

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Richard Adams	:	
	:	
v.	:	C-2022-3036961
	:	
Aqua Pennsylvania Wastewater, Inc.	:	

**INITIAL DECISION**

Before  
Eranda Vero  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision denies, in part, and grants, in part, the Formal Complaint of Richard Adams against Aqua Pennsylvania Wastewater, Inc. In particular, this Initial Decision grants, in part, the portion of the Complaint concerning the billing layout for the July 7, 2022, bill. The Decision denies, in part, the portion of the Complainant concerning the billing layout and information of the bills issued on April 6, 2022, and November 9, 2022.

**HISTORY OF THE PROCEEDING**

On November 28, 2022, Richard Adams filed a Formal Complaint (Complaint) with the Public Utility Commission (Commission) against Aqua Pennsylvania Wastewater, Inc. (Aqua, Respondent, or the Company) alleging that there are incorrect changes in his utility bills from the Respondent. By way of explanation, Mr. Adams attached a copy of his November 9, 2022, bill from Aqua, which covered a period of 91 days, from July 8, 2022, to October 7, 2022, and points out that two of the lines on that bill are “Customer Charge Sewer at Old Rate” and “Customer Service Charge at Current Rate.” As relief, the Complainant requests that the

Commission order Aqua to provide “the date (Month Day Year), the unit of measure, the financial amount for the unit of measure” for each line item on its bills so that the total on that line can be reconciled. Complaint ¶ 5.

On December 20, 2022, Aqua filed an Answer denying the material allegations of fact in the Complaint.

A Hearing Notice dated December 27, 2022, notified the parties that an initial hearing was scheduled for February 2, 2023, at 10:00 a.m.

A Prehearing Order was issued on January 17, 2023, advising 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 January 17, 2023. Richard Adams appeared *pro se* and testified on his own behalf. Mr. Adams sponsored one exhibit, which was admitted into the record.<sup>1</sup> Mary McFall Hopper, Esq., represented the Respondent, and presented the testimony of Tom Geddis, who is the Municipal Acquisition Integration, Rates and CIS Director, responsible for updating the tariff rates in Aqua’s customer information system for customer billing purposes. The Respondent sponsored four exhibits, which were admitted into the record in this matter.

The record in this matter closed upon receipt of my copy of the hearing transcript on March 2, 2023.

### FINDINGS OF FACT

1. Complainant is Richard Adams, who resides at 221 Taylorsville Road, Yardley, Pennsylvania 19067 (Service Address). Tr. 8.

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<sup>1</sup> At the hearing, Mr. Adams was offered the opportunity to file an additional document as a late-filed exhibit. As of the date of this decision, Mr. Adams has submitted no such exhibit.

2. Respondent is Aqua Pennsylvania Wastewater, Inc.
3. Aqua provides only wastewater service to the Service Address. Tr. 8, 22.
4. Mr. Adams' water service provider is Pennsylvania American Water Company (Pennsylvania American). Tr. 8, 22.
5. Aqua bills its wastewater customers based on water usage reported by the water service provider. Tr. 26.
6. Aqua receives the water usage report from Pennsylvania American at the beginning of every month. Tr. 36; *see* Aqua Exhibit 2.
7. Aqua bills its wastewater customers soon after it receives the water usage report from Pennsylvania American, usually at the beginning of the month. Tr. 26-27; *see* Aqua Exhibit 2.
8. A normal monthly billing period or billing window is between 26 to 35 days. Tr. 31.
9. According to industry standards, a fixed monthly charge remains unchanged as long as the bill covers between 26 and 35 days of service. Tr. 30.
10. Fixed monthly charges are prorated if the utility is billing outside the normal billing period. Tr. 30-31.
11. The Complainant became an Aqua customer because of the Company's acquisition of the Lower Makefield Township's wastewater assets on March 5, 2022. Tr. 23; Aqua Exhibit 4.

12. By welcome letter dated March 15, 2022, Aqua informed its new wastewater customers of the transition from quarterly to monthly billing. Tr. 44-45; Aqua Exhibit 4.

13. Aqua's March 15, 2022, letter explained that the first Aqua wastewater bill would display the metered usage from the February meter reading date through the March meter reading date, and that Aqua wastewater charges would only apply for days of service beginning March 5, 2022. Tr. 44-45; Aqua Exhibit 4.

