

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Daniel Skvarla	:	
	:	
v.	:	C-2023-3039555
	:	
Columbia Gas of Pennsylvania, Inc.	:	

INITIAL DECISION

Before
Emily I. DeVoe
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Formal Complaint filed by Daniel Skvarla against Columbia Gas of Pennsylvania, Inc., due to Complainant’s failure to meet his burden of proof.

HISTORY OF THE PROCEEDING

On March 31, 2023, Daniel Skvarla (Complainant or Mr. Skvarla) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Columbia Gas of Pennsylvania, Inc. (Respondent, Company, or Columbia). Mr. Skvarla used the Commission’s standard Formal Complaint form and checked the box indicating there were incorrect charges on his bill. He explained he wants to opt out of weather normalization adjustment (WNA) charges and wants to pay for only charges based on his usage. As relief, he wants all WNA charges removed and reimbursed.

On May 9, 2023, the Commission issued a Hearing Notice scheduling an evidentiary hearing for July 12, 2023. On May 11, 2023, I issued a Prehearing Order.

On May 15, 2023, Respondent filed a Motion for Leave to File Answer *Nunc Pro Tunc* and an Answer to the Complaint. In its Motion, Columbia averred the Complaint was served by the Commission on Columbia on or about April 5, 2023, but it was misdirected. Columbia requested leave to file its Answer *nunc pro tunc*. Columbia explained there would not be any significant delay in the administration of the Complaint, since there was still about a month until the scheduled hearing.

In its Answer, Columbia denied that there were any incorrect charges on Complainants account and averring all charges had been calculated in accordance with the Company's Commission-approved Tariff. Columbia avers the WNA was approved by the Commission in the Columbia Gas Rate Case proceeding at Docket No. R-2012-2321748.¹ The Company explains the WNA for Complainant's account has been accurately calculated in accordance with its duly filed and approved tariff rates. Therefore, Columbia avers Complainant is legally obligated to pay his bill.

On June 14, 2023, I issued an Interim Order granting Columbia's Motion.

The hearing convened as scheduled on July 12, 2023.² Larry Crayne, Esq., appeared on behalf of Columbia. Columbia presented the testimony of Ribeka Danhires, Manager of Rates and Regulatory Service, and offered Exhibits 1-5, which were admitted. Mr. Skvarla appeared self-represented and testified on his own behalf.

¹ See, Columbia Gas of Pennsylvania, Inc. Tariff Gas-Pa. P.U.C. No 9, Rider WNA, Pages 162-163.

² Administrative Law Judge Jeffrey Watson presided.

The transcript of 61 pages and all hearing exhibits were filed with the Commission's Secretary's Bureau on August 2, 2023. I issued an Interim Order closing the hearing record on August 17, 2023.

This matter is now ripe for adjudication.

FINDINGS OF FACT

1. Complainant is Daniel Skvarla.
2. Respondent is Columbia Gas of Pennsylvania, Inc., a jurisdictional public utility.
3. Complainant's service address is 202 Hazen Avenue N, Ellwood City, PA.³
4. On March 31, 2023, Complainant filed a Formal Complaint with the Commission, requesting that he be allowed to opt-out of the WNA program and that WNA charges be removed from his bill and past charges be reimbursed.
5. Columbia filed an Answer denying any violation of the Code or the rules and regulations of the Commission.
6. The WNA charge was first established in Columbia's 2012 base rate case, R-2012-2321748.⁴

³ Tr. 10.

⁴ Tr. 41.

7. The WNA charge was subsequently modified as a result of a partial settlement in Docket No. R-2018-2647577, and was approved by the Commission by Final Order dated December 6, 2018.⁵

8. The WNA appears as a Rider in Columbia's Tariff.⁶

9. Complainant's bills include WNA charges in accordance with its Tariff.⁷

DISCUSSION

As a matter of law, to establish a legally sufficient claim, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint.⁸ The offense must be a violation of the Public Utility Code, a Commission Regulation or Order, or a violation of a Commission-approved tariff.⁹

As the party seeking affirmative relief from the Commission, Complainant bears the burden of proof.¹⁰ To satisfy this burden, Complainant must show that the named utility is responsible or accountable for the problem described in the Complaint.¹¹ 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.¹² Additionally, any finding of fact

⁵ Tr. 34; Columbia Exhibit 2.

⁶ Columbia Exhibits 2 and 3.

⁷ Tr. 36-38.y

⁸ *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990).

⁹ 66 Pa.C.S. § 701.

¹⁰ 66 Pa.C.S. § 332(a).

¹¹ *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).

