW based the theft of service charges on the historical usage at the Service Address during the period from June 8, 2006 through May 9, 2007. More specifically, PGW explained that the Complainant became the customer of record with PGW for the Service Address on November 23, 2007. PGW Exhibit 3-a. On January 10, 2008, PGW generated an estimated bill for usage at the Service Address, which was later cancelled. PGW Exhibit 3-a. On January 26, 2008, PGW completed a meter exchange at the property. PGW Exhibit 3-a. Beginning April 9, 2008, there was little to no usage recording on the meter. PGW Exhibit 3-a. However, tilt counts were recorded on the Mr. Roman's gas meter on August 6 and September 5, 2008, and again on June 8, 2009 through October 4, 2011. *Id.* In view of the above, PGW concluded that that there is no 12-month period of reliable consecutive usage for a period during which the Complainant resided at the Service Address.

A careful review of Mr. Roman's account activity from January 2011 through November 2019 in PGW Exhibit 1 lends credibility to PGW's position. During this entire period, gas usage at the Service Address did not exceed 47 CCFs per month (approximately 1.57 CCFs per day) even in the coldest months. PGW Exhibit 1, Tr. 59. The only exception is the bill of November of 2017 reporting 77 CCFs of usage. PGW Exhibit 1. More importantly, there

was a bill with zero usage in October 2013 when Mr. Roman admitted residing at the Service Address, as well as five consecutive bills showing zero usage from July 2017 to November 2017, when Mr. Roman testified that he was leasing his property to one of his brothers. *Id.* In other words, there was not much difference in gas usage at the Service Address before and after October 4, 2011.

Upon careful consideration, I find that the historical usage at the Service Address provides a more reliable base for the theft of service calculations than Mr. Roman's historical usage. In view of this conclusion, I shall reverse my ruling on the admissibility of PGW Exhibit 3 and admit it on the record in this case along with the late-filed PGW Exhibit 3-a.

The Commission's regulation at 52 Pa.Code § 56.191(d) allow a public utility to require the payment of any outstanding balance or portion of an outstanding balance if the applicant or customer resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant or customer resided there, not exceeding four years prior to the date of requesting that service be restored. The same Commission regulation clearly instructs that the four-year limit does not apply in instances of fraud and theft. 52 Pa.Code § 56.191(d). Therefore, PGW has properly calculated the theft of service charges based on the historical usage at the property and from the last date when PGW found a working meter at the Service Address on October 4, 2011, until the date that the meter bypass was discovered on November 14, 2019. Complainant has failed to carry his burden of proving that PGW improperly calculated the theft of service charges assessed against his account; therefore, this portion of the formal Complaint will be denied.

It is every public utility's duty to "furnish and maintain adequate, efficient, safe, and reasonable service and facilities" to its customers. 66 Pa.C.S.A. § 1501. At the hearing, Mr. Roman questioned PGW's inability to find the tampered meter sooner. Tr. 10, 14, 21. Upon review of Mr. Roman's Statement of Account, I find that PGW had several opportunities to detect discrepancies with Mr. Roman's gas usage and ignored them. In particular, Mr. Roman's meter reported zero usage for the billing period from September 10, 2013 to October 8, 2013. PGW Exhibit 1. Next, his meter reported zero usage for five consecutive months – from June 7,

2017 to November 7, 2017. *Id.* When asked why these instances of zero usage were not investigated, PGW stated that most of them did not occur in heating months, and the zero usage trend lasted only for a month or two long during the heating months, soon to be followed by recorded usage. Tr. 83-86. Mr. Roman's long history of being a customer of PGW contains no indication that he has ever been a seasonal customer. Therefore, a meter malfunction or tampering are among the few possible reasons for five consecutive months of zero reported usage at the Service Address. Any of those reasons warrant at least an inquiry with the customer by PGW. By failing to investigate, PGW facilitated the theft of service at the Service Address and failed to provide reasonable service to its customers.

Under Public Utility Code Sections 3301(a) and (b), the Commission may levy a fine of up to \$1,000 per day for continuing violations of the Public Utility Code. 66 Pa.C.S.A. § 3301(a),(b). The Commission has set forth, in a statement of policy, the factors and standards for evaluating proceedings involving violations of the Public Utility Code for purposes of determining appropriate civil penalty amounts. See, 52 Pa. Code § 69.1201(c). These factors and standards are as follows:

- (1) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.
- (2) Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.
- (3) Whether the conduct at issue was deemed intentional or negligent. This factor may only be considered in evaluating litigated cases. When conduct has been deemed intentional, the conduct may result in a higher penalty.
- (4) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the utility

to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.

(5) The number of customers affected and the duration of the violation.

(6) The compliance history of the regulated entity which committed the violation. An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty.

(7) Whether the regulated entity cooperated with the Commission's investigation. Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty.

(8) The amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.

(9) Past Commission decisions in similar situations.

(10) Other relevant factors.

52 Pa. Code § 69.1201(c). These factors, relative to this proceeding, are examined below.

First, the evidentiary record does not contain sufficient evidence to conclude that PGW's failure to initiate an inquiry on the zero-usage reported in Mr. Roman's account was willfully fraudulent or a misrepresentation.

