

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held December 21, 2023

Commissioners Present:

Stephen M. DeFrank, Chairman, Conflict Statement
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Dawn J. Graham

C-2022-3032494

v.

Philadelphia Gas Works

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions filed by Dawn J. Graham (Complainant or Ms. Graham) on September 11, 2023.¹ The Exceptions were filed in response to the

¹ By letter dated September 12, 2023 (*September 2023 Secretarial Letter*), the Commission's Secretary: (1) issued a notice to the Parties indicating that there was no Certificate of Service or other indication that the Petition was served on the Parties; and (2) enclosed the Petition, in order to constitute service under 52 Pa. Code § 5.533. Therefore, pursuant to 52 Pa. Code § 5.535, Philadelphia Gas Works (PGW or Company) was given until September 22, 2023, to file a response.

Initial Decision (I.D.) of Administrative Law Judge (ALJ) Marta Guhl, which was issued on August 23, 2023. PGW filed Reply Exceptions on September 22, 2023. For the reasons stated below, we shall deny the Exceptions of the Complainant and adopt the ALJ's Initial Decision.

I. History of Proceeding

On May 5, 2022, the Complainant filed a Formal Complaint (Complaint)² against PGW with the Commission. In the Complaint, the Complainant indicated that her Complaint involves utility service provided to “Allan Graham.”³ Complaint at 1. The Complainant further indicated that: (1) PGW is threatening to, or already has, shut off the natural gas service; and (2) incorrect charges appear on the bill. As relief, the Complainant requested a payment arrangement and her meter read. By way of background, the Complainant averred, *inter alia*, that she: (1) was told to apply for new service to avoid account termination but her “Trust documents and ID” were rejected; and (2) did not receive hard copies of monthly bills for October 2020 through December 2020. Complaint at 2-3. The Complainant further asserted, *inter alia*, that in response to a May 2, 2022, conversation with a Company representative, she provided trust documents to “Correspondence at PGW,” and, subsequently, she received a “Field Service notice of shut off” and was instructed by the Company to “apply for New Service and to send proof of residence or ownership.”⁴ Complaint at 5.

² We note that the Verification included with the Complaint identifies Ms. Graham as the “Trustee, Settlor, Executor, Heir.” Complaint at 6.

³ We note that in the Complaint, the Complainant provides more than one account number. Complaint at 1-2. For privacy and confidentiality reasons, we will not be indicating any customer account numbers.

⁴ According to the Commission's case management system, the Complaint was received on May 5, 2022, but was not served on the Respondent until May 17, 2022.

On June 6, 2022, PGW filed an Answer and New Matter (Answer) to the Complaint, which admitted, in part, and denied, in part, various material allegations in the Complaint. In its Answer, the Company averred, *inter alia*, that it issued a termination notice for natural gas service at the service address but denied that the charges on the bill for the service address are incorrect. The Company also asserted that the Complainant: (1) is not, and never has been, a customer of record at the service address; and (2) never made a legitimate application for service at the service address. Answer at 1.

In the New Matter, PGW provided, *inter alia*, that: (1) Allan Graham, the customer of record at the service address, passed away on June 20, 2020, but the Company was not made aware of this and the gas service at the service address remained in the customer's name;⁵ (2) beginning in July 2020, and continuing for nearly two years, the Complainant contacted the Company as if she was contacting PGW on behalf of her father, Allan Graham; (3) on May 16, 2022, PGW received documentation from Mr. Alfred Graham (Mr. Graham) indicating that: (1) Allan Graham is deceased as of June 20, 2020; (2) Mr. Graham is the executor of Allan Graham's estate; (3) the Complainant is illegally occupying the service address; and (4) the outstanding balance for gas service at the service address as of May 12, 2022 (the date of the last bill issued), is \$3,660.14. Answer at 2. PGW asserted that because a complainant must be the respondent's customer to have standing to file a complaint about utility service, the Complainant lacks standing to bring the instant Complaint. Answer at 2-3 (citing *Re: Pennsylvania American Water Company*, 85 Pa. P.U.C. 548 (1995); *Pa. PUC v. Marietta Gravity Water Company*, 87 Pa. P.U.C. 864 (1997); *John Lavelly v. West Penn*

⁵ We note that more than once in this proceeding, the customer of record at the service address is referred to as "Allen Graham." Nevertheless, the Complainant indicated that the Complaint involves utility service provided to "Allan Graham." Complaint at 1. We shall use "Allan Graham," as the Complainant used in her Complaint.