14. Complainant's first Aqua bill was dated April 6, 2022, covered a 28-day billing period from February 7, 2022, to March 7, 2022, and showed a total usage of 1,500 gallons. Aqua Exhibit 2.

15. In his April 6, 2022, bill from Aqua, Complainant was charged only for 161 gallons of wastewater consumed during the period March 5 to March 7, 2022. Tr. 44-45; Aqua Exhibit 2; Complainant Exhibit 1.

16. Aqua Pennsylvania Wastewater, Inc.'s Tariff Sewer – PA P.U.C. No. 3 came into effect on May 19, 2022. Tr. 57, 60; Aqua Exhibit 1.

17. The Service Address is located in the Lower Makefield Division and falls under Rate Zone 12 in Aqua's tariff. Tr. 22-23; Aqua Exhibit 1.

18. Per Aqua's Tariff Sewer – PA P.U.C. No. 3, the monthly residential customer charge is \$53.49. Tr. 26; Aqua Exhibit 1.

19. Per Aqua's Tariff Sewer – PA P.U.C. No. 3, the consumption charge is \$4.37 per thousand gallons for the first 3,400 gallons consumed. Tr. 26; Aqua Exhibit 1.

20. After the implementation of a new rate, it is Aqua's practice to issue a combined bill showing only the total amount due for the month. Tr. 47-48, 57, 60; Aqua Exhibit 2.

21. Complainant's Aqua bill dated July 7, 2022, covered the period May 6, 2022, to June 8, 2022, and showed wastewater usage of 1,300 gallons, as well as a "Total Current Sewer Charges" and "Amount Due" of \$59.17. Aqua Exhibit 2.

22. Complainant's Aqua bill dated July 7, 2022, does not include a line item for the "Customer Charge." Aqua Exhibit 2.

23. On August 22, 2022, Pennsylvania American replaced Mr. Adams' water meter. Tr. 14.

24. On September 2, 2022, Aqua issued a bill covering the service period July 8, 2022, to August 8, 2022. Aqua Exhibit 2.

25. Mr. Adams did not get the October 2022 bill from Aqua. Tr. 16.

26. On October 24, 2022, Mr. Adams called Aqua inquiring after his bill. Tr. 16.

27. Following the change of Mr. Adams' water meter, Pennsylvania American performed a rebill for the period July 8, 2022, to September 21, 2022 (75 days). Tr. 34-35; Aqua Exhibits 2 and 3.

28. Upon receiving Pennsylvania American's updated billing, Aqua performed a manual rebill for the period July 8, 2022, to September 21, 2022 (75 days). Tr. 34-35; Aqua Exhibits 2 and 3.

29. Aqua's rebill did not issue until the next billing cycle, on November 9, 2022. Tr. 34-35.

30. On November 9, 2022, Aqua issued Mr. Adams a bill for service from July 8, 2022, through October 7, 2022 (91 days). Aqua Exhibits 2 and 3.

31. Aqua's November 9, 2022, bill references "Customer Charge Sewer at Old Rate" and "Current Sewer Charges at Old Rate" in relation to the rebilling period July 8, 2022, to September 21, 2022 (75 days), but does not specify those dates. Aqua Exhibits 2 and 3.

32. The "Customer Charge Sewer at Old Rate" in Aqua's November 9, 2022, bill consists of the regular Customer Charge of \$53.49 prorated for 75 days, for a total of \$133.73. Tr. 34-35, 54-55; Aqua Exhibits 2 and 3.

33. The "Current Sewer Charges at Old Rate" in Aqua's November 9, 2022, shows a charge of \$3.93 for 900 gallons consumed during the 75-day period. Tr. 34-35, 54-55; Aqua Exhibits 2 and 3.

34. Aqua's November 9, 2022, bill references "Customer Charge Sewer at Current Rate" and "Current Sewer Charges at Current Rate" in relation to the billing period September 21, 2022, to October 7, 2022 (16 days), but does not specify those dates. Tr. 34-35, 54-55; Aqua Exhibits 2 and 3.

35. The "Customer Charge Sewer at Current Rate" in Aqua's November 9, 2022, bill consists of the regular Customer Charge of \$53.49 prorated for 16 days for a total of \$28.53. Tr. 34-35; Aqua Exhibits 2 and 3.

