



PHILADELPHIA GAS WORKS

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February 26, 2024

VIA ELECTRONIC FILING

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

Re: Pamela Bull v. Philadelphia Gas Works, Docket No. C-2023-3042007

Dear Secretary Chiavetta:

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

If you have any questions, please do not hesitate to contact me.

Very truly yours,

/s/**Anita J. Murray**
Anita J. Murray

/awm
encl.

cc (w/encl.): Pamela Bull via Regular U.S. Mail
Special Agent Mroczka via Email

CERTIFICATE OF SERVICE

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

VIA EMAIL AND FIRST CLASS MAIL AS NOTED:

Pamela Bull
4309 Brown Street
Philadelphia, PA 19104
Via First Class Mail

Special Agent Michael J. Mroczka
micmroczka@pa.gov
Via Email

/s/ Anita J. Murray
Anita J. Murray, Esquire

Date: February 26, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pamela Bull,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2023-3042007
	:	
	:	
Philadelphia Gas Works,	:	
	:	
Respondent.	:	

**PHILADELPHIA GAS WORKS’
REPLY TO COMPLAINANT’S EXCEPTIONS**

Pursuant to 52 Pa. Code § 5.535 and the Secretary’s Letter dated February 15, 2024, Philadelphia Gas Works (“PGW” or “Respondent”) hereby submits the following Reply to the Exceptions filed by Pamela Bull (“Complainant”) to the Initial Decision in this matter issued on January 31, 2024 (“Initial Decision”).

I. STATEMENT OF FACTS AND PROCEDURAL HISTORY

Complainant filed a Formal Complaint (“Complaint”) against PGW with the Pennsylvania Public Utility Commission (“Commission”) on or about July 25, 2023. Complainant alleged that the Commission-issued payment arrangement¹ was not affordable and that she did not receive the BCS decision. *See* Complaint, ¶¶ 5-6. Complainant further alleged that she was disabled and requested a payment arrangement in the amount of \$136.00 a month, which was allegedly similar to a prior agreement. *Id.*

PGW filed a responding Answer on August 22, 2023. In the Answer, PGW admitted that Complainant was seeking a payment arrangement for gas service at 4309 Brown Street, Philadelphia, PA (“Service Address”). *See* Answer, ¶ 5. PGW further averred that Complainant was awarded a Commission-issued payment agreement and her Complaint was an appeal of that decision. *Id.* PGW denied the remaining allegations and requested dismissal of the Complaint. *Id.*

An Initial Call-In Telephonic Hearing Notice was issued on August 28, 2023 and a telephone hearing was scheduled for October 24, 2023 before Special Agent Michael J. Mrocza.

¹ Entered pursuant to the Commission’s Bureau of Consumer Services (“BCS”) on June 12, 2023 at No. 3916335.

The hearing proceeded as scheduled on October 24, 2023 with Complainant appearing *pro se* and testifying on her behalf. PGW was represented by legal counsel Anita J. Murray, Esquire. PGW also presented the testimony of its witness, Ronda Cobb, Customer Review Officer, at PGW. PGW offered three exhibits² which were admitted in evidence.

On January 31, 2024, Special Agent Mroczka issued his Initial Decision which sustained the Formal Complaint and ordered a Commission-issued payment agreement. Based upon the evidence presented at the hearing, Special Agent Mroczka determined the following facts relevant to these Exceptions:

- (a) Complainant's household consisted of 2 members;
- (b) Complainant's gross monthly income was \$3,844.00 as she earned \$3,621.00 a month from disability and \$223.00 from Social Security;
- (c) Based on her household size and income, Complainant was between 150% and 250% of the Federal poverty level;
- (d) Complainant's total utility arrearage was \$2,871.21; and
- (e) Complainant did not have a history of any prior Commission-issued payment agreements.