Power Company, Docket No. C-2014-2408502 (Order entered February 12, 2015)). PGW also requested that the Commission dismiss the Complaint. Answer at 3.

Also, on June 6, 2022, PGW filed Preliminary Objections wherein it alleged that Ms. Graham lacked standing to bring the Complaint. Namely, PGW argued that given that Ms. Graham obtained gas service under her father's name after he passed away and without placing the service in her name, and she was evicted from, and is currently illegally occupying the property, the Complainant lacks the necessary standing to participate in these proceedings. Preliminary Objections at 3.

On June 30, 2022, PGW filed a Motion for Judgement on the Pleadings (Motion). In the Motion, PGW requests that because the Complainant did not file a response to the New Matter or the Preliminary Objections, the Commission find that the averments in the Company's New Matter be deemed admitted, grant PGW's Motion, and dismiss the Complaint. Motion at 2-3 (citing 52 Pa. Code §§ 5.102(a), (d)(1), 5.63(b)). Additionally, PGW requested that the Commission grant the Company leave to terminate service to the service address immediately. Motion at 3.

By corrected Hearing Notice dated August 2, 2022 (Hearing Notice), an Initial Call-In Telephonic Hearing was scheduled for September 20, 2022, at 10:00 a.m., and the matter was assigned to Deputy Chief ALJ (DCALJ) Joel Cheskis. The Hearing Notice was electronically served to the Complainant.

On August 11, 2022, DCALJ Cheskis issued and electronically served an Order denying the Preliminary Objections and Motion, finding that the Complainant's Complaint will be heard at an evidentiary hearing. Also, on August 11, 2022, DCALJ Cheskis issued and electronically served a Prehearing Order, dated August 11, 2022 (Prehearing Order), which also included: (1) the date and time of the

August 2, 2022, hearing; (2) a toll-free call-in phone number to participate in the hearing. I.D. at 2.

On September 15, 2022, PGW filed a Motion to Continue of the initial hearing scheduled for September 20, 2022. On September 16, 2022, DCALJ Cheskis issued an Order granting PGW's request. Consequently, on September 16, 2022, a Cancellation/Reschedule Hearing Notice (Rescheduled Hearing Notice) was issued, indicating that the Initial Call-In Telephonic Hearing was rescheduled for November 17, 2022, at 10:00 a.m. The Rescheduled Hearing Notice, *inter alia*, provided: (1) the date and time of the hearing; (2) a toll-free call-in phone number to participate in the hearing. I.D. at 2.

On November 16, 2022, a Judge Change Notice was issued, which reassigned the matter to ALJ Guhl. I.D. at 3.

On November 17, 2022, at 10:00 a.m., the telephonic hearing was held as scheduled. PGW was present at the hearing and represented by counsel. Ms. Graham was not present at the start of the hearing. I.D. at 3. Consequently, PGW's counsel moved to dismiss the case for failure to prosecute. I.D. at 3; Tr. at 6. Subsequently, the Complainant reached out to the Commission to indicate that she was unable to be present for the hearing and requested a new hearing date. The Complainant's request was forwarded to ALJ Guhl, who in-turn, forwarded the request to PGW. I.D. at 3.

On March 7, 2023, in response to counsel for PGW's objection to the Complainant's request for a new hearing date, ALJ Guhl issued an Order which: (1) overruled PGW's objections; (2) granted the Complainant's request for a new hearing date; and (3) reopened the record. I.D. at 3.

By Further Hearing Notice dated March 9, 2023 (Further Hearing Notice), a Further Call-In Telephonic Hearing was scheduled for April 19, 2023, at 10:00 a.m. The Further Hearing Notice was electronically served to the Complainant.

On April 19, 2023, at 10:00 a.m., the telephonic hearing was held as scheduled. The Complainant appeared, *pro se*, presented her own testimony, and proffered one exhibit, which was entered into the record as Complainant Exhibit 1. PGW was represented by counsel, presented the testimony of two witnesses, Ms. Jessica Glace (Ms. Glace) and Mr. David Rubin, Esq. (Mr. Rubin), and proffered two exhibits, which were entered into the record as PGW Exhibits 1 and 2. I.D. at 3. At the conclusion of the hearing, ALJ Guhl requested that the Complainant provide a copy of the trust document for the estate in question before the end of the day. I.D. at 3; Tr. at 135.

