



PHILADELPHIA GAS WORKS

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January 19, 2024

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Peter Mordeczko v. Philadelphia Gas Works; Docket No. F-2023-3041207

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' Reply to Complainant's Exceptions to the Initial Decision issued in the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

/s/ Graciela Christlieb

Graciela Christlieb, Esquire

Enclosure

cc: Cert. of Service [w/enc.]

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of Philadelphia Gas Works' Reply to Exceptions upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA ELECTRONIC MAIL

Peter Mordeczko

pmrdczk@gmail.com

Date: January 19, 2024

/s/ Graciela Christlieb

Graciela Christlieb, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Peter Mordeczko,	:	
Complainant,	:	
v.	:	Docket No. F-2023-3041207
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

REPLY EXCEPTIONS OF PHILADELPHIA GAS WORKS

Pursuant to 52 Pa. Code §5.535 of the regulations of the Pennsylvania Public Utility Commission (“Commission”) and the Secretarial Letter dated January 9, 2024, issued in the above-captioned proceeding, the Philadelphia Gas Works (“PGW” or “Respondent”) hereby submits the following Reply to the Exceptions filed by Peter Mordeczko (“Complainant”) to the Initial Decision of Administrative Law Judge Arlene Ashton (“Judge Ashton” or “Presiding Officer”) in this matter (“Initial Decision”).

I. INTRODUCTION

On May 31, 2023, the Complainant filed a Formal Complaint (“Complaint”) against PGW with the Commission wherein he indicated that PGW had shut off his gas service without proper notice and requested a new payment agreement.

On June 29, 2023, PGW filed an Answer denying the material allegations of the Complaint.

On July 11, 2023, a Hearing Notice was issued by the Commission, which indicated that the evidentiary hearing in this matter was scheduled for September 12, 2023, at 10:00 a.m., and assigned the matter to Judge Ashton.

The evidentiary hearing in this matter was held as scheduled on September 12, 2023.

The record closed on October 5, 2023, when the transcript of the evidentiary hearing was filed with the Secretary.

On December 20, 2023, Judge Ashton issued the Initial Decision in this matter wherein she dismissed the Complaint because the Complainant failed to carry his burden of proving that PGW had violated any provision of the Public Utility Code or any Commission rule, regulation, or policy. Judge

Ashton also found that the Complainant had failed to carry his burden of proving that he was entitled to a second Commission-issued payment agreement.

On January 9, 2024, the Commission served PGW with a copy of Complainant's Exceptions to the Initial Decision. PGW's Reply to Complainant's Exceptions follows.

II. COMPLAINANT'S EXCEPTIONS AND PGW'S REPLY

Exception

Complainant's first Exception is to the Introduction and is stated as a disagreement with the ruling in the case.

Reply

As the Introduction is neither a Finding of Fact nor a Conclusion of Law or even analysis offered as part of the Discussion, no Reply is necessary.

Exception

Complainant's next Exception is to Finding of Fact #3: "On March 3, 2023, the Respondent sent the Complainant a 10-Day Shut Off Notice via U.S. Mail. Tr. 45; PGW Exh. 3." Complainant states that he "did not recall receiving such a notice" and speculated that his address appearing twice was the reason. He also stated that PGW's witness was unable clarify the procedure for tracking such undelivered mail.

Reply

The Exception does not negate Finding of Fact #3. Complainant's testimony that he does not recall receiving the notice does not contradict PGW's evidence that it sent one to him or Judge Ashton's finding that PGW sent one to him. PGW sent the notice; assuming arguendo that the Complainant did not receive it, that would indicate an issue the Complaint should pursue with his local post office. Complainant implies that his notice was returned to PGW and not delivered, but gave no indication that he contacted the post office to inquire about whether that was true or why it occurred if it did.

Exception

Complainant's next Exception is to Finding of Fact #4: "On March 7 and 8, 2023, the Respondent attempted to contact the Complainant by telephone to inform him that his gas service would be terminated. Tr. 47-48; PGW Exh. 6." Complainant states that he provided a call log showing that no such calls were made.

Reply

Complainant testified that his phone number is 215-429-0985, which is the same phone number PGW has as his primary phone number. Tr. 26, 46; PGW Exh. 5. PGW collections calls were placed to the Complainant on March 7, 2023 and March 8, 2023; on both occasions, the system detected an answering machine and disconnected the call without leaving a message. Tr. 47, 48; PGW Exh 6. Contrary to what is stated in his Exception, the Complainant did not provide a log of all incoming and outgoing calls; he provided a log of the talk usage on his phone plan. Tr. 51. As PGW's system does not leave a message, but rather disconnects the call upon detection of an answering machine, no usage would be logged. TR. 51-52. The Complainant has failed to establish that the Presiding Officer made an error of fact as he has failed to cite to or even reference any substantial evidence that would support a finding in his favor on this point.

