

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joan Preston	:	
	:	
v.	:	C-2023-3041161
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Arlene Ashton
Administrative Law Judge

INTRODUCTION

The Formal Complaint of Joan Preston is denied because she failed to meet her burden of proving that the Respondent violated the Public Utility Code, Commission regulations or a Commission Order.

HISTORY OF PROCEEDING

On June 9, 2023, Joan Preston (Complainant or Ms. Preston) filed a Formal Complaint with the Public Utility Commission (Commission) against Philadelphia Gas Works (PGW or Respondent) alleging that she was not responsible for a bill for gas service issued to her by PGW. As relief, Complainant requested that the Commission order PGW to cease efforts to collect the outstanding balance from her and from recording this amount with credit bureaus.

On June 27, 2023, PGW filed an Answer in response to the Complaint stating that the Complainant has been the owner of the property to which service was provided since

June 24, 1984 and denying the material allegations contained in the Complaint. PGW requested that the Commission deny all relief requested in the Complaint and dismiss the Complaint.

On August 10, 2023, an Initial Call-In Telephone Hearing Notice was issued scheduling an initial telephone hearing for October 5, 2023, at 10:00 a.m. On August 10, 2023, a Prehearing Order was issued advising the Parties of the date and time of the scheduled hearing, and of the applicable procedural rules.

On October 5, 2023, the hearing convened as scheduled. Complainant appeared on her own behalf and testified. PGW was represented by Graciela Christlieb, Esquire. PGW called one witness, Jessica Glace, a Manager in PGW's Customer Review Unit, and offered two exhibits, identified as PGW Exhibits 1 and 2, that were admitted into evidence.

At the hearing, the Complainant indicated that she wished to enter three documents into the record. Ms. Preston identified the documents as "bills" she received from CBE Group dated January 15, 2022, Radius Global Solutions Bay Area dated May 18, 2023,¹ and Credit Services dated May 27, 2023, Tr. 41-42, 46. Ms. Christlieb indicated that she had reviewed the copy of the Radius Global Solutions Bay Area letter dated May 18, 2023, attached to the Complaint. Ms. Christlieb raised an objection to its entry into the record, contending that it was not relevant. PGW's objection was overruled, and the Radius Global Solutions Bay Area letter dated May 18, 2023, was entered into the record. Tr. 43-44.

Ms. Preston was instructed to promptly submit the three proposed exhibits via email to PGW, the court reporter and the presiding officer.² PGW was given until October 12, 2023, to communicate any objections and Ms. Preston was allowed until October 16, 2023, to respond to any objections raised by PGW. Tr. 44-45. As more fully discussed below, the

¹ The Radius Global Solutions Bay Area letter dated May 18, 2023, was attached to the Complaint filed by the Complainant. *See* Complaint form attachment.

² Ms. Preston confirmed that she understood the procedure to be followed for late-filed exhibits. Tr. 45-46, 47-48. On October 5, 2023, shortly after the hearing, Ms. Preston contacted my legal assistant, requesting the court reporter's correct email address, which was promptly supplied to her.

Complainant's late-filed proposed Exhibit 2, the Account Notification on the letterhead of Bay Area Credit Service, is admitted into the record in the ordering paragraphs below.

The record was closed on December 7, 2023, when the transcript for the hearing was filed with the Secretary. The transcript includes the following exhibits:

PGW Exhibit 1 -- Customer Contacts
PGW Exhibit 2 -- Statement of Account

Complainant Exhibit 1 -- Radius Global Solutions LLC letter
dated May 18, 2022
Complainant Exhibit 2 -- Bay Area Credit Service Letter dated
May 27, 2023

FINDINGS OF FACT

1. The Complainant is Joan Preston.
2. Respondent is Philadelphia Gas Works.
3. The Complainant is the owner/landlord of a property located at 4561 North Camac Street, 2F, Philadelphia, PA 19140 (Service Address).
4. On March 19, 2019, Complainant contacted PGW to request that service to the Service Address be established in her name at the Service Address. Tr. 18-19; PGW Exh.1.
5. PGW provided service to Complainant at the Service Address from March 19, 2019, until December 24, 2021. Tr. 18-19, 21-22, 32; PGW Exh.1.
6. During the period of March 19, 2019, through December 23, 2021, the Complainant did not contact PGW to request that gas service at the Service Address be taken out of her name. Tr. 22.