On April 20, 2023, the Complainant proffered several other documents, including a copy of her father's trust documents. I.D. at 3. PGW submitted written objections to the documents offered by the Complainant. I.D. at 3-4. In her Initial Decision, ALJ Guhl: (1) overruled the objections, in part, and sustained the objections, in part; and (2) entered the trust document into the record as Complainant's Late Filed Exhibit No. 2. I.D. at 4.

On April 26, 2023, PGW submitted a late filed document marked "PGW Exh. 3." The ALJ noted that this document was not requested and will not be entered into the record. The ALJ also noted that all other documents submitted by the Complainant after the hearing are not entered into the record. I.D. at 4.

Upon the ALJ's receipt of the hearing transcript, the record closed on May 25, 2023. I.D. at 4.

On August 23, 2023, the Commission issued the Initial Decision of ALJ Guhl, in which she found the Complainant failed to: (1) meet her burden of proof; and (2) establish that there were incorrect charges on the bills. I.D. at 1, 10-11, 14. The ALJ ruled that the Complainant failed to prove that PGW erred in denying application for service in her name at the service address and that there were incorrect charges on her father's account. I.D. at 1, 14.

As noted, *supra*, the Complainant filed Exceptions on September 11, 2023.⁶ Also, on September 11, 2023, the Complainant filed three additional documents addressed to the Court of Common Pleas of Philadelphia County, Pennsylvania, Orphan's Court Division.⁷ In accordance with the *September 2023 Secretarial Letter* and pursuant to 52 Pa. Code § 5.535, PGW filed Reply Exceptions on September 22, 2023.

II. Discussion

A. Legal Standards

At the outset, we note that any argument or Exception that we do not specifically address has been considered and will be denied without further discussion. The Commission is not required to consider expressly, or at length, each contention or argument made by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

⁶ We note that the Complainant identified their September 11, 2023, filing as "Reply to Exceptions." Exc. at 1 (emphasis omitted). Given that no other Party filed Exceptions prior to September 11, 2023, we consider this labeling to be an inadvertent misstatement.

⁷ We note that in the Commission's case management system, this document is labeled as "Communication-Answer to Motion."

Pursuant to Section 332(a) of the Public Utility Code (Code), the proponent of a rule or order, bears the burden of proof. 66 Pa. C.S. § 332(a). To satisfy the burden of proof, the Complainant, as the party seeking relief, must establish a sufficient case that PGW is responsible for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). This showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 529 Pa. 654, 602 A.2d 863 (1992). This standard requires the Complainant's evidence to be more convincing, by even the smallest amount, than evidence presented by PGW. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). This Commission's decisions must be supported by substantial evidence in the record, more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & West Ry. Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980).

Upon presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the evidentiary burden shifts to PGW to present persuasive evidence rebutting that of the Complainant. If PGW's evidence is of co-equal weight, the Complainant has not satisfied their burden of proof, and must provide additional evidence to rebut that of PGW. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd* 501 Pa. 433, 461 A.2d 1234 (1983).

While the evidentiary 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 to prove their case by a preponderance of the evidence. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

B. Positions of the Parties

The Complaint, essentially, centers on the Complainant's averments regarding service at the service address, and that PGW failed to accept her documentation for application of service and provide her with multiple months of physical bills. The Complainant also requested a Commission-issued payment arrangement. Complaint 2-5. PGW countered by requesting that the Commission dismiss the Complaint because the Complainant is not, and never was, a customer of record at the service address, and never made a legitimate application for service at the service address. Answer at 1, 3.

At the telephonic hearing, the Complainant testified that: (1) she began living with her father at the service address in approximately 2010. Tr. at 33. The Complainant also testified that after her father passed away in June 2020, she continued living at the service address, pursuant to her father's trust document, and continued to pay PGW for service at the service address under her father's name. Tr. at 17-18, 32-33, 49. The Complainant further testified that in November 2021, she was evicted from the property at the service address, but she was able to get back into the property in March 2022. Tr. at 33-34.

The Complainant also testified that in May 2022, PGW informed her that she had to put service into her name. The Complainant continued that in June 2022, the Company informed her that service could not be put in her name because the house is not in her name. Tr. at 36-38. The Complainant also testified that she stopped receiving bills from PGW in September 2020, and she began noticing a billing spike in November 2020. Tr. at 38-39. During cross examination, the Complainant testified that she notified the Company of her father's passing when she "paid the bill in July of 2021." Tr. 45.

