

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Helen Leung	:	
	:	
v.	:	F-2020-3020041
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Eranda Vero  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision denies Helen Leung’s formal Complaint against Philadelphia Gas Works at Docket No. F-2020-3020041 because she failed to carry her burden of proving by a preponderance of the evidence that Philadelphia Gas Works violated a Commission statute, regulation or order when it held her responsible for gas service at the Service Address during the period from October 17, 2016 to August 8, 2017.

**HISTORY OF THE PROCEEDING**

On April 7, 2020, Helen Leung (Complainant or Ms. Leung) filed a formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission) alleging that the Respondent opened an account in her name for her rental property without her knowledge and three years later asked her to pay \$2,012.40. As relief, Ms. Leung requested that PGW remove the charges from her name and instead collect the amount from her tenant at the time, Christina Allen.

This formal Complaint is a timely appeal to a decision issued by the Commission's Bureau of Consumer Services at BCS Case No. 3729836.

On July 7, 2020, PGW filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

A Hearing Notice dated July 8, 2020, notified the parties that an initial telephonic hearing was scheduled for Thursday, August 13, 2020, at 10:00 a.m.

A Prehearing Order was issued on July 14, 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 August 13, 2020. Helen Leung appeared *pro se* and testified in support of the Complaint. Ms. Leung sponsored one exhibit, which was admitted into the record. Laureto Farinas, Esq., represented the Respondent, and presented the testimony of Jessica Glace, who is a senior customer review officer with PGW in charge of reviewing and investigating formal complaints filed with the Commission. The Respondent sponsored four exhibits, which were admitted into the record.

The record in this matter closed on September 12, 2020.

#### FINDINGS OF FACT

1. The Complainant is Helen Leung, who resides at 68 Wainwright Avenue, Closter, New Jersey, 07624. Tr. 7.

2. Ms. Leung owns the property at 6346 Sylvester Street, Philadelphia, PA 19149 (Service Address). Tr. 7.

3. Ms. Leung purchased the Service Address in 2003 as a rental property. Tr. 8-9.
4. Ms. Leung is enrolled in the Landlord Cooperation Program (LCP) with PGW. Tr. 48-49.
5. On October 17, 2016, Ms. Leung contacted PGW via telephone and requested to place the gas service for the Service Address in her name. Tr. 37, PGW Exhibit 1.
6. On October 17, 2016, Ms. Leung did not request that PGW use an address different from the Service Address for billing purposes. Tr. 38, 48, PGW Exhibit 1.
7. PGW ran a credit check on Ms. Leung after collecting her date of birth, telephone number and the last four digits of her Social Security Number from her as identifying information. Tr. 38, 46.
8. Based on the results of the credit check, PGW waived the security deposit for Ms. Leung. Tr. 38, 48, PGW Exhibit 1.
9. Beginning on October 17, 2016, gas service for the Service Address was placed in Ms. Leung's name. Tr. 38, PGW Exhibit 1.
10. On October 15, 2016, Ms. Leung gave written permission to Christine Allen and Hamzah Yusuf to place water service for the Service Address in their names. Tr. 9, Complainant Exhibit 1.
11. On October 23, 2016 and November 1, 2016, Ms. Allen and Mr. Yusuf sent two checks of \$600.00 each to Ms. Leung to pay the security deposit for the Service Address. Tr. 9-10, Complainant Exhibit 1.

12. Ms. Allen and Mr. Yusuf's lease of the Service Address began on November 1, 2016. Tr. 10.

13. The lease made Ms. Allen and Mr. Yusuf responsible for the utility service at the Service Address. Tr. 10, Complainant Exhibit 1.

14. On or about November 26, 2016, Ms. Leung attempted to access her account with PGW's Landlord Cooperation Program. Complainant Exhibit 1.

15. On or about November 26, 2016, Ms. Leung received an e-mail from PGW's Landlord Cooperation Program assisting her with her log-in information and asking her whether she had a new tenant at the Service Address. Tr. 13-14, Complainant Exhibit 1.

16. On November 26, 2016, Ms. Leung e-mailed back to PGW's Landlord Cooperation Program informing them that she did have new tenants at the Service Address and that she had informed them to place gas service in their name. Tr. 13-15, Complainant Exhibit 1.