See Initial Decision, p. 3, Finding of Fact, ¶¶ 2-7; Tr. 10-16; 26-30; PGW Exhs. 1 and 2. After applying these factual determinations to the relevant regulations, namely, the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 1401-1419 and 1405(a)-(b), specifically; the Federal poverty guidelines, 88 Fed. Reg. 3424 (Jan. 19, 2023); and relevant case law, Special Agent Mroczka held that Complainant was entitled to a Commission-issued payment agreement. He awarded the follow payment agreement to Complainant: Monthly payments, beginning with the first billing due date following the entry of a Final Order, in the amount of her current budget bill plus one-thirty-sixth (1/36th) of the arrearage (\$2,871.21) for the next three years, and PGW was not allowed to suspend or terminate service so long as payments were made. In the event a payment is missed, PGW was then authorized to suspend or terminate gas service according to applicable law. *See* Initial Decision, pp. 5-7.

Complainant submitted Exceptions dated February 6, 2024 to the Commission, but failed to include the required Certificate of Service and failed to serve a copy on PGW's counsel.

² PGW's exhibits were: Statement of Complainant's Account (Exhibit 1); Complainant's History of Payment Arrangements (Exhibit 2); and Complainant's Informal Complaint and Decision under BCS No. 3916335 (Exhibit 3).

Complainant later submitted or filed a Certificate of Service. The Commission served PGW's counsel with the Exceptions by letter dated February 15, 2024. PGW now files this Reply to Complainant's Exceptions.

II. COMPLAINANT'S EXCEPTIONS AND PGW'S REPLY

Complainant's Exceptions fail to demonstrate that the Initial Decision is unsupported by the substantial evidence.³ Complainant's Exceptions fail to specifically identify what alleged errors of law or fact were made by Special Agent Mroczka.⁴ Complainant, instead, attempts to re-argue her case. Complainant states, again, that she is a disabled veteran and received disability income. She does not, however, take issue with the factual determination that she received a total gross monthly income of \$3,844.00. *See* Exceptions. As plainly set forth in the Initial Decision, Special Agent Mroczka did take her disability income, along with her Social Security income, into consideration when reaching his legal conclusions and the resulting payment agreement terms. *See* Initial Decision, p. 3, Finding of Fact, ¶¶ 2-7; Tr. 10-16; 26-30; PGW Exh. 1 and 2.

Complainant next argues that Special Agent Mroczka failed to consider her monthly expenses and, if he had done so, he would have held that she could only afford a payment agreement of \$136.00 a month. *See* Exceptions. Complainant, however, fails to provide any legal regulation, statute, or case law which supports her argument. And Complainant cannot do so, because expenses are not a factor to be considered when determining whether a payment arrangement can be issued. Special Agent Mroczka's Initial Decision specifically discussed the strict guidelines which must be followed when making such a determination. *See* Initial Decision, pp. 5-6. These strict guidelines are found under Sections 1405(a) and (b) of the Code and the factors to be considered are the size of household, the gross monthly household income, and where that gross income falls within the Federal poverty guidelines. Complainant's monthly expenses are not included in these guidelines and therefore, are not to be considered by Special Agent Mroczka when reaching a decision in this matter. *Id.*; 66 Pa.C.S. §§ 1401-1419 and 1405(a)-(b); the Federal poverty guidelines, 88 Fed. Reg. 3424 (Jan. 19, 2023)⁵.

³ *Norfolk & Western Ry. Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980) ("More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.")

⁴ 52 Pa. Code § 5.533(b).

⁵ The Federal poverty guidelines are adjusted yearly in order to account for increases in the Consumer Price Index for All Urban Consumers.

The Commission should sustain the Initial Decision because Complainant fails to meet her burden of proof⁶ and establish, by a preponderance of the evidence⁷, her claims against PGW. Upon review of the parties' testimony and documentary evidence, Special Agent Mroczka properly determined that Complainant is entitled to a Commission-based payment arrangement under the payment terms awarded in the Initial Decision.⁸

Therefore, based on the above, the record clearly demonstrates that Special Agent Mroczka considered all of the evidence before him and properly applied the facts to the correct, applicable law, in reaching his Initial Decision. The record clearly demonstrates that the Initial Decision is supported by substantial evidence.

III. CONCLUSION

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

Respectfully submitted,

/s/Anita J. Murray
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Date: Feb. 26, 2024

Counsel for PGW

⁶ 66 Pa.C.S. § 332(a).

⁷ *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990), *alloc. den.*, 529 Pa. 654, 602 A.2d 863 (1992).

⁸ *See* Initial Decision.