PGW presented the testimony of its witness, Ms. Glace, who addressed the Complainant's testimony regarding her payment of bills under the customer of record,

Allan Graham, noting that Ms. Graham is not being held responsible for the balance owed on the account or any balance accrued at the service address.⁸ Tr. at 59-61.

Ms. Glace further testified that on July 22, 2020, and December 17, 2020, the Complainant contacted PGW regarding Allan Graham's account but did not inform the Company that Allan Graham was deceased. Tr. at 62-66. Ms. Glace added that contrary to the Complainant's testimony, PGW was sending out all bills as required. Tr. at 67.

Ms. Glace also testified that on June 11, 2021, a decision to an informal complaint with the Commission's Bureau of Consumer Services (BCS), at BCS Case No. 3783460, indicated that actual readings are being provided, the bills are correct as rendered, and the customer's account was enrolled with Indra Energy (Indra).⁹ Ms. Glace noted that during the pendency of the informal complaint, a customer contact letter was issued indicating that the account was dropped from Indra. Tr. at 71-73. Ms. Glace further testified that on November 19, 2021, a decision to a second informal complaint with BCS, at BCS Case No. 3806079, was rendered, indicating, *inter alia*, that the bills are correct as rendered and a credit from Indra was applied to the account.¹⁰ Tr. at 73-74.

Ms. Glace also testified that on April 22, 2022, a Shut Off Notice for non-payment was sent to the customer of record. Ms. Glace continued that on April 25, 2022, Mr. Graham contacted PGW to inform the Company that Allan Graham had passed away in June 2020 and requested to stop service. Ms. Glace added that Mr. Graham was instructed to provide a death certificate. Tr. at 75-76. Ms. Glace further testified that on May 16, 2022, PGW's correspondence department received documentation indicating

⁸ We note that Ms. Glace testified that the current total balance due on the account is \$2,344.90. Tr. at 60.

⁹ Ms. Glace also testified that on January 9, 2020, Allan Graham was enrolled with supplier Indra. Tr. at 61-62.

¹⁰ We note that Ms. Glace testified that a total credit of \$470.03 was applied to the account. Tr. at 74.

that the customer of record was deceased and, consequently, the Company discontinued service in Allan Graham's name. Tr. at 81-85. Ms. Glace added that the account was placed into a PGW placeholder name, pending an investigation of the information provided by the Complainant and Mr. Graham. Tr. at 85.

Ms. Glace also testified that on May 3, 2022, the Complainant contacted PGW regarding her father's account and indicated, *inter alia*, that her father passed away, that she is the owner of the property at the service address, and that she does not want the gas shut off. Ms. Glace added that the Complainant was advised to provide two forms of identification and a complete deed to prove ownership. Tr. at 76-77, 80. Ms. Glace further testified that on May 5, 2022, PGW received an unsigned living trust from the same email address provided in the Complaint. Tr. at 78-80. Ms. Glace added that PGW never received any valid legal documentation indicating that the Complainant is the owner of the property. Tr. at 80-81.

Ms. Glace also testified that on September 21, 2022, a PGW technician visited the service address to investigate a foreign load claim and to test the meter. Ms. Glace continued that the technician terminated service, exchanged the meter, and wrote a hazard tag for a clogged chimney. Tr. at 86-88, 112-115. Ms. Glace further testified that on December 8, 2022, PGW advised Ms. Graham that she was not entitled to service at the service address and, based on the Company's investigation, there were no signs of a foreign load and the meter was found to be testing accurate. Tr. at 89-90, 116.

Additionally, PGW presented the testimony of its witness, Mr. Rubin, who testified that he represented the Trust of Allan Graham in an eviction proceeding. Mr. Rubin continued that on August 4, 2021, he filed a Petition for Exclusive Possession with the Philadelphia Orphan's Court pertaining to the property at the service address. Mr. Rubin further testified that on October 4, 2021, a Decree was issued awarding possession to Mr. Graham, the Trustee of the Allan Graham Revocable Living Trust, and

subsequently, the Complainant was lawfully evicted from the property at the service address. Mr. Rubin added that PGW has been advised that the Complainant is currently illegally occupying the property at the service address without the permission of the Trust. Tr. at 122-124.

