

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Ernestine Crankfield	:	
	:	
v.	:	C-2022-3032813
	:	
UGI Utilities, Inc.– Gas Division	:	

INITIAL DECISION

Before
Dennis J. Buckley
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Formal Complaint (Complaint) filed by Ernestine Crankfield (Complainant) against UGI Utilities Inc.- Gas Division (UGI, Company or Respondent) in which Complainant alleged misbilling by UGI. Complainant did not show by a preponderance of the evidence that UGI misbilled her or violated any provision of the Public Utility Code (Code) or the rules and regulations of the Commission. Complainant’s request for modification of her present payment agreement is denied.

HISTORY OF THE PROCEEDING

On June 7, 2022, Complainant filed a Formal Complaint against UGI alleging that UGI misbilled her.

On June 24, 2022, UGI filed an Answer to the Complaint denying that it had misbilled Complainant or that it had violated any provision of the Code or the rules and regulations of the Commission.

On June 28, 2022, a Notice of telephonic hearing was issued setting August 23, 2022, as the date for the hearing.

On June 29, 2022, a standard form prehearing Order was issued to the parties.

On July 7, 2022, a rescheduled hearing Notice was issued to the parties setting September 22, 2022, as the date for a rescheduled hearing.

An Initial Telephonic Hearing in the above-captioned case convened on September 22, 2022, pursuant to Notice. The hearing was attended by Complainant, Larry R. Crayne, Esquire, counsel on behalf of UGI and UGI's witness, Ms. Amy Wynn. Complainant, however, was not prepared to go forward with the presentation of her case because she had not pre-served her proposed exhibits. An Order was issued continuing the hearing. A nineteen-page hearing transcript was filed on September 27, 2022.

On November 29, 2022, a rescheduled hearing Notice was issued to the parties setting February 9, 2023, as the date for a rescheduled hearing.

On February 8, 2023, a hearing Notice was issued to the parties cancelling the hearing scheduled for February 9, 2023, due to ongoing problems related to Complainant's service of proposed hearing exhibits.

On March 9, 2023, a rescheduled hearing Notice was issued to the parties rescheduling the evidentiary hearing in this matter to April 14, 2023, again due to ongoing problems related to access to Complainant's proposed hearing exhibits.

On April 12, 2023, a rescheduled hearing Notice was issued to the parties rescheduling the evidentiary hearing in this matter for May 16, 2023, again due to ongoing problems related to service of Complainant's proposed hearing exhibits.

On May 16, 2023, a further telephonic evidentiary hearing convened. Complainant provided testimony and the following exhibits were received into evidence: Complainant's Exhibits A-1 to A-4, Billing Statements; Complainant's Exhibit A-5, Final Bill; Complainant's Exhibit A-6 to A-10, Billing Information; Complainant's Exhibit A-11, Balance Transfer; Complainant's Exhibit AA-4, Receipt for \$164; Complainant's Exhibit B-1, List of Payments; Complainant's Exhibit B-2, Payment Document; Complainant's Exhibit B-5, Payment Document; Complainant's Exhibit B-9, AR Statement; Complainant's Exhibit B-15, Payments on Account. Larry R. Crayne, Esquire, appeared on behalf of UGI and presented the testimony of Ms. Amy Wynn, a Senior Compliance Representative employed by UGI, and the following exhibits were received into evidence: UGI Exhibit R-1, Statement of Account; UGI Exhibit R-2, Billing Statement; UGI Exhibit R-3, Payment Arrangement History; UGI Exhibit R-4, Letter of October 26, 2020, from Ms. Wynn to Complainant; UGI Exhibit R-5, Summary of BCS Determination in Case No.3818061; UGI Exhibit R-6, Summary of BCS Determination in Case No. 3828506. A transcript was compiled consisting of pages 20-90, and was filed on June 7, 2023, but the record remained open pending receipt of the parties' entered exhibits by the court reporter and subsequent filing with the Secretary of the Commission.