36. The "Current Sewer Charges at Current Rate" in Aqua's November 9, 2022, bill shows a charge of \$4.37 for 1,000 gallons consumed during the 16-day period. Tr. 34-35; Aqua Exhibits 2 and 3.

37. Aqua's November 9, 2022, bill credits Mr. Adams's account for the payment he made on his September 2, 2022, bill. Aqua Exhibits 2 and 3.

38. The Company's bills clearly state the due date in compliance with the Commission's regulations. Tr. 31-32.

39. The Company's bills clearly state the amount due for service rendered during the current billing period. Tr. 32

40. The Company's bills contain the month, date, and year of the bill. Tr. 32.

41. The Company's bills contain the unit of measure and financial amount for the unit of measure. Tr. 32.

#### DISCUSSION

As the proponent of a rule or order, Richard Adams 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, he 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. 66 Pa.C.S. § 701. This must be shown by a preponderance of the evidence. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990). 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). 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*, 413 A.2d 1037 (Pa. 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 to the evidence presented by the Complainant, the Complainant has not satisfied his burden of proof. The Complainant would then 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).

In his Formal Complaint, Mr. Adams alleged that there are incorrect charges in his wastewater bills from Aqua. At the hearing, he proceeded to explain his claim by stating that Aqua issues bills with varied billing periods and missing line items,

sometimes Aqua issues bills for a billing period of 16 days, then bills for a billing period of 75 days or a billing period for 90 days or 91.... And of course, there's a billing period one there for just two days and there's one there for 33 days that the customer service -- customer storage service charge wasn't on the bill at all.

Tr. 16-17.

During the hearing, it became clear that Mr. Adams was referring to his Aqua bills dated April 6, 2022, July 7, 2022, and November 9, 2022. His claims regarding each of these bills will be addressed below.

#### **April 6, 2022, bill**

During his testimony, Mr. Adams pointed to Aqua's April 6, 2022, bill as covering a billing period of only two days. Aqua successfully rebutted Mr. Adam's claim of improper billing by explaining that the Complainant became an Aqua customer because of the Company's acquisition of the Lower Makefield Township's wastewater assets on March 5, 2022.

Tr. 23, Aqua Exhibit 4. By welcome letter dated March 15, 2022, Aqua informed its new wastewater customers of the transition from quarterly to monthly billing. Tr. 44-45, Aqua Exhibit 4. The letter explained that the first Aqua wastewater bill would display the metered usage from the February meter reading date through the March meter reading date, and that Aqua wastewater charges would only apply for days of service beginning March 5, 2022. Tr. 44-45; Aqua Exhibit 4.

Complainant's first Aqua bill, dated April 6, 2022, shows a 28-day billing period from February 7, 2022, to March 7, 2022, and a total usage of 1,500 gallons. Aqua Exhibit 2. The only indication that Mr. Adams was being billed only for the period March 5 to March 7, 2022, is the fact that he was charged only for 161 gallons of wastewater service and not for the total 1,500 gallons of usage. Tr. 44-45; Aqua Exhibit 2; Complainant Exhibit 1.

According to Commission regulation at 52 Pa. Code § 56.2, the billing month is a period of not less than 26 days and not more than 35 days. However, 52 Pa. Code § 56.2(i) allows a new bill for a new customer to be less than 26 days or greater than 35 days. With regard to the information that must be included in a utility bill, Commission regulation at 52 Pa. Code § 56.15 states in pertinent part as follows:

[a] bill rendered by a public utility for metered residential public utility service must state clearly the following information:

- (1) The beginning and ending dates of the billing period.
- (2) If applicable, the beginning and ending meter readings for the billing period. If a bill is estimated, it shall contain a clear and conspicuous marking of the word "Estimated."
- (3) The due date on or before which payment shall be made or the account will be delinquent.
- (4) The amount due for service rendered during the current billing period, specifying the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State sales tax if applicable and other similar charges. The bills should also indicate that a State gross receipts tax is being charged and a

reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).

- (5) Amounts due for reconnection charges.
- (6) Amounts due for security deposits.
- (7) The total amount of payments and other credits made to the account during the current billing period.
- (8) The amount of late payment charges, designated as such, which have accrued to the account of the customer for failure to pay bills by the due date of the bill and which are authorized under § 56.22 (relating to accrual of late payment charges).
- (9) The total amount due.
- (10) A clear and conspicuous marking of estimates.
- (11) A statement directing the customer to “register any question or complaint about the bill prior to the due date,” with the address and telephone number where the customer may initiate the inquiry or complaint with the public utility.
- (12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation, in plain language of the various charges, if applicable, is available for inspection in the local business office of the public utility and on the public utility’s web site.
- (13) A designation of the applicable rate schedule as denoted in the officially filed tariff of the public utility.