Exception

Complainant's next Exception is to Finding of Fact #6: "The Complainant created a passcode for his account in 2003, before PGW created an internet-based customer portal. Tr. 56." Complainant states that his passcode was not always "honored" by PGW.

Reply

The Exception does not negate Finding of Fact #6. Complainant's own testimony indicates that he had a passcode since 2003. Tr. 36. sometimes he wouldn't have the passcode when talking to PGW Customer Service or other times "they would be unaware" of the passcode, but in those instances he would give other information to access his account information.

Exception

Complainant's next Exception is to Finding of Fact #7: "The Complainant is able to access information concerning his PGW account using his passcode by contacting a PGW customer service representative. Tr. 56." Complainant states that he would wait on the phone for a PGW representative for 45 minutes to an hour and a half.

Reply

The Exception does not negate Finding of Fact #7. The Complainant's own testimony indicates that even in instances where he didn't have his passcode when talking to PGW Customer Service or at other times when "they would be unaware" of the passcode, he would give other information and access his account that way.

Exception

Complainant's next Exception is to Finding of Fact #8: "Since 2003, the Complainant has accessed his account using his passcode by contacting a PGW customer service representative. Tr. 56." Complainant states that despite having a passcode since that time, he could not access his account via PGW's website.

Reply

The Exception does not negate Finding of Fact #8. Complainant could not access his account via PGW's website in 2003 because PGW did not have a customer portal at that time. Tr. 56. Complainant's Exception to Finding of Fact #11 makes it clear that he is aware that "PGW's customer portal was only recently created."

Exception

Complainant's next Exception is to Finding of Fact #9: "Currently, PGW operates a customer portal which allows customers to access information concerning their accounts via the internet. Tr. 56-57." Complainant states that despite having a passcode since 2003, he could not access his account via PGW's website.

Reply

The Exception does not negate Finding of Fact #9. PGW did not have a customer portal in 2003. Tr. 56. Complainant's Exception to Finding of Fact #11 makes it clear that he is aware that "PGW's customer portal was only recently created."

Exception

Complainant's next Exception is to Finding of Fact #10: "Typically, customers use information such as a social security number or driver's license number to create an account on PGW's customer portal that may be used by the customer to access information concerning their PGW account. Tr. 57." Complainant states that statutes do not require the use of a customer's social security number to have an account with PGW.

Reply

The Exception does not negate Finding of Fact #10. PGW does not require the use of a social security number to set up a user account in the customer portal; the testimony provided by PGW's witness

indicates that customers can also use other customer information like their driver's license number. Tr. 57.

Exception

Complainant's next Exception is to Finding of Fact #11: "Mr. Mordeczko was unwilling to use his social security number or other private information to create an account he could use to access PGW's customer portal." Complainant states that statutes do not require the use of a customer's social security number to have an account with PGW.

Reply

The Exception does not negate Finding of Fact #11. PGW does not require the use of a social security number to set up a user account in the customer portal; the testimony provided by PGW's witness indicates that customers can also use other customer information like their driver's license number. Tr. 57.

Exception

Complainant's next Exception is to Finding of Fact #12: "PGW developed an alternative procedure that allows the Complainant to create an account on PGW's customer portal without using his social security number. Tr. 57." Complainant states that he was only recently informed of such a procedure.

Reply

The Exception does not negate Finding of Fact #12. It stands to reason that the Complainant was only recently informed that this was possible given that this was done specifically during the pendency of this case to accommodate him. Tr. 6,7.

Exception

Complainant's next Exception is to Finding of Fact #16: "When the Complainant filed the Informal Complaint in BCS Case No. 3865830, he was employed and had income. Tr. 53; Tr. 33." Complainant states that his income opportunities during this time were short lived and sporadic.

Reply

The Exception does not negate Finding of Fact #16.

Exception

Complainant's next Exception is to Finding of Fact #17: "The Determination issued on December

6, 2022, in BCS Case No. 3865830 awarded the Complainant a payment arrangement under which he was required to pay PGW a monthly amount consisting of \$138.00 budget billing plus \$283.00 on arrears, a total of \$421.00 for 24 months. Tr. 53; PGW Exh. 7.” Complainant states that he requested a new payment agreement from the PUC because he experienced a change in income.

Reply

The Exception does not negate Finding of Fact #17.

Exception

Complainant’s next Exception is to Finding of Fact #18: “The Commission-issued payment arrangement established by BCS in the BCS Case No. 3865830 was established without information concerning the Complainant’s income because the Complainant refused to disclose that information to the Commission. Tr. 24, 53; Exh. 7.” Complainant states that he requested a new payment agreement from the PUC because he experienced a change in income.