17. By e-mail dated November 29, 2016, PGW's Landlord Cooperation Program instructed Ms. Leung to have her tenants contact PGW's Service Department at 215-235-2050 so that they could apply for the service to be placed into their name. Tr. 13-15, Complainant Exhibit 1.

18. Christina Allen contacted PGW requesting service in her name at the Service Address. Tr. 42-43.

19. Ms. Allen was referred to PGW's local office because the Experian credit report had flagged an identity issue involving the name provided by her. Tr. 42-43.

20. Ms. Allen did not follow PGW's instructions and the account for the Service Address was never placed in her name. Tr. 43.

21. By e-mail dated December 27, 2016, Ms. Allen informed Ms. Leung that she had placed gas, electric and water service in her name. Tr. 13, Complainant Exhibit 1.

22. Ms. Leung continued to be billed for electric service at the Service Address until April 2017. Tr. 10-11, Complainant Exhibit 1.

23. The electric bills for the Service Address were mailed to Ms. Leung's residence. Tr. 10-11, Complainant Exhibit 1.

24. On or before April of 2017, Ms. Leung opened a billing dispute with PECO Energy Company (PECO) because she was being billed for electric service at the Service Address. Tr. 11-13, Complainant Exhibit 1.

25. On or about April 30, 2017, Ms. Leung requested that PECO place electric service for the Service Address in Ms. Allen's name. Tr. 11-13, Complainant Exhibit 1.

26. Ms. Allen and Mr. Yusuf moved out of the Service Address in July 2017. Tr. 22.

27. Gas service for the Service Address was in Ms. Leung's name from October 17, 2016 through August 4, 2017. Tr. 38, 40, PGW Exhibits 1 and 3.

28. All the gas bills for the Service Address were mailed to the Service Address. Tr. 38, 40, PGW Exhibits 1 and 3.

29. No payments were made on Ms. Leung's account for the Service Address. Tr. 39, PGW Exhibit 3.

30. Ms. Leung never contacted PGW to request that gas service at the Service Address be disconnected either before Ms. Allen and Mr. Yusuf moved in or after they moved out. Tr. 42, *see also* Tr. 20-21.

31. Ms. Leung's account with PGW was closed on August 4, 2017, because another customer had requested service at the Service Address. Tr. 40, 42, PGW Exhibit 3.

32. On August 8, 2017, PGW issued a final bill of this account with an outstanding balance of \$2,012.40. Tr. 40-41, PGW Exhibit 3.

33. On February 17, 2019, Mr. Leung was contacted by a collection agency that informed her of the outstanding balance with PGW for the Service Address. Tr. 28.

34. In or around March 2019, Ms. Leung filed a dispute with PGW. Tr. 41, PGW Exhibit 2.

### DISCUSSION

In her formal Complaint, Ms. Leung alleged that PGW opened an account in her name for her rental property without her knowledge, and three years later asked her to pay \$2,012.40. As relief, Ms. Leung requested that PGW remove the charges from her name and instead collect the amount from her tenant at the time, Christina Allen.

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

Upon the presentation by the complainant of 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 her 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*, 501 Pa. 433, 461 A.2d 1234 (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).

At the hearing, Ms. Leung testified that she owns the Service Address, which she purchased in 2003 as a rental property. Tr. 7-9. Ms. Leung explained that she usually places electric and water services in her name when the Service Address is unoccupied or between tenants. Tr. 16-17. However, she stated that she does not always do the same for gas service since she has no use for the service herself. Tr. 17.

On October 15, 2016, Ms. Leung gave written permission to Christine Allen and Hamzah Yusuf to place water service for the Service Address in their names. Tr. 9, Complainant Exhibit 1.

On October 23, 2016 and November 1, 2016, Ms. Allen and Mr. Yusuf sent two checks of \$600.00 each to Ms. Leung to pay the security deposit for the Service Address. Tr. 9-10, Complainant Exhibit 1. Ms. Allen and Mr. Yusuf's lease of the Service Address began on November 1, 2016. Tr. 10. The lease made Ms. Allen and Mr. Yusuf responsible for the utility service at the Service Address. Tr. 10, Complainant Exhibit 1.