52 Pa. Code § 56.15(1)-(13).

While the exact billing period covered by the April 6, 2022, bill is not immediately apparent on the face of the bill, the information provided to Aqua’s new wastewater customer in its March 15, 2022, welcome letter, as well as the information provided under the

“Sewer Charge” line item, indicate that the April 6, 2022, bill covered the period March 5 to March 7, 2022. Being a new bill for a new customer, Aqua’s April 6, 2022, bill does not violate the provisions of 52 Pa. Code § 56.2(i) or 52 Pa. Code § 56.15(1).

**July 7, 2022, bill**

At the hearing, Mr. Adams stated that on one occasion Aqua’s bill was missing the customer service charge. Tr. 16-17. As the hearing progressed it became clear that he was referring to Aqua’s July 7, 2022, bill. Complainant’s Aqua bill dated July 7, 2022, covering the period May 6, 2022 to June 8, 2022, shows wastewater usage of 1,300 gallons, as well as a “Total Current Sewer Charges” and “Amount Due” of \$59.17. Aqua Exhibit 2. The bill does not include a line item for the “Customer Charge.” Aqua Exhibit 2.

To rebut Mr. Adams’ claims, Aqua’s witness, Mr. Geddis testified that Aqua Pennsylvania Wastewater, Inc.’s Tariff Sewer – PA P.U.C. No. 3 came into effect on May 19, 2023. Tr. 57, 60; Aqua Exhibit 1. He explained that after the implementation of a new rate, it is Aqua’s practice to issue a combined bill showing only the total amount due for the month. Tr. 47-48, 57, 60; Aqua Exhibit 2. The July 7, 2022, bill was the first bill Aqua issued after the implementation of the new tariff and shows only the total amount due for the month but no customer charge. Mr. Geddis maintained that the Commission is aware of this Aqua practice. Tr. 48. However, he failed to point out the Commission order(s) approving or acquiescing to this practice.

Pursuant to section 1509 of the Pennsylvania Public Utility Code (66 Pa.C.S. §§ 101–3316), “All bills shall be itemized to separately show amounts for basic service, Federal excise taxes, applicable State sales and gross receipts taxes, to the extent practicable, fuel adjustment charge, if any, State tax adjustment charge or such other similar components of the total bill as the commission may order.” 66 Pa.C.S. § 1509. In addition, 52 Pa. Code §§ 56.15, states that a bill rendered by a public utility for metered residential public utility service must state clearly,

[t]he amount due for service rendered during the current billing period, specifying **the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State sales tax if applicable and other similar charges.** The bills should also indicate that a State gross receipts tax is being charged and a reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).

52 Pa. Code §§ 56.15(4) (Emphasis added). Commission regulation at 52 Pa. Code § 62.74(B)(3)(iii) explains exactly what the “charge for basic service” in 52 Pa. Code §§ 56.15(4) means: “Customer charge or basic charge (charge for basic service in § 56.15 (relating to billing information)).” 52 Pa. Code § 62.74(B)(3)(iii). According to 52 Pa. Code § 62.74(B)(3), the customer charge is separate and distinct from commodity or distribution charges (in the case of a natural gas supplier) or the consumption charge in case of Aqua (see Aqua Exhibit 1). Neither the Commission’s regulation at section 56.15 or 62.74 contains the exception that Mr. Geddis described with regard to bills issued immediately after the implementation of a new rate. Nor was such an exception included in Aqua’s Commission-approved tariff. In view of the above, I find that Mr. Adams has successfully carried his burden of proving that Aqua’s July 7, 2022, bill violated the provisions of 52 Pa. Code §§ 56.15 regarding the information included in a bill.

