

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jamia Jordan	:	
	:	
v.	:	F-2020-3021987
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Alphonso Arnold III
Special Agent

INTRODUCTION

This Initial Decision dismisses the Complaint, finding that the Complainant has not met her burden of proving that the Respondent billed her incorrectly in violation of the Commission’s regulations by holding her responsible for service rendered to the Complainant’s prior address in the absence of a notice to discontinue service to the prior address.

HISTORY OF THE PROCEEDING

On September 16, 2020, Jamia Jordan (Complainant or Ms. Jordan) filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (Respondent or PGW), alleging that PGW has threatened to or has already shut off her service and that there are incorrect charges on her bill. In summary, Ms. Jordan alleged that she is not responsible for gas service charges relating to service provided to a prior address after she had moved out of the prior address. The Formal Complaint is a timely appeal of a decision issued by the Commission’s Bureau of Consumer Services (BCS), at BCS No. 3764643, wherein the BCS dismissed Ms. Jordan’s Informal Complaint.

On October 8, 2020, PGW filed an Answer to the Complaint, denying that there was an active shut off notice for the Complainant's service and denying that there were incorrect charges on the Complainant's bill. PGW requested that the Commission find against the Complainant and dismiss the Complaint.

By Hearing Notice served on the parties on October 14, 2020, the Commission scheduled this matter for a telephonic hearing on November 25, 2020 at 10:00 a.m. and assigned the case to me. A Prehearing Order, served on the parties on November 5, 2020, reminded the parties of the date and time of the hearing and addressed, inter alia, the procedures applicable to the hearing.

The hearing was held on November 25, 2020 as scheduled. Ms. Jordan was present for the hearing and testified on her own behalf. Graciela Christlieb, Esquire, was present for the hearing representing PGW. Ms. Jordan sponsored one exhibit, the admission of which was deferred for ruling in this Initial Decision. Attorney Christlieb presented the testimony of Adrian Pinkney, a customer review officer employed by PGW, who sponsored the following three exhibits which were admitted into the record:

- PGW Exhibit 1 – Specific Service Agreement Statement
- PGW Exhibit 2 – Customer Contact: Turn On
- PGW Exhibit 3 – Opening XML

The record closed on December 10, 2020, when the transcript of the November 25, 2020 hearing was filed with the Commission. For the reasons discussed below, Complainant's proposed exhibit will not be admitted and the Complaint will be dismissed.

FINDINGS OF FACT

1. The Complainant is Jamia Jordan.
2. The Respondent is Philadelphia Gas Works.

3. Ms. Jordan receives service from PGW at 1814 E. Clementine Street, Philadelphia, Pennsylvania (service address). (PGW Exhibit 1, p. 1).
4. Service was established at the service address on April 6, 2020. (PGW Exhibit 2, p. 6).
5. Ms. Jordan previously received service from PGW at 1739 N. 33rd Street, 1st Floor, Philadelphia, Pennsylvania (prior address). (PGW Exhibit 1, p. 3).
6. Service was established in Ms. Jordan's name at the prior address on May 1, 2016 and was taken out of Ms. Jordan's name on August 14, 2018. (PGW Exhibit 2, p. 1, 5).
7. Gas service was taken out of Ms. Jordan's name at the prior address when a new applicant applied for gas service at the prior address. (Tr. 26, 27).
8. A customer can request discontinuance of service at a service address by calling PGW, submitting the request through PGW's website, mailing a letter to PGW, or by making the request at a PGW district office. (Tr. 30-32).
9. PGW has no record of Ms. Jordan ever making a request with PGW to discontinue her gas service at the prior address. (Tr. 25, 32).
10. The account from the prior address was finalized with a final outstanding account balance of \$1,729.14. (PGW Exhibit 1, p. 2).
11. The balance owed from the prior address of \$1,729.14 was transferred to Ms. Jordan's service address account on May 29, 2020. (PGW Exhibit 1, p. 4).

12. Having made three payments on her account since service was established at the service address, the balance still owed from the prior address as of the date of the hearing was \$1,528.28. (PGW Exhibit 1, p. 4).

13. Ms. Jordan's total balance as of the date of the hearing was \$1,879.37, which consists of her unpaid balance from her prior address and her unpaid charges from her service address. (Tr. 25; PGW Exhibit 1).

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 Tel. Co. of Pa., 72 Pa. PUC 196 (1990) (Patterson); Feinstein v. Phila. 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.Cmwlth. 2001); see also, Burleson v. Pa. Pub. Util. Comm'n, 443 A.2d 1373 (Pa.Cmwlth. 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 & W. Ry. Co. v. Pa. Pub. Util. Comm'n, 413 A.2d 1037 (Pa. 1980).

In this matter, Ms. Jordan filed a Complaint asserting that there were incorrect charges on her bill. Therefore, the burden is on Ms. Jordan to prove that PGW incorrectly charged her in violation of the Code, a Commission regulation or order, or a Commission-approved tariff.