C. Initial Decision

The ALJ made thirty-two Findings of Fact and reached ten Conclusions of Law. I.D. at 4-7, 13-14. We shall adopt and incorporate herein by reference the ALJ's Findings of Fact and Conclusions of Law, unless they are reversed or modified by this Opinion and Order, either expressly or by necessary implication.

In addressing the application for service at the service address, the ALJ noted that the Complainant alleged that after her father's passing, she became the owner of the service address and wanted to put service under her name, but the trust documents indicate that Mr. Graham is the owner of the service address. The ALJ also provided the definitions of "customer" and "an applicant for utility service," pursuant to 66 Pa. C.S. § 1403 and 52 Pa. Code § 56.2, respectively. I.D. at 8-9 (citing 66 Pa. C.S. § 1403; 52 Pa. Code § 56.2). The ALJ noted that in approximately 2010, the Complainant began living at the service address with her father, who was the owner of the service address and had set up a trust for it, but after her father passed away in June 2020, she continued to live in her father's house and PGW continued to send bills for service at the service address in her father's name. I.D. at 9 (citing Tr. at 17, 33, 67-68; PGW Exhs. 1, 2).

The ALJ found that, given that "[m]ere bald assertions ... do not constitute evidence," the Complainant did not establish a *prima facie* case or that she is the owner of the service address. I.D. at 9 (citing *Mid-Atlantic Power Supply Association v. Pa. PUC*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000); *Pa. Bureau Of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *see also, Steffy's Pattern Shop v.*

Frontier Communications of Pennsylvania, Inc., Docket No. R-00994808 (Order entered March 3, 2000)). The ALJ pointed out that the service was in her father's name and PGW was not notified of his passing until April 25, 2022, when Mr. Graham contacted the Company to request that service be discontinued in Allan Graham's name. I.D. at 9-10 (citing Tr. at 123-124; PGW Exhs. 1, 2)

Similarly, the ALJ observed that the Complainant did not provide any evidence to establish that she is the lawful owner of, or is entitled to reside at, the service address. In this vein, the ALJ noted that on August 4, 2021, a Petition for Exclusive Possession of the service address was filed with the Orphan's Court, which, on October 4, 2021, issued a Decree granting possession of the service address to Mr. Graham, as Trustee of the Allan Graham Revocable Living Trust. The ALJ continued that consequently, the Complainant was evicted from the service address in November 2021, but returned in March 2022, without the Trust's permission. I.D. at 10 (citing Tr. at 33-34, 123-124; PGW Exh. 2).

The ALJ also noted that on May 3, 2022, after the Complainant contacted PGW indicating that she is the owner of the service address, she was advised to apply for service in her name by sending in two forms of identification and the deed for the service address. The ALJ pointed out that PGW received a copy of an unsigned living trust document, but the Complainant did not provide identification or a deed. The ALJ further noted that on May 16, 2022, upon PGW's receipt of a copy of the death certificate for Allan Graham and a letter requesting that service be discontinued at the service address, the Company removed Allan Graham's name from the account but did not shut off gas service. I.D. at 10 (citing Tr. at 76-78, 81, 83-84; PGW Exh. 2).

The ALJ concluded that the Complainant failed to meet her burden of proving that she is either an applicant for service or a customer for the service address. The ALJ added that while the Complainant may dispute ownership of the property, there

is nothing in the record establishing that she is entitled to service in her name at the service address. I.D. at 10.

Next, the ALJ addressed the Complainant's dispute of high bills. Specifically, the ALJ cited *Waldron v. Philadelphia Electric Co.*, 54 Pa. P.U.C. 98 (1980) (*Waldron*) to note that, consistent with the Commission's decision in *Bennett v. Peoples Natural Gas Co.*, Docket No. C-2009-2122979 (Order entered October 13, 2010) (*Bennett*), the *Waldron* Rule allows a complainant to establish a *prima facie* case in a "high bill" complaint by showing that the disputed bill is abnormally high when compared to prior usage patterns and the complainant's pattern of usage has not changed, or by providing other relevant evidence demonstrating that the disputed bill is unreasonably high. The ALJ continued that, in evaluating a "high bill" complaint, the Commission may consider "the billing history of the account, any change in usage patterns (such as a change in the number of occupants residing in the household or potential energy utilization), and any other relevant facts or circumstances that come to light during the proceeding." I.D. at 11 (citing *Bennett* at 6; *Thomas v. PECO Energy Company*, Docket No. C-2010-2187197 (Opinion and Order entered November 15, 2011)).