### **November 9, 2022**

At the hearing, Mr. Adams testified that Aqua sometimes issues bills for billing periods that vary from 16 days, 75 days, or 91 days. During the hearing, the parties were able to clarify that all these days concern a single bill, the one Aqua issued on November 9, 2022. Mr. Adams testified that on August 22, 2022, Pennsylvania American replaced his water meter. Tr. 14. On September 2, 2022, Aqua issued a bill covering the service period July 8, 2022, to August 8, 2022. Aqua Exhibit 2. Mr. Adams did not get an October 2022 bill from Aqua. Tr. 16. On October 24, 2022, he contacted Aqua inquiring after his October bill. Tr. 16. Mr. Adams did not get a bill from Aqua until November of 2022, covering a period of 91 days.

Aqua's November 9, 2022, bill covered the period from July 8, 2022, through October 7, 2022 (91 days). Aqua Exhibit 2. Aqua's November 9, 2022, bill references "Customer Charge Sewer at Old Rate" and "Current Sewer Charges at Old Rate" in relation to the rebilling period July 8, 2022, to September 21, 2022 (75 days), but does not specify those dates. Aqua Exhibits 2 and 3. The "Customer Charge Sewer at Old Rate" consists of the regular Customer Charge of \$53.49 prorated for 75 days, for a total of \$133.73. Tr. 34-35, 54-55; Aqua Exhibits 2 and 3. The "Current Sewer Charges at Old Rate" shows a charge of \$3.93 for 900 gallons consumed during the 75-day period. Tr. 34-35, 54-55; Aqua Exhibits 2 and 3.

In addition, Aqua's November 9, 2022, bill references "Customer Charge Sewer at Current Rate" and "Current Sewer Charges at Current Rate" in relation to the billing period September 21, 2022, to October 7, 2022 (16 days), but does not specify those dates. Tr. 34-35, 54-55; Aqua Exhibits 2 and 3. The "Customer Charge Sewer at Current Rate" in Aqua's November 9, 2022, bill consists of the regular Customer Charge of \$53.49 prorated for 16 days for a total of \$28.53. Tr. 34-35; Aqua Exhibits 2 and 3. The "Current Sewer Charges at Current Rate" shows a charge of \$4.37 for 1,000 gallons consumed during the 16-day period. Tr. 34-35; Aqua Exhibits 2 and 3.

Mr. Geddis explained that Aqua's November 9, 2022, bill credits Mr. Adams's account for the payment he made on his September 2, 2022, bill. Aqua Exhibits 2 and 3. He testified that the November 9, 2022, bill is correct as rendered. Tr. 34-35.

Notably, the breakdown into 75 days and 16 days, and the exact dates those two periods entail, is clear only in Aqua Exhibit 3, which contains two mock bills created by Aqua in preparation for the hearing. The two mock bills in Aqua Exhibit 3 were never sent to the Complainant prior to the filing of the Complaint. *See* Tr. 57.

Mr. Geddis explained that the November 9, 2022, bill was an anomaly that resulted from Pennsylvania American's changing of Mr. Adams' water meter and issuing a rebill. Tr. 34. He stated that such events (meter changes and rebills from the water company) do not happen often and in this case, it only affected one customer. Tr. 34-35. For its part,

Mr. Geddis explained that Aqua has taken measures to prevent another occurrence like Mr. Adams' November 9, 2022, bill. According to Mr. Geddis, the Company has put into place steps to ensure that a rebill is issued the day after it is calculated. Tr. 35, 56.

While I find that the lack of proper breakdown of pre- and post-rebilling periods, as well as the use of terms such as "Customer Charge Sewer at Old Rate" and "Current Sewer Charges at Current Rate" in the November 9, 2022, bill confusing, I do not find that the bill itself violated the provisions of 52 Pa. Code § 56.15 (concerning billing information) or any other Commission Statute, regulation, or order.

To summarize, I find that the Complainant failed to prove by a preponderance of the evidence that the Respondent's April 6, 2022 and November 9, 2022 bills violated a Commission statute, regulation or order. The portion of Mr. Adams' Complaint concerning his April 6, 2022, and November 9, 2022, bills is denied. However, the Complainant successfully proved by a preponderance of the evidence that Aqua's July 7, 2022, bill violated the provisions of 52 Pa. Code § 56.15.