At the hearing, Ms. Jordan explained that when she applied for service at the service address, PGW informed her that there was an outstanding balance from her prior address that would be transferred over to the service address account. (Tr. 6-8). Ms. Jordan testified that she had moved out of her prior address in November 2016, and thus she should not be held responsible for charges past that date. (Tr. 10, 11). When asked if she ever contacted PGW to request service discontinuation at her prior address, she stated that she did not know. (Tr. 12).

PGW presented the testimony of Adrian Pinkney, a customer review officer employed by PGW, who is responsible for investigating customer complaints. (Tr. 22). Ms. Pinkney testified as to the several ways a customer can request service discontinuation, including by placing a phone call to PGW, submitting the request through PGW's website, mailing a letter to PGW, or visiting a PGW district office. (Tr. 30-32). Ms. Pinkney testified that PGW does not have any record that Ms. Jordan ever made a service discontinuation request for her prior address. (Tr. 25, 32). Service was taken out of Ms. Jordan's name at the prior address on August 14, 2018 when a new applicant applied for service at the prior address. (Tr. 26, 27). Thereafter, Ms. Jordan's prior address account was finalized, and the outstanding balance was transferred to Ms. Jordan's service address account. (PGW Exhibit 1, p. 4).

In addition to the evidence discussed above, Ms. Jordan sponsored an exhibit for the record. The exhibit was a tenant ledger which details transactions (rental charges, rental payments, late charges, etc.) with respect to Ms. Jordan's tenancy at the prior address. The ledger also indicates that Ms. Jordan moved into the prior address on May 1, 2016 and moved out on January 31, 2017. PGW objected to the admission of this exhibit, stating that the ledger had not been properly authenticated by Ms. Jordan. (Tr. 16). I informed the parties that I would rule on the admissibility of the exhibit in this Initial Decision. (Tr. 17).

The tenant ledger will not be admitted into the record in this proceeding. While I agree that Ms. Jordan did not present sufficient evidence to authenticate the tenant ledger,¹ the tenant ledger will not be admitted into the record because it is not relevant evidence.² Ms. Jordan sponsored the tenant ledger to show when she moved out of the prior address.³ However, when Ms. Jordan moved out of her prior address is not a fact of consequence in this proceeding. What is of consequence is the fact that Ms. Jordan did not contact PGW to request discontinuation of her service at the prior address.

The Commission's regulations address discontinuance of service, stating the following:

¹ Unless stipulated, to satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is. Pa.R.E., Rule 901. For evidence relied upon in an administrative proceeding to be considered competent, the evidence must be authenticated and follow the applicable hearsay rules. Frompovich v. PECO Energy Co., C-2015-2474602 (Opinion and Order entered May 3, 2018).

Pa.R.E., Rule 901(b) contains examples of evidence that satisfies the authentication requirement, including testimony from a witness with knowledge that an item is what it is claimed to be. Pa.R.E., Rule 901(b)(1). Ms. Jordan did not present a witness, such as the individual who created the tenant ledger, to authenticate the ledger.

² All relevant evidence is admissible, except as otherwise provided by law. Evidence that is not relevant is not admissible. Pa.R.E., Rule 401. Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action. Pa.R.E., Rule 401.

³ Even if the tenant ledger were admitted, I note that the ledger's move out date contradicts Ms. Jordan's testimony. The tenant ledger shows a move out date of January 31, 2017 from the prior address, and Ms. Jordan testified that she moved out in November 2016.

§ 56.16. Transfer of accounts.

(a) A customer who is about to vacate premises supplied with public utility service or 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. After a reasonable attempt to obtain meter access, if the public utility is not able to access the meter for discontinuance, service shall be discontinued with an estimated meter reading upon which the final bill will be based. The resulting final bill is subject to adjustment once the public utility has obtained an actual meter reading.

52 Pa. Code § 56.16(a).

The Commission's regulations cited above place the responsibility on a customer, who wishes for their service to be discontinued, to contact the utility to make such a request. The evidence provided by the parties shows that Ms. Jordan never contacted PGW to request service discontinuation at the prior address, as Ms. Jordan testified that she was unsure if she had ever contacted PGW concerning service discontinuation, and PGW did not have any record of such contact. Service at the prior address was only discontinued after a new applicant applied for service at the address on August 14, 2018. Therefore, as Ms. Jordan did not contact PGW to request service discontinuation, she is responsible for services rendered to the prior address until service was discontinued on August 14, 2018.

In conclusion, after consideration of the evidence presented by the parties, Ms. Jordan has not met her burden of proving that PGW incorrectly charged her in violation of the Commission's regulations. PGW properly held Ms. Jordan responsible for service rendered to her prior address in absence of a notice to discontinue service.

CONCLUSIONS OF LAW

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 customer who is about to vacate premises supplied with public utility service or 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).

4. Ms. Jordan has not met her burden of proving that PGW billed her incorrectly in violation of the Commission's regulations by holding her responsible for service rendered to her prior address in the absence of a notice to discontinue service.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint filed by Jamia Jordan in the matter of Jamia Jordan v. Philadelphia Gas Works, Docket No. F-2020-3021987, is dismissed.

2. Complainant Exhibit 1, tenant ledger, is not admitted into the record.

3. That the docket at Docket No. F-2020-3021987 is marked closed.

Date: March 4, 2021

/s/
Alphonso Arnold III
Special Agent