

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                        |   |                |
|------------------------|---|----------------|
| Dara Bright            | : |                |
|                        | : |                |
| v.                     | : | C-2022-3037192 |
|                        | : |                |
| Philadelphia Gas Works | : |                |

**INITIAL DECISION**

Before  
Christopher P. Pell  
Deputy Chief Administrative Law Judge

**INTRODUCTION**

This Initial Decision denies the Complaint of Dara Bright because she failed to meet her burden of proving that PGW did not bill her for gas service at the service address, or that PGW provided her with inadequate or unreasonable service.

**HISTORY OF THE PROCEEDING**

On December 6, 2022, Dara Bright (Complainant) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW, Respondent or the Company) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant alleged that PGW failed to bill her while she resided at 5117 Pine Street (service address) between May 2021 and August 2022 even though she contacted them on multiple occasions to request a bill. The Complainant further alleged that when she called PGW to close her account, PGW did not mention an outstanding bill for service at the service address. Lastly, the Complainant alleged that PGW issued her a bill for \$1,291.20 in November 2022 covering the duration of time she resided at the service address. As relief, the Complainant requested that PGW stop pursuing collection action and

waive the amount due.<sup>1</sup> The Complainant also requested that PGW be investigated for predatory billing practices.

On December 29, 2022, the Respondent filed an Answer indicating: that the Complainant established gas service at the service address on May 1, 2021; that she requested service cancellation on August 2, 2022; and that service was taken out of her name that same day. Additionally, the Respondent denied that the Complainant contacted PGW at any time between May 1 2021 and August 2, 2022 to inform the Company that she was not receiving gas bills.

By Initial Telephonic Hearing Notice dated January 4, 2023, an initial call-in telephonic hearing was scheduled for February 21, 2023 at 1:30 p.m., and the matter was assigned to me.

I issued a Prehearing Order on January 9, 2023. The Prehearing Order also advised the parties of the date and time of the scheduled hearing. Additionally, the Prehearing Order directed the parties to comply with various procedural requirements and also 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 21, 2023. The Complainant appeared *pro se* and testified. The Respondent appeared and was represented by Graciela Christlieb, Esq., who presented the testimony of Jessica Glace, a PGW Senior Customer Review Officer. The Respondent submitted three exhibits, all of which were admitted into the record (PGW Exhs. 1-3).

The record closed on March 20, 2023, the date the transcript was filed with the Commission.

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<sup>1</sup> During the February 21, 2023 evidentiary hearing, the Complainant orally amended her Complaint to retract her request for a wavier of the amount she owes to PGW. Tr. 6-7, 20.

## FINDINGS OF FACT

1. The Complainant in this case is Dara Bright.
2. The Respondent in this case is Philadelphia Gas Works.
3. The Complainant currently resides at 1826 North Newkirk Street in Philadelphia. Tr. 11-12.
4. The Complainant's Complaint concerns gas service to 5117 Pine Street, Apartment 2 in Philadelphia (service address). Tr. 12.
5. Prior to living at the service address, the Complainant lived at 120 North 50<sup>th</sup> Street in Philadelphia (North 50<sup>th</sup> Street Address). Tr. 30; PGW Exh. 1.
6. On May 19, 2020, the Complainant contacted PGW and requested gas service at the North 50<sup>th</sup> Street Address. Tr. 30; PGW Exh. 1.
7. On June 30, 2020, the Complainant contacted PGW to advise that she had not received a bill for service at the North 50<sup>th</sup> Street Address. Tr. 30; PGW Exh. 1.
8. PGW removed an alternate mailing address from the Complainant's account and resent the bill to the Complainant. Tr. 30; PGW Exh. 1.
9. On July 10, 2020, the Complainant contacted PGW to advise that she still had not yet received a bill and also to find out her account number. Tr. 30; PGW Exh. 1.
10. PGW provided the Complainant with her account number. Tr. 30; PGW Exh. 1.

11. The Complainant moved into the service address in May 2021 and resided there until August 2022. Tr. 12-13.

12. On August 4, 2021, the Complainant contacted PGW to request gas service at the service address. Tr. 32-33; PGW Exh. 1.

13. The Complainant informed PGW during this call that she had been at this location since May 2021. Tr. 32-33; PGW Exh. 1.

14. PGW informed the Complainant that she would be back-billed for gas service to May 2021. Tr. 33; PGW Exh. 1.

15. On August 2, 2022, the Complainant contacted PGW to request termination of service and to close her account. Tr. 18, 33.

16. During the August 2, 2022 call, the Complainant provided PGW with her updated mailing address. Tr. 20, 33; PGW Exh. 1.

17. During the period when the Complainant resided at the service address, the Complainant did not contact PGW to inform the Company that she was not receiving bills. Tr. 33.

18. The Complainant never initiated a dispute with PGW's Dispute Resolution Unit regarding her claims of not receiving gas bills. Tr. 35.

19. The Complainant did not make any payments to PGW while she resided at the service address. Tr. 16-17.

20. PGW ceased collection activity during the period the Complainant resided at the service address due to a Public Utility Commission Emergency Order<sup>2</sup> issued in response to the COVID-19 pandemic. Tr. 41-42.

21. Although the Complainant was not paying her bills, PGW did not issue her any termination notices due to the Emergency Order. Tr. 41-42.