On or about November 26, 2016, Ms. Leung attempted to access her account with PGW's LCP. Complainant Exhibit 1. Soon after, she received an e-mail from PGW's LCP assisting her with her log-in information and asking her whether she had a new tenant at the Service Address. Tr. 13-14, Complainant Exhibit 1. Ms. Leung e-mailed back to PGW's LCP informing them that she did have new tenants at the Service Address and that she had informed them to place gas service in their name. Tr. 13-15, Complainant Exhibit 1.

By e-mail dated November 29, 2016, PGW's LCP instructed Ms. Leung to have her tenants contact PGW's Service Department so that they could apply for the service to be placed into their name. Tr. 13-15, Complainant Exhibit 1.

Ms. Leung testified that she forwarded the November 29, 2016 e-mail from LCP to her tenants. By e-mail dated December 27, 2016, Ms. Allen informed Ms. Leung that she had placed gas, electric and water service in her name. Tr. 13, Complainant Exhibit 1.

Despite Ms. Allen's assurances to the contrary, electric service at the Service Address remained in Ms. Leung's name until April 2017. Tr. 10-11, Complainant Exhibit 1. Ms. Leung testified that the electric bills for the Service Address were mailed to her residence. Tr. 10-11, Complainant Exhibit 1. On or before April of 2017, Ms. Leung opened a billing dispute with PECO because she was being billed for service at the Service Address and requested that PECO place electric service for the Service Address in Ms. Allen's name. Tr. 11-13, Complainant Exhibit 1.

According to Ms. Leung, Ms. Allen and Mr. Yusuf moved out of the Service Address in July 2017. Tr. 22. She admitted that after they moved out, she did not contact PGW

to have the service at the Service Address terminated or placed in her name. Tr. 21. On February 17, 2019, Mr. Leung was contacted by a collection agency that informed her of the outstanding balance with PGW for the Service Address. Tr. 28.

In response to Ms. Leung's testimony, PGW presented the testimony of Jessica Glace. Ms. Glace testified that Ms. Leung contacted PGW via telephone on October 17, 2016 and requested to place the gas service for the Service Address in her name. Tr. 37, PGW Exhibit 1. During this phone call Ms. Leung did not provide or request that an address different from the Service Address be used for billing purposes. Tr. 38, 48, PGW Exhibit 1. PGW ran a credit check on Ms. Leung after collecting her date of birth, telephone number and the last four digits of her Social Security Number as identifying information. Tr. 38, 46. The Respondent waived the security deposit after Ms. Leung's record passed the credit check. Tr. 38, 48, PGW Exhibit 1. Service was placed in Ms. Leung's name and the first bill was issued on December 16, 2016. *Id.*

Importantly, Ms. Glace testified that Christina Allen contacted PGW requesting service in her name at the Service Address. However, she was referred to the local office because the Experian credit report had flagged an identity issue involving the name provided by Ms. Allen. Tr. 42-43. Ms. Allen did not follow PGW's instructions and therefore, PGW was not able to place the account in her name. Tr. 43.

Ms. Glace testified that gas service for the Service Address was in Ms. Leung's name from October 17, 2016 through August 6, 2017 and all the gas bills were mailed to the Service Address. Tr. 38, 40, PGW Exhibits 1 and 3. She further explained that no payments were made on Ms. Leung's account for the Service Address. Tr. 39, PGW Exhibit 3. The account was closed as of August 4, 2017. Tr. 40, PGW Exhibit 3. On August 8, 2017, PGW issued a final bill for this account with an outstanding balance of \$2,012.40. Tr. 40-41, PGW Exhibit 3.

In addition, Ms. Glace testified that Ms. Leung never contacted PGW to request that gas service at the Service Address be disconnected either before Ms. Allen and Mr. Yusuf

moved in or after they moved out. Tr. 42. Ms. Leung admitted as much during cross examination. See Tr. 20-21. Ms. Glace further explained that Ms. Leung's account with PGW was finalized in August of 2017 only because another customer had requested service at the Service Address. Tr. 42. Pursuant to Commission regulation at 52 Pa.Code § 56.16(a) (regarding Transfer of Accounts), "a customer ... who wishes to have service discontinued shall give at least 7 days' notice to the public utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered." 52 Pa.Code § 56.16(a). Consequently, I find that PGW was correct in keeping Ms. Leung as the customer of record until August 4, 2017.