7. PGW has a policy that requires a tenant or other applicant to contact PGW and provide a copy of the tenant's lease agreement for the premises indicating the start date of the tenant's occupancy to initiate gas service to the tenant. Tr. 24-26; PGW Ex. 1.

8. Under PGW's policy, a landlord or prior tenant may not initiate service in the name of a new tenant. Tr. 25-26.

9. On January 5, 2022, Ms. Preston contacted PGW and informed PGW that the Service Address had been leased to another party as of November 1, 2021. Tr. 22-23; PGW Ex. 1.

10. On January 6, 2022, Barbara Borbor, who identified herself as the property manager for the Service Address, contacted PGW and requested that the gas service for the Service Address be taken out of the Complainant's name as of November 2, 2021 and transferred to a tenant identified as Forest Davis. Tr. 23-24; PGW Ex. 1.

11. PGW informed Ms. Borbor that to remove the Complainant from the Service Address account, the new tenant would have to contact PGW to request service and provide a copy of a lease agreement, indicating the start date for the service to the new customer. Tr. 24-25; PGW Ex. 1.

12. On December 23, 2021, another customer contacted PGW and requested service in their name at the Service Address. Tr. 20-21. PGW Exhibit 1.

13. The last bill issued to the Complaint for the Service Address was issued on January 15, 2022, reflecting gas usage from December 10 – 24, 2021. Tr. 28-29; PGW Ex. 2.

DISCUSSION

Legal Standard

As the party seeking affirmative relief from this Commission, Complainant bears the burden of proof. 66 Pa.C.S. § 332(a). Complainant bears the burden of proving by a preponderance of the evidence that Respondent has violated the Public Utility Code or a regulation or order of the Commission. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). Complainant must show that the utility is responsible or accountable for the problem described in the complaint. *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976).

In addition to determining whether Complainant has satisfied her burden of proof, care must be exercised to ensure that the Commission's decision is supported by substantial evidence. 2 Pa.C.S. § 704. Various Pennsylvania courts have defined the term "substantial evidence" as such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Substantial evidence is more than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A. 2d 1037 (Pa. 1980); *Murphy v. Pa. Dept. of Pub. Welfare*, 480 A.2d 382 (Pa. Cmwlth. 1984).

Documentary Evidence Presented by the Complainant

Although she identified *three* documents to be supplied as late-filed exhibits, on October 5, 2023, Ms. Preston sent an email to the Court Reporter, counsel to PGW and my legal assistant together with *four* attachments not labeled as exhibits. For ease of reference, I instructed the court reporter to label the attachments as proposed Complainant exhibits in the order received.³ Complainant's first proposed late-filed exhibit is a letter on the letterhead of Hartsville Realty Management dated December 2, 2022. Complainant's next proposed late-filed exhibits appear to be duplicate copies of the Radius Global Solutions LLC letter dated May 18,

³ The court reporter labeled the proposed late-filed exhibits as Complainant Exhibits 1-4.

2022. Complainant's last proposed late-filed exhibit is a document entitled Account Notification on the letterhead of Bay Area Credit Service.⁴

The Complainant's first proposed late-filed exhibit was not among the documents identified by the Complainant at the hearing as a document she wished to file as a late-filed exhibit. Lacking proper identification and authentication it cannot come into the record. The Radius Global Solutions LLC letter dated May 18, 2022, submitted by the Complainant as a proposed late-filed exhibit was entered into the record at the hearing and is referred to herein as Complainant Exhibit 1.

On October 17, 2023, counsel to PGW sent an email expressing objections to the entry into the record of all of the Complainant's late-filed proposed exhibits. However, PGW's objections were not filed in accordance with the instructions provided at the hearing and, therefore, are overruled.