¹² *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990); *Se-Ling Hosiery v. Marquies*, 70 A.2d 854 (Pa. 1950).

necessary to support the Commission’s adjudication must be based upon substantial evidence.¹³ More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.¹⁴

It is well established that a utility may charge its customers in accordance with its lawful tariffed rates.¹⁵ A utility tariff has the force and effect of law in Pennsylvania, and is legally binding upon the utility, its customers and the public.¹⁶ Furthermore, Tariff provisions previously approved by the Commission are *prima facie* reasonable.¹⁷ A complainant seeking to evade the effect of an existing tariff provision carries a very heavy burden of proving that the facts and circumstances leading to the creation of the tariff provision have changed so drastically as to render the application of the tariff provision unreasonable.¹⁸

Complainant’s argument is essentially that he should be able to opt-out of paying the WNA charge and pay only for his consumption.

There is no dispute that the WNA is part of Columbia’s Tariff as a Rider (WNA Rider).¹⁹ The WNA Rider provides, “A Weather Normalization Adjustment shall be applied to bills of Residential customers under Rate Schedules RSS, RDS, and CAP, for the heating season November through May. The WNA shall continue until a Final Order is entered in the Company’s first rate case filed after May 31, 2026.”²⁰ The WNA Rider also includes

¹³ *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).

¹⁴ *Norfolk & W. Ry. Co. 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).

¹⁵ 66 Pa.C.S. § 1302.

¹⁶ 66 Pa.C.S. § 1303; *DiSanto v. Dauphin Consol. Water Supply Co.*, 436 A.2d 197 (Pa. Super. 1981); *Brockway Glass Co. v. Pa. Pub. Util. Comm’n*, 437 A.2d 1067 (Pa. Cmwlth. 1981).

¹⁷ *Zucker v. Pa. Pub. Util. Comm’n*, 401 A.2d 1377 (Pa. Cmwlth. 1979).

¹⁸ *Shenano Twp. Bd. of Supervisors v. Pa. Pub. Util. Comm’n*, 686 A.2d 910 (Pa. Cmwlth. 1996).

¹⁹ Columbia Gas of Pennsylvania, Inc. Tariff Gas-Pa. P.U.C. No 9, Rider WNA, Pages 162-163.

²⁰ Columbia Gas of Pennsylvania, Inc. Tariff Gas-Pa. P.U.C. No 9, Rider WNA, Pages 162.

information regarding how the WNA shall be calculated, but Complainant did not dispute that the WNA charges were calculated incorrectly; he argued that he should not have to pay them *at all*. Therefore, I will not examine whether the WNA charges were calculated correctly on Complainant's bills. Additionally, Complainant presented no evidence that the facts and circumstances leading to the creation of the tariff provision have changed so drastically as to render the application of the tariff provision unreasonable.

A utility is to be paid for the service it renders.²¹ The Company may charge customers consistent with its Commission-approved tariff, which is *prima facie* reasonable. Complainant has failed to show that the Company is charging him inconsistent with its Tariff. Therefore, Complainant's Complaint must be dismissed.

CONCLUSIONS OF LAW

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

2. The party seeking affirmative relief from the Commission bears the burden of proof. 66 Pa.C.S. § 332(a).

3. As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the Complaint in order to prevail. *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).

4. The offense must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701.

²¹ *Scaccia v. West Penn Power Co.*, 55 Pa.P.U.C. 637 (1982).

5. The burden of proof must be shown by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlt. 1990).

6. A utility tariff has the force and effect of law in Pennsylvania, and is legally binding upon the utility, its customers and the public. 66 Pa.C.S. § 1303; *DiSanto v. Dauphin Consol. Water Supply Co.*, 436 A.2d 197 (Pa. Super. 1981); *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlt. 1981).

7. Tariff provisions previously approved by the Commission are *prima facie* reasonable. *Zucker v. Pa. Pub. Util. Comm'n*, 401 A.2d 1377 (Pa. Cmwlt. 1979).

8. A utility may charge its customers in accord with its lawful tariffed rates. 66 Pa.C.S. § 1302.

9. A complainant seeking to evade the effect of an existing tariff provision carries a very heavy burden of proving that the facts and circumstances leading to the creation of the tariff provision have changed so drastically as to render the application of the tariff provision unreasonable. *Shenano Twp. Bd. of Supervisors v. Pa. Pub. Util. Comm'n*, 686 A.2d 910 (Pa. Cmwlt. 1996).

10. Complainant failed to sustain his burden of proof. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Daniel Skvarla in *Daniel Skvarla v. Columbia Gas of Pennsylvania, Inc.* at Docket No. C-2023-3039555 is dismissed.

2. That Daniel Skvarla is responsible for the payment of bills issued by Columbia Gas of Pennsylvania, including the Weather Normalization Adjustment charge.

3. That the Secretary's Bureau shall mark Docket No. C-2023-3039555 as closed.

Date: November 3, 2023

_____/s/_____
Emily I. DeVoe
Administrative Law Judge