On August 15, 2023, the court reporter filed the exhibits of the parties with the Secretary of the Commission. The record closed on that date.

For the reasons set forth below, Complainant did not establish by a preponderance of the evidence that UGI violated any provision of the Code or the rules and regulations of the Commission. Complainant was not misbilled, nor is she due any adjustment of her account. Complainant is, therefore, to abide by the terms of her payment arrangement.

FINDINGS OF FACT

1. Ernestine Crankfield, a residential natural gas customer of UGI Utilities, Inc., is the Complainant in this case.

2. UGI Utilities, Inc., a Commission-jurisdictional natural gas distribution company, is the Respondent.

3. Complainant's service address is 1813 Boas Street, Harrisburg, PA. Tr. at 25.

4. The Complaint in this case also encompasses service at Complainant's prior address, 337 South 15th Street, Harrisburg, PA, Account No. *****0638. Tr. at 25.

5. Complainant disputes the transfer of a balance from one account to another in December, 2019, when Complainant moved from 337 South 15th Street, Harrisburg to 1813 Boas Street, Harrisburg and maintains that her bills are inaccurate and thus the amount she owes to UGI for service should be modified. Tr. at 25-28; 34-35.

6. Complainant has an existing Commission-directed payment arrangement as the result of a determination of the Commission's Bureau of Consumer Services in Case No. 3828506. UGI Exhibit R-3.

7. Complainant denied ever requesting a payment arrangement with UGI and claimed that she declined considering a payment arrangement for the disputed amount. Tr. at 43.

8. Amy Wynn is a Senior Compliance Representative employed by UGI, and she reviewed Complainant's records with UGI in preparation for the hearing. Tr. at 51-52.

9. UGI Exhibit R-1 is a Statement of Account for Complainant's natural gas service. Tr. at 52-53.

10. UGI established natural gas service for Complainant at 1813 Boas Street on December 20, 2019. Tr. at 54; UGI Exhibit R-1.

11. The total amount due on Complainant's account as of the date of the hearing in this matter was \$4,800.69. Tr. at 54; UGI Exhibit R-1.

12. A prior balance of \$678.29 was transferred from Complainant's account deriving from service at her previous address, 337 South 15th Street, Harrisburg, PA. Tr. at 54; UGI Exhibit R-1.

13. UGI Exhibit R-2 is a Billing Statement from March 10, 2023, to April 6, 2023. Tr. at 55.

14. UGI Exhibit R-3 is a Payment Arrangement History. Tr. at 57.

15. On April 8, 2022, Complainant entered into a payment arrangement established by the Bureau of Consumer Services (BCS). Tr. at 57; UGI Exhibit R-3.

16. The present Complaint is an indirect request by Complainant to revise the April 8, 2022, payment agreement by making adjustments to the amount she owes UGI. Tr. at 57.

17. Complainant had a payment arrangement on October 27, 2020, which was a Company arrangement and a Commission arrangement as the result of a formal complaint case in October 1, 2019, at *Crankfield v. UGI Utilities, Inc. – Gas*, Docket No. F-2019-3011782. Tr. at 58; UGI Exhibit R-3.

18. Complainant previously agreed to a company payment arrangement on April 29, 2021, which was broken. Tr.at 57; UGI Exhibit R-3.

19. Complainant has broken each of the payment arrangements that she entered into with UGI. UGI Exhibit R-3.

20. UGI Exhibit R-4 is a four-page utility report/letter from UGI to Complainant dated October 26, 2020, with respect to Complainant's balance transfer from 337 South 15th Street in Harrisburg. Tr. at 58.

21. UGI Exhibit R-5 is a BCS Determination dated January 11, 2022, at Case No. 3818061. Tr. at 62-63.

22. UGI Exhibit R-6 is a BCS Determination dated April 8, 2022, at Case No. 3828506. Tr. at 63.

23. At the hearing, UGI asked that Complainant pay \$1,253 to catch up to the requirements of the most recent BCS informal agreement, due June 1, 2023. Tr. at 65.