Second, PGW's failure to comply with 66 Pa.C.S.A. § 1501 did not have consequences of a serious nature. It resulted in two tampered meters and unauthorized gas usage for a prolonged period of time, but those were the only property damages involved in this case while there were no personal injuries.

Third, the record in this case supports a finding that the violation of section 1501 of the Public Utility Code, 66 Pa.C.S.A. § 1501, resulted from the Respondent's negligence in following up with the customer on the five consecutive zero usage bills.

Fourth, no remedial measures were mentioned by PGW's witnesses. As mentioned above, PGW's position in this case is that the zero usage billings did not raise any red flags because they occurred in summer months. Tr. 83-86. For those that occurred in the colder months, PGW maintained that no red flags were raised because they did not last for more than a month or two. *Id.* This lackadaisical attitude is disturbing not only because it creates the perfect environment for unauthorized usage of gas, but also because it is a departure from past PGW practices and programs designed to address multiple consecutive zero readings in its customers' accounts. *See Peterson v Philadelphia Gas Works*, F-2010-2215379 (Final Order entered January 27, 2012).

Fifth, the record does not indicate that the PGW's failure to inquire into the multiple consecutive zero usage bills affected anyone other than the Complainant, although the absence of a company policy or practice to address multiple consecutive zero usage bills can potentially affect other customers as well as PGW's profits.

Sixth, the record does not include a history of PGW's past offenses; and seventh, the Commission did not conduct an investigation in this proceeding.

The eighth, ninth and tenth factors listed in 52 Pa. Code § 69.1201(c) are inter-related in this case and they are, respectively: the amount of a civil penalty required to deter future violations; prior Commission decisions in similar cases; and the catch-all "other relevant factors."

After reviewing the evidence, I conclude that a civil penalty in the amount of \$2,000.00, or \$1,000.00 for each instance of zero usage billing the Respondent failed to investigate following the first three consecutive zero usage bills. This amount is appropriate to deter future violations of this nature and to draw the Company's attention to the need for increased adherence to its installation procedures and more clarity in its instructions to the customers.

Within 30 days of the Commission's Final Order in this case, PGW shall pay a civil penalty in the amount of \$2,000.00 by sending a certified check or money order payable to

the Commonwealth of Pennsylvania. In addition, PGW shall cease and desist from further violations of the Public Utility Code, 66 Pa.C.S. § 101 *et seq.*, and the regulations of the Pennsylvania Public Utility Commission, 52 Pa.Code § 1.1 *et seq.*

CONCLUSIONS OF LAW

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

2. Pursuant to 66 Pa.C.S. § 332(a), the burden of proof in this proceeding is upon the Complainant. 66 Pa.C.S. § 332(a).

3. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa.Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa.Cmwlth. 1993); 2 Pa.C.S. § 704.

4. As a condition of restoring service to a customer, the public utility can require the payment of the outstanding balance and the four-year statute of limitations does not apply to instances of fraud or theft. 52 Pa.Code § 56.191(d).

5. The Complainant failed to meet his burden of proving that Respondent improperly calculated the theft of service charges against his account.

6. It is every public utility's duty to "furnish and maintain adequate, efficient, safe, and reasonable service and facilities" to its customers. 66 Pa.C.S.A. § 1501.

7. Under Public Utility Code Sections 3301(a) and (b), the Commission may levy a fine of up to \$1,000 per day for continuing violations of the Public Utility Code. 66 Pa.C.S. § 3301.

8. The Complainant met his burden of proving that Respondent failed to provide him with reasonable service.

ORDER

THEREFORE,

IT IS ORDERED:

1. That PGW Exhibit 3 is admitted into the record in this matter.
2. That PGW late-filed Exhibit 3-a is admitted into the record in this matter.
3. That Complainant Exhibit 1 is admitted into the record in this matter.
4. That the Formal Complaint filed by Aaron Roman against Philadelphia Gas Works at Docket No. F-2020-3018889 is granted, in part, and denied, in part.
5. That the Formal Complaint filed by Aaron Roman against Philadelphia Gas Works at Docket No. F-2020-3018889 is granted, in part, with regard to his quality of service claim.
6. That the Formal Complaint filed by Aaron Roman against Philadelphia Gas Works at Docket No. F-2020-3018889 is denied, in part, with regard to his claim of improper calculation of charges related to the unauthorized usage of gas.
7. That Philadelphia Gas Works shall pay a civil penalty in the amount of Two Thousand Dollars (\$2,000.00) by sending a certified check or money order payable to the Commonwealth of Pennsylvania, within thirty (30) days from the entry of the Final Commission Order to:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

8. That Philadelphia Gas Works shall cease and desist from further violations of the Public Utility Code, 66 Pa.C.S. § 101 *et seq.*, and the regulations of the Pennsylvania Public Utility Commission, 52 Pa.Code § 1.1 *et seq.*

9. That the Secretary mark this docket closed.

Date: October 1, 2020

/s/
Eranda Vero
Administrative Law Judge