The ALJ noted that on March 27, 2021, in response to the Complainant's dispute of the billing on her father's account, PGW sent a letter to the service address indicating that: (1) based upon its investigation, the billing is correct as rendered; and (2) a special meter test could be conducted upon request. The ALJ also felt it noteworthy that on September 21, 2022, a PGW technician sent to the service address to investigate the Complainant's claim of a foreign load and exchange the meter found no evidence of a foreign load but wrote a hazard tag due to a clogged chimney and left the gas off. Additionally, the ALJ noted that on October 4, 2022, the meter for the service address was tested and found to be operating at 99.2% for 100% open, and 99.0% for 20% check. I.D. at 11-12 (citing Tr. at 65-70, 86, 89-90; PGW Exh. 2).

The ALJ found that the Complainant did not present any evidence, besides her own testimony, that the bills were too high or that the gas service was subject to a foreign load. Further, the ALJ found that contrary to the Complainant's testimony, the record reflects that: (1) in September 2022, PGW sent a technician to the service address to investigate the Complainant's high bill dispute and foreign load allegations; (2) the technician did not find any evidence of foreign load at the service address; and (3) the meter was tested and found to be operating within the Commission's allowances for gas meters. I.D. at 12 (citing PGW Exh. 2; 52 Pa. Code § 59.21(a)). Accordingly, the ALJ concluded that the Complainant failed to meet her burden of proving that the charges on her father's bills were incorrect and, therefore, dismissed the Complaint. Further, the ALJ concluded that because the Complainant is not a customer or an applicant for service at the service address, she is not entitled to a payment arrangement. Finally, the ALJ noted that according to PGW, Ms. Graham is not being held responsible for the balance on her father's account. I.D. at 12 (citing Tr. at 61; 66 Pa. C.S. § 1405(a)).

D. Exceptions¹¹ and Reply Exceptions

The Complainant's Exceptions consist of an eight-page document. In her Exceptions, the Complainant appears to dispute, *inter alia*: (1) ownership of the property at the service address; (2) the charges on the bills for the service address; (3) the

¹¹ We acknowledge that the format of the Complainant's Exceptions does not strictly comply with Section 5.533(b) of our Regulations, which requires that each exception be numbered, identify the finding of fact and conclusions of law to which exception is taken, and cite to the relevant pages of the Initial Decision. 52 Pa. Code § 5.533(b). Nevertheless, recognizing that the Complainant is appearing *pro se*, we will accept the Exceptions as filed, pursuant to Section 1.2(a) and (d) of our Regulations, and consider the merits. *See, e.g., Destefano v. Peoples Natural Gas Company*, 56 Pa. P.U.C. 489 (1982); *Halpern v. The Bell Telephone Company of Pennsylvania*, Docket No. C-00923950 (Order entered October 19, 1992); *William Schlinder v. The Bell Telephone Company of Pennsylvania*, Docket No. F-00161252 (Order entered March 26, 1993).

credibility of PGW’s witnesses; (4) her eligibility as a PGW customer for the service address; and (5) the billing practices of PGW.¹² Further, the Exceptions contain several long sentence fragments that lack grammar, punctuation, and context. Due to the nature of the substance of the Exceptions, we find it appropriate to reprint a sample passage, in its entirety, as follows:

Typical economic FRAUD SCHEME of unscrupulous attorneys has sought to prey on beneficiaries of homes in Philadelphia owned by elders who may not have ESTATE PLANS and immediately look to misinformed and mislead most by creating documents that allow *unauthorized persons to commit Identity fraud, misappropriate funds, breach fiduciary responsibilities and act on or receive confidential information like social security numbers, account numbers to pose or to act as an “agent”, “representative” “Attorney of Trust”, etc. to mislead and to commit acts of theft and fraud.*
[sic]

Exc. at 5 (emphasis in original).