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. 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 conduct at issue, Aqua's failure to list customer charges separately from consumption charges in its first bill issued after the implementation of a new rate, is more of an administrative error than a willful misrepresentation in nature. The resulting consequences of

Aqua's failure are also less egregious. There was no personal injury or property damages in this case, and the bill information at issue did not affect the calculation of charges in the July 7, 2022 bill. Next, Aqua's failure to list customer charges appears to be the result of negligence. Mr. Geddis testified that the issuance of "combined bills" after the implementation of a new rate is standard practice for Aqua and maintained that the Commission is aware of this Aqua practice. Tr. 48. Clearly, Aqua has made no efforts to modify its internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. This practice affects all of Aqua's customers every time Aqua implements a new rate.

The record contains no information with regard to Aqua's compliance history and 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 collected in this matter, I conclude that a civil penalty in the amount of \$1,000 is appropriate to deter future violations of this nature and to draw the Company's attention to the need for a review of its current bill itemization to incorporate the information contained in 52 Pa. Code § 56.15. *See Berger v. PECO Energy Co.*, Docket No. C-00992680 (Final Order entered May 9, 2000); *Rounce v. PECO Energy Co.*, Docket No. C-2015-2506941 (Opinion and Order entered Dec. 9, 2016).

Within 30 days of the Commission's Final Order in this case, Aqua shall pay a civil penalty in the amount of \$1,000.00 by submitting a certified check or money order payable to the Commonwealth of Pennsylvania. In addition, Aqua shall cease and desist from further violations of the Public Utility Code, 66 Pa.C.S. §§ 101–3316, and the regulations of the Pennsylvania Public Utility Commission, 52 Pa. Code §§ 1.1–1065.1.

## CONCLUSIONS OF LAW

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

2. As the proponent of a rule or order, the Complainant bears the burden of proof. 66 Pa.C.S. § 332(a).

3. To satisfy the burden of proof, the Complaint must demonstrate by the preponderance of the evidence 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. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990).

4. 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. Cmwlt. 1990).

5. 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*, 413 A.2d 1037 (Pa. 1980).

6. 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. Cmwlt. 2001).

7. The billing month is a period of not less than 26 days and not more than 35 days. 52 Pa. Code § 56.2.

8. A new bill for a new customer may be less than 26 days or greater than 35 days. 52 Pa. Code § 56.2(i).

9. A bill rendered by a public utility for metered residential public utility service must state clearly the following information:

- (1) The beginning and ending dates of the billing period.
- (2) If applicable, the beginning and ending meter readings for the billing period. If a bill is estimated, it shall contain a clear and conspicuous marking of the word “‘Estimated.’”
- (3) The due date on or before which payment shall be made or the account will be delinquent.
- (4) The amount due for service rendered during the current billing period, specifying the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State sales tax if applicable and other similar charges. The bills should also indicate that a State gross receipts tax is being charged and a reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).

52 Pa. Code §§ 56.15.

10. The “charge for basic service” in 52 Pa. Code § 56.15(4) refers to the “Customer charge or basic charge.” 52 Pa. Code § 62.74(B)(3)(iii).

11. 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.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Richard Adams against Aqua Pennsylvania Wastewater, Inc. at Docket No. C-2022-3036961 is denied, in part, and granted, in part.

2. That the Formal Complaint filed by Richard Adams against Aqua Pennsylvania Wastewater, Inc. at Docket No. C-2022-3036961 is denied, in part, with regard to his claims concerning the bills issued on April 6, 2022, and November 9, 2022.

3. That the Formal Complaint filed by Richard Adams against Aqua Pennsylvania Wastewater, Inc. at Docket No. C-2022-3036961 is granted, in part, with regard to his claims concerning the bill issued on July 7, 2022.

4. That Aqua Pennsylvania Wastewater, Inc. shall pay a civil penalty in the amount of One Thousand Dollars (\$1,000.00) 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:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

5. That, if Aqua Pennsylvania Wastewater, Inc. fails to make the civil penalty payment within thirty (30) days from the entry of the Final Commission Order, the Bureau of

Administrative Services, Assessment Section, shall refer this matter to the Pennsylvania Office of Attorney General for collection of the total set forth above and appropriate action.

6. That Aqua Pennsylvania Wastewater, Inc. shall cease and desist from further violations of the Public Utility Code, 66 Pa.C.S. §§ 101–3316, and the regulations of the Pennsylvania Public Utility Commission, 52 Pa. Code §§ 1.1–1065.1.

7. That the Secretary mark this docket closed.

Date: May 31, 2023

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/s/  
Eranda Vero  
Administrative Law Judge