At the hearing, Ms. Leung strongly denied having called PGW on October 17, 2016, to place service for the Service Address in her name. She questioned the motive for doing so on October 17, 2016, when on October 15, 2016, she had notarized her authorization for Ms. Allen and Mr. Yusuf to place water service for the Service Address in their name. Tr. 54-55. Ms. Leung went as far as to claim that PGW placed service in her name using identifying information that they already had in their system for her. Tr. 52-53. However, mere bald assertion, personal opinions or perceptions do not constitute evidence to bolster a claim. *Pa. Bureau of Corrections v. City of Pittsburgh*, 516 Pa. 75, 532 A.2d 12 (1987). Ms. Leung did not produce any evidence to support her allegations. On the contrary, PGW produced credible evidence in the form of sworn testimony and business records to support its claim that Ms. Leung requested that service be placed in her name.

Assuming *arguendo* that Ms. Leung did not request service in her name for the Service Address, PGW would have been within its rights to place gas service in her name in the absence of another customer of record or request for termination of service. Section 1529.1 of the Public Utility Code, 66 Pa.C.S. § 1529.1, regarding the duties of owners of rental property, requires that utilities list accounts for individually-metered rental units in the name of the owner, absent a request for service by the tenant or other authorized representative. Section 1529.1 of the Code reads as follows:

**(a) *Notice to public utility.*** — It is the duty of every owner of a residential building or mobile home park which contains one or more dwelling units, not individually metered, to notify each public utility from whom utility service is received of their ownership and the fact that the premises served are used for rental purposes.

**(b) *History of account.*** — Upon receipt of the notice provided in this section, if the mobile home park or residential building contains one or more dwelling units not individually metered, an affected public utility shall forthwith list the account for the premises in question in the name of the owner, and the owner shall thereafter be responsible for the payment for the utility services rendered thereunto. In the case of individually metered dwelling units, unless notified to the contrary by the tenant or an authorized representative, an affected public utility shall list the account for the premises in question in the name of the owner, and the owner shall be responsible for the payment for utility services to the premises.

**(c) *Failure to give notice.*** — Any owner of a residential building or mobile home park failing to notify affected public utilities as required by this section shall nonetheless be responsible for payment of the utility services as if the required notice had been given.

66 Pa.C.S. § 1529.1 (emphasis added). As mentioned above, Ms. Leung never contacted PGW to request that gas service at the Service Address be disconnected either before Ms. Allen and Mr. Yusuf moved in or after they moved out. Tr. 42, *see also* Tr. 20-21. With the failure of Ms. Allen's attempt to place service in her name, the service was correctly placed and kept in Ms. Leung's name.

In view of the above, I find that Ms. Leung failed to carry her burden of proving by a preponderance of the evidence that PGW violated a Commission statute, regulation or order when it held her responsible for gas service at the Service Address during the period from October 17, 2016 to August 8, 2017. Instead, the preponderance of the evidence collected in this matter indicates that Ms. Leung failed to verify that Ms. Allen and Mr. Yusuf had placed gas service in their names. Despite her tenants' missed rent payments and failure to place electric service in their name, Ms. Leung chose to accept Ms. Allen's reassurances regarding gas service

without inquiring further. See Complainant Exhibit 1. Consequently, Ms. Leung's Complaint against PGW will be denied.

### CONCLUSIONS OF LAW

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

2. The Complainant seeking affirmative relief from the Commission has the burden of proving the Complaint allegations by producing evidence which established material facts by a preponderance of the evidence. 66 Pa. C.S.A. § 332(a).

3. 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*, 489 Pa. 109, 413 A.2d 1037 (1980).

4. "A customer ... who wishes to have service discontinued shall give at least 7 days' notice to the public utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered." 52 Pa.Code § 56.16(a).

5. Section 1529.1 of the Public Utility Code requires that utilities list accounts for individually metered rental units in the name of the owner, absent a request for service by the tenant or other authorized representative. 66 Pa.C.S. § 1529.1

6. Mere bald assertion, personal opinions or perceptions do not constitute evidence to bolster a claim. *Pa. Bureau of Corrections v. City of Pittsburgh*, 516 Pa. 75, 532 A.2d 12 (1987).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal Complaint filed by Helen Leung against Philadelphia Gas Works at Docket No. F-2020-3020041 is denied.
2. That the Secretary's Bureau mark this matter closed.

Date: December 23, 2020

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/s/  
Eranda Vero  
Administrative Law Judge