

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Erin Rotell	:	
	:	
v.	:	F-2022-3036217
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Arlene Ashton
Administrative Law Judge

INTRODUCTION

This Initial Decision denies the Complainant’s Formal Complaint because the Complainant failed to meet her burden of proving that the Respondent erred in transferring the balance from a previous account to her current account. The Complainant did not establish that the Respondent violated the Public Utility Code, or a Commission regulation or Order regarding its actions in this matter.

HISTORY OF THE PROCEEDING

On September 27, 2022, Erin Rotell (Complainant) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission).¹ In the Complaint, the Complainant contends that there were incorrect charges on her bill. Specifically, the Complainant contends that she should

¹ This matter is an appeal of a decision issued on August 26, 2022, by the Bureau of Consumer Services (BCS) at Case No. 37849904, which dismissed the informal complaint of the Complainant.

not be responsible for gas service usage at her prior residential address after she relocated to a different residence.

On November 7, 2022, Respondent filed an Answer denying the material allegations of the Complaint.²

By Hearing Notice dated November 23, 2022, an initial hearing was scheduled for February 8, 2023, at 10:00 a.m., and the matter was assigned to me.

I issued a Prehearing Order on December 7, 2022. The Prehearing Order directed the parties to comply with various procedural requirements and explained that the Complainant bears the burden of proof to establish that the Respondent violated its tariff, the Public Utility Code, or a Commission Order or regulation, and that she is entitled to the relief requested in the Complaint.

The hearing convened as scheduled on February 8, 2023. Complainant participated *pro se* and testified. Complainant offered two exhibits, which were entered into the record. Respondent appeared and was represented by Anita Murray, Esq., who presented the testimony of Wendy Vacca, a senior customer review officer employed by PGW. Respondent offered three exhibits, which were all entered into the record.

The hearing resulted in a 39-page transcript (excluding exhibits). The record closed on March 1, 2023, when the transcript was filed with the Commission.

FINDINGS OF FACT

1. The Complainant in this case is Erin Rotell, who, since May 2019, resides at 345 Roseberry Street, Philadelphia, PA 19148. Tr. 14.

2. The Respondent is Philadelphia Gas Works.

² The Complaint was served on the Respondent on October 18, 2022.

3. From May 2018 until May 2019, the Complainant resided at 1601 South 5th Street, Philadelphia, Pennsylvania 19148 (Service Address). Tr. 16.

4. When the Complainant relocated to a new residence in May 2019, she did not cancel her PGW account at the Service Address. Tr. 16-17.

5. The Complainant canceled her PGW account for the Service Address on March 23, 2022. Tr. 17.

6. The Complainant did not contact PGW to requested discontinuance of service to the Service Address at any time prior to March 23, 2022. Tr. 17.

DISCUSSION

The Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S. § 332(a).

To establish a sufficient case and satisfy the burden of proof, Complainant must show that the respondent public utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990), *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlt. 1990). A preponderance of the evidence is evidence 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). Additionally, 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. Cmwlt. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlt. 1993); 2 Pa.C.S. § 704. 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. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super.

1960); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

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 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).

The Complainant asserts that she is not responsible for charges for gas service provided to the Service Address after she relocated to a new residence in May 2019. She also alleges that PGW erred by billing her for gas usage at the Service Address after she relocated to a new residence because she did not consume the gas supplied to the Service Address after she relocated to her new home.

PGW maintains that the Complainant was properly billed for gas service at the Service Address until she requested termination of her PGW account associated with the Service Address.

The Complainant testified that when she relocated and vacated the Service Address, she “basically forgot . . . [and] did not call to cancel [her] gas bill under her account number.” Tr. 17. The Complainant provided a copy of her federal and state income tax return for 2019 and 2020 in support of her testimony that she did not live at the Service Address after May 2019. Complainant Exhibit 1-2. These exhibits reflect the location the Complainant identified as her primary residence when filing the returns. The Complainant failed to identify any information in either exhibit that would indicate the duration of her residence at the Service Address, nor did she claim that the exhibits contained any information pertaining to a request to

close her account for gas service at the Service Address. As a result, I do not find this evidence relevant or persuasive.

Further, PGW presented testimony and evidence that established that the Complainant did not contact PGW to request discontinuance of service to the Service Address at any time prior to March 23, 2022. Tr. 23, Exhibit 2.

Commission regulations address the action to be taken by a customer wishing to disconnect or transfer a utility account. Regulation 56.16 provides, in relevant part:

(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.^[3]

The Complainant acknowledged that she did not contact PGW to request discontinuance of service to the Service Address at any time prior to March 23, 2022. Based on all of the above, it is clear that the Complainant has failed to meet her burden of proof under the law to establish that she is not responsible for the charges that were accrued at the Service Address from October 25, 2018, when service was initiated at her request until March 23, 2022, when she notified PGW that she wished to terminate gas service at the Service Address. Therefore, the Complainant is responsible for the outstanding charges for service to the Service Address during this time.

It is not unreasonable for PGW to request that the Complainant pay the outstanding balance. There is nothing that the Respondent has done in this case that is in violation of a Commission statute, regulation, or order. As such, the Complainant is responsible to pay the outstanding balance from the Service Address and her Complaint is dismissed.

³ 52 Pa. Code § 56.16(a).

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.
2. 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. A customer who is about to vacate premises supplied with public utility service or who wishes to have service discontinued must give at least seven days' notice to the public utility, specifying the date on which it is desired that service be discontinued. Absent such notice, the customer is responsible for services rendered. 52 Pa. Code § 56.16(a).
5. Prior to March 23, 2022, Complainant failed to give notice to PGW that she wanted her service at 1601 South 5th Street, Philadelphia, Pennsylvania 19148, to be disconnected. 52 Pa. Code § 56.16(a).
6. The Complainant did not meet her burden of establishing that PGW violated the Public Utility Code, Commission regulations or a Commission Order by billing the Complainant for service to her account until she requested discontinuation of service. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Erin Rotell in Erin Rotell v. Philadelphia Gas Works at Docket No. F-2022-3036217 is denied and dismissed; and
2. That Docket No. F-2022-3036217 be marked closed.

Date: May 30, 2023

_____/s/_____
Arlene Ashton
Administrative Law Judge