

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Daniel Skvarla	:	
	:	
v.	:	C-2023-3040361
	:	
Pennsylvania-American Water Company	:	

INITIAL DECISION

Before
Emily I. DeVoe
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Formal Complaint filed by Daniel Skvarla against Pennsylvania-American Water Company, due to Complainant’s failure to meet his burden of proof.

HISTORY OF THE PROCEEDING

On May 1, 2023, Daniel Skvarla (Complainant or Mr. Skvarla) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Pennsylvania-American Water Company (Respondent, Company, or PAWC). Mr. Skvarla used the Commission’s standard Formal Complaint form and checked the “other” box. He requests that the water service charge be “removed or substantially lowered” from his bill. He writes that his water service charge is 16.59% of his bill, which he avers is “unacceptable.” He writes he should only be charged for his usage.

On May 23, 2023, PAWC filed an Answer, denying there were incorrect charges on his account and averring all charges had been calculated in accordance with its Tariff which was formally approved by the Commission by Order issued on December 8, 2022, in Docket Nos. R-2022-3031672 and R-2022-3031673. PAWC argues that the water service charge is therefore, deemed to be lawful and have the force and effect of law. Therefore, PAWC avers Complainant is not entitled to the requested relief.

On May 24, 2023, the Commission issued a Hearing Notice scheduling an evidentiary hearing for July 20, 2023. A Prehearing Order was issued May 25, 2023.

The hearing convened as scheduled on July 20, 2023. Michael Gruin, Esq., appeared on behalf of PAWC. PAWC presented the testimony of Todd Haslup, Supervisor of Customer Compliance, and offered Exhibits 1-3, which were admitted. Mr. Skvarla appeared self-represented and testified on his own behalf.

The transcript of 38 pages and all hearing exhibits were filed with the Commission's Secretary's Bureau on August 11, 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 Pennsylvania-American Water Company, a jurisdictional public utility.

3. Complainant's service address is 202 Hazen Avenue N, Ellwood City, PA.¹

4. On May 1, 2023, Complainant filed a Formal Complaint with the Commission, requesting that the water service charge be "removed or substantially lowered" from his bill.

5. PAWC filed an Answer denying any violation of the Code or the rules and regulations of the Commission.

6. PAWC's current Tariff was formally approved by the Commission by Final Order entered on February 25, 2021, in Docket No. R-2020-3019369.

7. Complainant's bill is comprised of three charges: a water service charge, a per gallon usage charge, and a distribution system improvement charge (DSIC).²

8. Complainant pays \$17.50 per month for the water service charge.³

9. The \$17.50 per month service charge went into effect on January 1, 2022.⁴

10. Prior to January 1, 2022, the water service charge was \$17.00.⁵

¹ Tr. 10.

² Tr. 19.

³ Tr. 15.

⁴ Tr. 21.

⁵ *Id.*

11. All PAWC customers, including Mr. Skvarla, received a bill insert regarding PAWC's proposed water service charge increase prior to PAWC filing its 2021 Rate Proceeding.⁶

12. The \$17.50 per month service charge is an approved charge in PAWC's Commission-approved Tariff.⁷

13. Complainant's bills include a water service charge consistent with PAWC's Commission-approved Tariff.⁸

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 in order to prevail.⁹ The offense must be a violation of the Public Utility Code, a Commission Regulation or Order or a violation of a Commission-approved tariff.¹⁰

As the party seeking affirmative relief from the Commission, Complainant bears the burden of proof.¹¹ To satisfy this burden, Complainant must show that the named utility is responsible or accountable for the problem described in the Complaint.¹² This must be shown by a preponderance of the evidence, that is, by presenting evidence more convincing, by even the

⁶ PAWC Exhibit 3; Tr. 28.

⁷ PAWC Exhibit 2; Tr. 28.

⁸ Tr. 36-38.

⁹ *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990).

¹⁰ 66 Pa.C.S. § 701.

¹¹ 66 Pa.C.S. § 332(a).

¹² *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).

smallest amount, than that presented by the other party.¹³ Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence.¹⁴ More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.¹⁵

It is well established that a utility may charge its customers in accord with its lawful tariffed rates.¹⁶ A utility tariff has the force and effect of law in Pennsylvania, and is legally binding upon the utility, its customers and the public.¹⁷ Tariff provisions previously approved by the Commission are prima facie reasonable.¹⁸ 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.¹⁹

Complainant's argument is essentially that he should only be billed for his usage and that he should not have to pay the water service charge.

¹³ *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990); *Se-Ling Hosiery v. Marquilies*, 70 A.2d 854 (Pa. 1950).

¹⁴ *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).

¹⁵ *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).

¹⁶ 66 Pa.C.S. § 1302.

¹⁷ 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).

¹⁸ *Zucker v. Pa. Pub. Util. Comm'n*, 401 A.2d 1377 (Pa. Cmwlth. 1979).

¹⁹ *Shenano Twp. Bd. of Supervisors v. Pa. Pub. Util. Comm'n*, 686 A.2d 910 (Pa. Cmwlth. 1996).

Complainant does not dispute that the water service charge is part of PAWC's Tariff or that the Tariff provides for a \$17.50 per month service charge.²⁰ He did not present any 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. Additionally, PAWC's witness, Mr. Haslup, provided information to Mr. Skvarla regarding the purpose of the water service charge and testified that all PAWC customers, including Mr. Skvarla, received a bill insert regarding its proposed water service charge prior to PAWC filing its 2021 Rate Proceeding.²¹

A utility is to be paid for the service it renders.²² 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).

²⁰ Columbia Gas of Pennsylvania, Inc. Tariff Gas-Pa. P.U.C. No 9, Rider WNA, Pages 162-163.

²¹ PAWC Exhibit 3; Tr. 28.

²² *Scaccia v. West Penn Power Co.*, 55 Pa.P.U.C. 637 (1982).

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.

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. Cmwlth. 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. Cmwlth. 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. Cmwlth. 1979).

8. 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. Cmwlth. 1996).

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

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. Pennsylvania-American Water Company at Docket No. C-2023-3040361 is dismissed.
2. That Daniel Skvarla is responsible for the payment of bills issued by Pennsylvania-American Water Company, including the water service charge.
3. That the Secretary's Bureau shall mark Docket No. C-2023-3040361 as closed.

Date: November 3, 2023

/s/
Emily I. DeVoe
Administrative Law Judge