22. The Complainant's account balance totals \$1,291.20. Tr. 37; PGW Exh. 3.

23. The Complainant previously registered to receive her bills on-line. Tr. 36; PGW Exh. 2.

24. In August 2021, PGW created a new online portal for customers. Tr. 38, 46.

25. Customers who had access to the old online portal would have had to reregister for the new online portal provided by PGW. Tr. 38.

26. PGW notified its customers of this change through bill inserts, on the PGW website, and on the log-in page for the old online portal. Tr. 38, 48.

27. PGW issued paper bills to any customer previously registered for the old online portal who did not register for the new online portal. Tr. 39-40.

28. The Complainant did not register for the new online portal. Tr. 38-39.

29. PGW issued paper bills to the Complainant at the service address. Tr. 40-41.

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<sup>2</sup> *Public Utility Service Termination Moratorium Proclamation of Disaster Emergency-COVID-19*, Docket No. M-2020-3019244 (Emergency Order Revised and Ratified on March 18, 2020, Effective April 1, 2021).

30. PGW did not receive any indication that the Complainant was not receiving paper bills, nor does PGW have any record of the Complainant contacting the Company to report that she was not receiving bills. Tr. 39.

31. The Complainant never asked PGW about her online account, nor did she ever inform PGW that she was experiencing any issues with the online portal. Tr. 49-50.

### 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. Cmwlth. 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. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 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 Rev.*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. 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).

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 alleged that, for the duration of time she resided at the service address, PGW failed to bill her for her gas service, even though she alerted PGW that she was not receiving any gas bills. The Complainant further alleged that, although she was admittedly not paying her bills, PGW never took any action to terminate her service. The Complainant has raised a claim of inadequate or unreasonable service.

PGW is required by law to provide the Complainant with adequate and reasonable service. Section 1501 of the Public Utility Code, 66 Pa.C.S. § 1501, provides, in relevant part:

**§1501. Character of service and facilities**

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission.

66 Pa.C.S. § 1501.

Interpreting this provision in *West Penn Power Co. v. Pa. Pub. Util. Comm'n*, 478 A.2d 947 (Pa. Cmwlth. 1984), the Commonwealth Court stated:

We hold that in order for the PUC to sustain a complaint brought under this section, the utility must be in violation of its duty under this section. Without such a violation by the utility, the PUC does not have the authority, when acting on a customer's complaint, to require any action by the utility. (footnote omitted).

*West Penn Power*, 478 A.2d at 949.

The statutory definition of “service” is to be broadly construed.<sup>3</sup> *Country Place Waste Treatment Co., Inc. v. Pa. Publ. Util. Comm’n*, 654 A.2d 72 (Pa. Cmwlth. 1995). In applying the facts to the law, the issue becomes whether PECO's actions as described in the Complaint rise to the level of inadequate service that constitutes a violation of the Public Utility Code.

The Complainant testified that she notified PGW that she was not receiving bills for gas service at the service address. However, the Complainant did not offer anything beyond her own testimony to demonstrate that PGW was not billing her for service at the service address. “Mere bald assertions ... do not constitute evidence.” *Mid-Atlantic Pow. Sup. Ass'n of Pa. v. Pa. Pub. Util. Comm’n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000) (citing *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987)); see also, *Steffy's Pattern Shop v. Frontier Commc'ns of Pa., Inc.*, Docket No. R-00994808 (Opinion and Order entered Mar. 3, 2000). Contrary to the Complainant's testimony, the record reflects that the Complainant did not contact PGW at any time to advise that she was not receiving bills while she resided at the service address. Instead, the record reflects that the Complainant only called PGW to report that she wasn't receiving bills in relation to a prior address, not the service address.

Additionally, although the Complainant alleged that PGW should have taken some action to terminate her service since she wasn't paying her bills, the record reflects that PGW ceased collection activity during this time due to a Public Utility Commission Emergency

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<sup>3</sup> “‘**Service.**’ Used in its broadest and most inclusive sense, includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities ... in the performance of their duties under this part to their patrons, employees, other public utilities, and the public, as well as the interchange of facilities between two or more of them[.]” 66 Pa.C.S. § 102 (emphasis original).



Order<sup>4</sup> issued in response to the COVID-19 pandemic. Since PGW was acting in accordance with the Commission's Emergency Order, I cannot conclude that PGW acted inappropriately by not taking action to terminate the Complainant's gas service for her failure to pay for gas service at the service address.

Accordingly, the Complainant's Complaint is denied in its entirety.

### 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. "Mere bald assertions ... do not constitute evidence." *Mid-Atlantic Power Supply Ass'n of Pa. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000) (citing *Pa. Bureau of Cor. v. City of Pittsburgh*, 516 Pa. 75, 532 A.2d 12 (1987)); *see also, Steffy's Pattern Shop v. Frontier Commc'ns of Pa., Inc.*, Docket No. R-00994808 (Opinion and Order entered Mar. 3, 2000).

5. Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service. 66 Pa.C.S. § 1501.

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<sup>4</sup> *Public Utility Service Termination Moratorium Proclamation of Disaster Emergency-COVID-19*, Docket No. M-2020-3019244 (Emergency Order Revised and Ratified on March 18, 2020, Effective April 1, 2021).

6. The Complainant did not meet her burden of proving that PGW provided her with unreasonable or inadequate service. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Dara Bright at Dara Bright v. Philadelphia Gas Works, Docket No. C-2022-3037192 is denied; and
2. That the docket at Docket No. C-2022-3037192 be marked closed.

Date: June 14, 2023

\_\_\_\_\_/s/\_\_\_\_\_  
Christopher P. Pell  
Deputy Chief Administrative Law Judge