24. In UGI's billing system, there are payments and adjustments, and they are shown separately in customer billing records; these are distinct entries and are not the same thing. Tr. at 65-66; 77.

25. If a customer sends a payment to UGI, it is recorded as a payment. Tr. at 66.

26. UGI converted to a new computerized billing system in September, 2017. Tr. at 69.

27. Complainant claims that as a result of her move, \$950 was incorrectly added to her account by UGI.

28. Complainant received credit for \$950.07 from the September 7, 2019 to October 7, 2019, billing period, and that amount was not added back into her bill when she transferred service. Tr. at 64; UGI Exhibit R-4.

29. UGI applied the courtesy credit of the \$950.07 to Complainant's account, which resulted in an outstanding balance of \$769.31. Tr. at 58-59; UGI Exhibit R-4.

30. Complainant also alleged that she had not received credit for a \$164 payment to UGI by money order. Tr. at 31, 37.

31. The \$164 payment at issue was received by UGI on September 29, 2020, and was applied to Complainant's account. Tr. at 60; UGI Exhibit R-4.

32. Complainant contends that the \$164 payment adjustment reflected in the account was not a credit but was an entirely different \$164 payment. Tr. at 46-47.

DISCUSSION

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. 66 Pa.C.S. § 332(a). To satisfy this burden, the Complainant must demonstrate that Respondent was responsible for the problems alleged in her Complaint through a violation of the Public Utility Code or a regulation or order of the Commission. This must be shown by a preponderance of the evidence. 66 Pa.C.S. §701; *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 findings of fact must be supported by "substantial evidence," which consists of evidence that a reasonable mind might accept as adequate to support a conclusion. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980). A "mere trace of evidence or a suspicion of the existence of a fact" is insufficient. *Lyft, Inc. v. Pa. Pub. Util. Comm'n*, 145 A.3d 1235, 1240 (Pa. Cmwlth. 2016).

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 now

has to provide some 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).

This dispute stems from an allegation by the Complainant that she has been misbilled/overbilled by UGI. Misbilling, if proved by a preponderance of the evidence, could constitute a violation of Section 1501 of the Public Utility Code which states, in pertinent part:

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.

The statute at 66 Pa.C.S. § 1501 governs any allegations of unreasonable or inadequate service. Pursuant to 66 Pa.C.S. § 1501, the Commission has original jurisdiction over the reasonableness and adequacy of public utility service. *Elkin v. Bell Tel. Co. of Pa.*, 372 A.2d 1203 (Pa. Super. 1977) *aff'd*, 420 A.2d 371 (Pa. 1977); *Behrend v. Bell Tel. Co. of Pa.*, 243 A.2d 346 (Pa. 1968). As a general proposition, neither the Public Utility Code nor the Commission's regulations require public utilities to provide constantly flawless service. The Public Utility Code at 66 Pa.C.S. § 1501 does not require perfect service or the best possible service but does require public utilities to provide reasonable and adequate service. *Analytical Lab'y Servs., Inc. v. Metro. Edison Co.*, Docket No. C-20066608 (Opinion and Order entered December 21, 2007);

Emerald Art Glass v. Duquesne Light Co., Docket No. C-00015494 (Opinion and Order entered June 14, 2002); *Re: Metropolitan Edison Co.*, 80 Pa.P.U.C. 662 (1993).

Misbilling is arguably a failure to provide adequate and reasonable service.

In her Complaint, the Complainant alleged that UGI misbilled her, but provided no further details. This matter has, however, been an ongoing controversy between Complainant and UGI for some time, the focal point of the current controversy being Complainant's bills after she moved from 337 South 15th Street, Harrisburg, PA to 1813 Boas Street, Harrisburg, PA. A balance of \$678.29 was transferred from Complainant's account at her prior address to her present service address. Tr. at 54; UGI Exhibit R-1. As near as may be determined from Complainant's testimony at hearing, the amounts in controversy are a \$950 adjustment to Complainant's account and a \$164 payment. Complainant maintains that these amounts were either not properly posted to her account or were posted but then added back by UGI. Tr. at 26-28, 30-31, 33-37.