In addition to her Exceptions, the Complainant submitted extra-record materials.¹³ We will disregard the extra-record materials – specifically, the items addressed to the Court of Common Pleas of Philadelphia County, Pennsylvania, Orphan’s Court Division, labeled as “MOTION TO CORRECT RECORD,” “MOTION TO

¹² Throughout her Exceptions, the Complainant also appears to be disputing the results of a complaint involving Indra. We note that Indra was not a party to the instant Complaint. We further note that, upon review of the Commission’s case management system, on May 25, 2022, at Docket No. C-2022-3032621, Ms. Graham filed a formal complaint against Palmco Energy PA LLC d/b/a Indra Energy, involving utility service provided to Allan Graham at the service address. Subsequently, on June 30, 2022, a Certificate of Satisfaction was filed, indicating that the complaint had been satisfied.

¹³ As previously noted, on September 11, 2023, the Complainant filed Exceptions. Also, on September 11, 2023, the Complainant filed three additional documents pertaining to the Court of Common Pleas of Philadelphia County, Pennsylvania, Orphan’s Court Division.

DISQUALIFY COUNSEL,” and “MOTION TO REDEEM PREMISES” – as the use of this extra-record information by the Commission would violate PGW’s due process rights. It is well-established that parties cannot introduce new evidence at the exceptions stage. *Application of Apollo Gas Co.*, 81 Pa. P.U.C. 475, 1994 WL 578036 (Order entered February 10, 1994) (*Apollo Gas*). As noted earlier, since the record closed on May 25, 2023, the Complainant’s extra-record evidence cannot be admitted into the record or considered at this current procedural stage of the case. *Apollo Gas*. Therefore, we must reject this extra-record evidence introduced by the Complainant in addition to her Exceptions.

In its Reply to Exceptions, PGW challenges the Complainant’s reiteration of her arguments regarding the ownership of the property at issue and the legality of her occupancy. Specifically, PGW counters that the Complainant’s Exceptions fail to demonstrate that the ALJ’s finding that Ms. Graham failed to meet her burden of proving that the Company erred in denying her application for service in her name at the service address is unsupported by substantial evidence. R. Exc. at 2.

Further, PGW notes that the record in this proceeding is clear that: (1) both the ownership of the property and the legality of the Complainant’s occupancy have already been ruled upon by the Philadelphia Court of Common Pleas, Orphans Court Division; and (2) PGW conducted an investigation into the bills for gas service at the property, including the removal and testing of the gas meter. R. Exc. at 3 (citing PGW Exh. 2 at 35; Tr. at 121-123). Moreover, PGW notes that the Complainant failed to provide evidence that would support a finding that: (1) the Complainant is entitled to

service at the service address; and (2) there were incorrect charges on the bills for gas service.¹⁴

Additionally, PGW responds to the Complainant's apparent dispute regarding the name of record for the customer account for the service address and the receipt of physical bills at the service address. Specifically, PGW notes that the record clearly shows that the account holder was Allan Graham, and the Complainant was receiving bills provided by the Company. R. Exc. at 3-4 (citing PGW Exhs. 1-2; Tr. at 38-39, 58-59, 66-67).

E. Disposition

As discussed earlier, the Complainant's Exceptions are, essentially, a running narrative that is, in large part, indecipherable. The lack of clear and concise statements in the Exceptions renders a significant portion of the Exceptions difficult to specifically determine what the Complainant is excepting. Thus, although Ms. Graham does not agree with the ALJ's Initial Decision, we are unable to follow and understand a significant portion of the arguments put forth in her Exceptions. Nevertheless, we infer that the crux of the Complainant's position is that she is entitled to gas service at the service address because, according to Ms. Graham, she is the rightful owner of her deceased father's property at the service address.

¹⁴ PGW also acknowledges the Complainant's apparent attempt to address the ALJ's finding that she failed to meet her burden of proving incorrect charges on the bills for service by noting that Ms. Graham refers to a separate complaint against Indra. PGW notes that it was not a party to that complaint, nor is that complaint relevant in this proceeding. R. Exc. at 3.

As noted by the ALJ, Section 1403 of the Code defines “Customer” as follows:

“Customer.” A natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or any adult occupant whose name appears on the mortgage, deed, or lease of the property for which the residential utility service is requested.

66 Pa. C.S. § 1403. The ALJ also noted that Section 56.2 of the Commission’s Regulations defines an “Applicant” as follows:

(i) A natural person at least 18 years of age not currently receiving service who applies for residential service provided by a public utility or any adult occupant whose name appears on the mortgage, deed, or lease of the property for which the residential public utility service is requested.