Reply

The Exception does not negate Finding of Fact #18.

Exception

Complainant’s next Exception is to Finding of Fact #19: “The Complainant made no payments on the payment arrangement established in BCS Case No. 3865830, which defaulted on January 25, 2023. Tr. 23, 53; PGW Exh. 1, 7.” Complainant states that he was not provided a “Notice of Default” and he could not access his PGW account.

Reply

The Exception does not negate Finding of Fact #19. It is unclear what is meant by “Notice of Default” however, page 3 of Complainant’s February 25, 2003 gas bill stated “Your Easy Way budget plan has been canceled. Please pay the full amount of your bill each month.” PGW Exh 2. It is clear that the Complainant did have access to his PGW account and had multiple methods through which he could pay his bill. Tr. 36-41.

Exception

Complainant’s next Exception is to Finding of Fact #20: “From August 2021 through September 5, 2023, the Complainant made just one payment on his account, a payment in the amount of \$1,091.20 made on August 9, 2021. Tr. 43-44; PGW Exh. 1.” Complainant states that he was unable to access his

accounts to make payments, that he paid his yearly bill with one payment, and that he could only talk to a customer service representative after waiting an hour and a half.

Reply

The Exception does not negate Finding of Fact #20. The Complainant had access to his PGW account and had multiple methods through which he could pay his bill. Tr. 36-41. PGW does not issue yearly bills; it issues monthly bills. PGW Exh. 1. There is no indication that Complainant paid his balance down to \$0.00 on a yearly basis. PGW Exh. 1. Customer service call wait times do not affect a customer's responsibility to pay their bill nor their ability to pay their bill; customer service representatives do not take phone payments, the system is a separate automated phone system. Tr. 39,40.

Exception

Complainant's next Exception is to Finding of Fact #21: "The Complainant's current account balance is \$2,790.20. Tr. 43; PGW Exh. 1." Complainant states he wants verification of the balance.

Reply

The Exception does not negate Finding of Fact #21. Complainant has already received a statement of his account from the last time his balance was \$0.00. PGW Exh 1.

Exception

Complainant's next Exception is to Finding of Fact #22: "As of the date of the hearing, the Complainant was employed. Tr. 24-25." Complainant states that his income opportunities during this period were short lived and sporadic.

Reply

The Exception does not negate Finding of Fact #22.

Exception

Complainant's next Exception is to Finding of Fact #23: "The Complainant refused to disclose his current income. Tr. 25." Complainant states that he does not want to disclose his income publicly and that he was not informed as how the information could be applied and kept confidential by either PGW or the PUC.

Reply

The Exception does not negate Finding of Fact #23. Both the Presiding Officer and PGW's counsel let the Complainant know that his income information would be treated as confidential. Tr. 18.

Exception

Complainant's final Exception is a reiteration of arguments previously made by him in the Complaint, during the evidentiary hearing, and in his Exceptions.¹

Reply

The Complainant has not identified any error in law or fact that would support reversal of Judge Ashton's finding that the Complainant failed to carry his burden of proving that PGW had violated any provision of the Public Utility Code or any Commission rule, regulation, or that he was entitled to a second Commission-issued payment agreement. Rather, Complainant's Exceptions are more in the way of disagreements and/or explanations.

Substantial evidence is "the amount of relevant evidence which a reasonable person would accept as adequate to support a determination," *Popowsky v. Pennsylvania Public Utility Commission*, 594 Pa. 583, 937 A.2d 1040, 1054 (2007) (*Popowsky III*). Substantial evidence means there must be "more than a mere trace of evidence or suspicion of the existence of a fact sought to be established," *HIKO Energy, LLC v. Pennsylvania Public Utility Commission*, 163 A.3d 1079, 1094 (Pa. Cmwlth. 2017) (quoting *Lyft, Inc. v. Pennsylvania Public Utility Commission*, 145 A.3d 1235, 1240 (Pa. Cmwlth. 2016)), *aff'd*, 653 Pa. 1, 209 A.3d 246 (2019). Complainant is not able to provide any evidence for reversing the Findings of Facts or Conclusions of Law in the Initial Decision that could be construed as substantial.

III. CONCLUSION

WHEREFORE, PGW respectfully requests that this Commission deny Complainant's Exceptions and adopt the Initial Decision.

Respectfully submitted,

/s/ Graciela Christlieb

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Date: January 19, 2024

Counsel for PGW

¹ Complainant does make a novel allegation that "[u]sing retail locations to pay a PGW bill results in extra fees..." Paying with cash at retail locations is free, as stated on page 2 of Complainant's bill. PGW Exh 2.