UGI's witness, Ms. Amy Wynn, a Senior Compliance Representative employed by UGI, whose testimony I find credible, explained how UGI arrived at her current balance owed at that time for services at 1813 Boas Street:

I do explain to her in this letter [UGI Exhibit R-4, a letter from Ms. Wynn to Complainant dated October 26, 2020] how UGI applied a courtesy credit of the \$950.07 to her account, which resulted in an outstanding balance of \$769.31, which was a result of the prior formal complaint filed under Docket F-2019-3011782 in which she agreed to monthly payment arrangement for \$98 a month.

I did also explain that was reflected on her prior account number for services at 337 South 12 15th Street for her billing period from September 7, 2019 to October 7 of 2019, as she mentioned in her letter.¹

Tr. at 59, UGI Exhibit R-4.

¹ Ms. Wynn's letter of October 26, 2020, UGI Exhibit R-4, explains UGI's actions relative to Complainant's account in great detail. Of course, the burden in this matter is not on UGI to prove that it made no error.

Complainant's belief that UGI must credit her account for \$950 is based on Complainant's misunderstanding of her bills. She did not show by a preponderance of the evidence that UGI made an error in her billing.

Complainant also alleged that she had not received credit for a \$164 payment to UGI by money order, but again did not provide evidence that this had occurred. Tr. at 31, 37. Contrary to UGI's explanation, Complainant contended that the \$164 payment adjustment reflected in the account was not a credit but was an entirely different \$164 payment. Tr. at 46. Complainant provided no evidence to support this assertion. Mere opinion, without more, is insufficient to meet the Complainant's burden. *Kirby v. PPL Elec. Utils. Corp.*, Docket No. C-20066297 (Final Order entered Nov. 16, 2006) (citing *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (1987)). Bald assertions, personal opinions or perceptions do not constitute evidence. *Rivera v. Phila. Gas Works*, Docket No. C-2010-2164222 (Opinion and Order entered Jan. 12, 2012) (citing *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987)).

According to Ms. Wynn, the \$164 payment at issue was received by UGI on June 24, 2020. Tr. at 60; Complainant's Exhibit AA-4. Whether that entry is termed a payment or a payment adjustment, it is clear that Complainant received credit on her account for that amount.

More by inference than by her direct pleading, I conclude that Complainant is essentially requesting modification of her Commission-established payment arrangement which was the subject of Bureau of Consumer Services (BCS) Case No. 3802506, which itself was the subject of the Complaint at Docket No. F-2019-3011782, which was settled. In neither of those proceedings was it established that Complainant had been misbilled.² Likewise, the BCS Determination at Case No. 3818061 which upholds a payment arrangement, was presented by UGI as its Exhibit R-6, and this explains why Counsel for UGI asked in his closing argument that Complainant be directed to comply with the terms of Commission-established payment arrangement as well as asking that the Complaint be dismissed.³ Tr. at 85.

² Neither the BCS Cases nor this proceeding reflects the assertion by Complainant of a change in circumstances. This matter is strictly a billing dispute.

³ Complainant has a history of broken payment arrangements. *See*, UGI Exhibit 3.

Complainant did not demonstrate by a preponderance of the evidence that any error had been made by UGI in its billing or that her underlying payment arrangement is flawed thereby, and her Complaint must be dismissed.

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. To satisfy this burden, the Complainant must demonstrate that Respondent was responsible for the problems alleged in her Complaint through a violation of the Public Utility Code or a regulation or order of the Commission; this must be shown by a preponderance of the evidence. 66 Pa.C.S. §701; *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990).

4. Complainant has failed to demonstrate by a preponderance of the evidence that Respondent violated a provision of the Code or a regulation of the Commission, or that the Commission should exercise its discretion and direct a further payment arrangement, and so this Complaint must be dismissed. 66 Pa.C.S. § 332(a); *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990).