52 Pa. Code § 56.2.

Upon review, we agree with the ALJ that there is no record evidence to establish that Ms. Graham is, or ever was, an applicant or a customer for service at the service address. I.D. at 10. The Complainant was in contact with the Company several times regarding gas service at the service address. Tr. at 62, 65, 76, 78, 80, 86, 88; PGW Exh. 2 at 3-4, 29-32, 41, 43. However, at no time was Ms. Graham ever listed as the customer of record for the service account at the service address. Further, there is no record evidence that PGW ever held Ms. Graham responsible for the payment of bills rendered for gas service to the service address. As PGW’s witness, Ms. Glace, pointed out, Ms. Graham is not, and never was, responsible for the balance accrued for gas service to the service address. Tr. at 61. Moreover, there is no record evidence to establish that Ms. Graham’s name ever appeared on the mortgage, deed, or lease of the property at the service address. As Ms. Glace noted, the Complainant was advised that to

apply for gas service at the service address in her name, she must provide two forms of identification and a deed to prove ownership of the property at the service address. Tr. at 76-77; PGW Exh. 2 at 29-32. However, there is no record evidence demonstrating that the Complainant ever provided PGW with a legitimate application for gas service (*i.e.*, identification and a property deed).

Therefore, we agree with the ALJ that, pursuant to the definitions of “customer” and “applicant,” as provided in 66 Pa. C.S. § 1403 and 52 Pa. Code § 56.2, respectively, the Complainant failed to meet her burden of proving that she is either a customer or an applicant for service at the service address. Additionally, we agree with the ALJ’s finding that because the Complainant is not a customer or applicant for service at the service address and is not being held responsible by the Company for the balance on Allan Graham’s account, Ms. Graham is not entitled to a payment arrangement.

To the extent that Ms. Graham disagrees with the ALJ’s findings in her Initial Decision, we agree with the ALJ that the Complainant did not establish a *prima facie* case (*i.e.*, that she is the owner of the service address). I.D. at 9. Although the Complainant insists that she is the trustee of Allan Graham’s property and the owner of the property at the service address, there is nothing in the record establishing that Ms. Graham is, or ever was, entitled to service in her name at the service address. Indeed, nothing that Ms. Graham has asserted in this proceeding changes the record evidence, and no record evidence exists to substantiate her position.

Furthermore, the record evidence demonstrates that PGW investigated and addressed the Complainant’s concerns regarding high bills during the field investigation it conducted at the service address. As noted by the ALJ, a PGW technician sent to the service address to investigate the Complainant’s claims of high bills and foreign load did not find any evidence of foreign load. Further, the meter was removed by the technician for testing and, subsequently, was found to be operating in accordance with the

Commission's allowances for gas meters. I.D. at 12 (citing 52 Pa. Code § 59.21(a)); Tr. at 86-88, 112-115; PGW Exh. 2 at 41-44. We agree with the ALJ that the Complainant has not met her burden of proving that the charges on the bills for the service address were incorrect. Moreover, based on the record evidence, there is nothing in this proceeding to indicate that PGW billed the customer of record at the service address incorrectly.

Finally, inasmuch as the Complainant appears to challenge the credibility and reliability of PGW's witnesses, particularly Mr. Rubin, we find no reason to question the credibility and reliability of their testimony.

We find that the ALJ properly weighed the evidence and testimony presented to conclude that the Complainant failed to carry her burden of proof on her Complaint and, therefore, dismissal of the Complaint was appropriate.

III. Conclusion

Based on our review of the record in this proceeding, we shall deny the Exceptions of Dawn J. Graham, and adopt the ALJ's Initial Decision, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

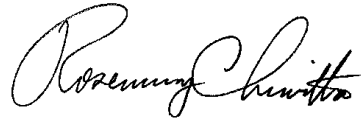
1. That the Exceptions of Dawn J. Graham, filed on September 11, 2023, to the Initial Decision of Administrative Law Judge Marta Guhl, issued on August 23, 2023, are denied, consistent with this Opinion and Order.

2. That the Initial Decision of Administrative Law Judge Marta Guhl, issued on August 23, 2023, is adopted.

3. That the Formal Complaint filed by Dawn J. Graham, on May 5, 2022, against Philadelphia Gas Works, at Docket No. C-2022-3032494, is dismissed, consistent with this Opinion and Order.

4. That this proceeding be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: December 21, 2023

ORDER ENTERED: December 21, 2023