In sum, the only late-filed proposed Complainant exhibit that is entered into the record through this decision is late-filed proposed Complainant Exhibit 2, the Account Notification on the letterhead of Bay Area Credit Service, which is referred to herein as Complainant Exhibit 2

Arguments Presented by the Parties

In this case, Complainant is contesting PGW charges for the period November 2, 2021 through December 24, 2021. Tr. 13-14. Ms. Preston testified that she contacted PGW by telephone after a tenant moved into the Service Address on November 2, 2021 and again in late December 2021, requesting that PGW remove her name from the gas account for the Service

⁴ Also on October 5, 2023, Ms. Preston forwarded to the court reporter an email message dated February 1, 2022, sent by Barbara Borbor to PGW Correspondence and a document entitled Camac 4561 Davis Lease. On October 6, 2023, the Complainant forwarded the email and lease sent to the court reporter to PGW counsel and my legal assistant. Subsequently on October 6, 2023, and October 11, 2023, Ms. Preston repeatedly communicated with the court reporter, counsel for PGW and/or my legal assistant, expressing comments in support of her position in this matter. With the exception of proposed late exhibits supplied by the Complainant, none of the information submitted by the Complainant after the hearing was considered in the resolution of this matter.

Address and begin providing service in the name of the tenant. Tr. 12-13. The Complainant also indicated that on her behalf Barbara Borbor, the property manager for the Service Address had also contacted PGW to request that the gas service be placed in the name of the tenant. Tr. 13-14, 24-25.

The Complainant testified that the tenant had (a) signed a lease for the Service Address requiring the tenant to put the gas service for the Service Address in her name, (b) had been told by the property manager that the tenant was required to put the gas service in her own name, and (c) “swore that she would [do so] right away.” Tr. 12. Ms. Preston argued that PGW failed to provide reasonable service to her because she had submitted a copy of the lease signed by the tenant to PGW, demonstrating that in accordance with the terms of the lease, the tenant should have been financially responsible for gas service at the Service Address from and after November 2, 2021, not Ms. Preston. Tr. 12-13. She also alleged that PGW took gas service “out of somebody else’s name and put it in [her] name with no proof at all.” Tr 14. She claims that PGW erred by failing to provide service in the name of the tenant at the Service Address as Ms. Preston requested. As remedial action, she requested that her credit be “cleared.” Tr. 15.

Jessica Glace, the manager for PGW’s customer review unit testified that PGW has a policy that, to initiate service to a tenant, the tenant must contact PGW and provide a copy of a lease agreement indicating the start date for the service. Tr. 24-25; PGW Ex. 1. She also testified that under PGW’s policy, a landlord or prior tenant may not initiate service in the name of a new tenant; only the new tenant may do so.

Ms. Glace also testified that on March 19, 2019, Complainant contacted PGW to request that service to the Service Address be established in her name at the Service Address. Tr. 18-19; PGW Exh.1. In addition, she confirmed that PGW provided service to Complainant at the Service Address from March 19, 2019, until December 24, 2021. Tr. 18-19, 21-22, 32; PGW Exh.1. Further, she testified that on December 23, 2021, an applicant identified as neither Ms. Preston nor the prior tenant contacted PGW to request that service to the Service Address be transferred to the applicant as a new tenant. Tr. 20-21, 26-27; PGW Exhibit 1.

In her testimony, Ms. Glace confirmed that on January 5, 2022, the Complainant contacted PGW and informed PGW that the Service Address had been leased to another party as of November 1, 2021. Tr. 22-23; PGW Ex. 1. She also confirmed that on January 6, 2022, Barbara Borbor, who identified herself as the property manager for the Service Address also contacted PGW and requested that the gas service for the Service Address be taken out of the Complainant's name as of November 2, 2021. Tr. 23-24; PGW Ex. 1.

However, Ms. Glace explained that a PGW representative informed Ms. Borbor that pursuant to PGW policy, the new tenant for the Service Address must contact PGW to request gas service and provide a copy of a lease agreement indicating the start date for the service to the tenant. Tr. 24-25; PGW Ex. 1. She further explained that under PGW's policy, unless Ms. Preston herself contacted PGW to take the gas service out of her name, the Complainant would remain on the account at the Service Address account until the new tenant had done so. Tr. 22. PGW customer contact records indicate that the Property Manager for the Service Address was informed that for PGW to bill a tenant as of November 2, 2021, the tenant "would have to contact PGW to request service and provide the lease date [and] the turn off date for Ms. Preston could not be prorated unless the new tenant advises of their . . . start date." Tr. 25.

Disposition of the Complaint

Here, the Complainant's argument rests on the belief that a landlord should have the ability to direct PGW to transfer responsibility for gas service to a tenant without the tenant's participation based solely upon presentation of a signed lease.⁵ However, her argument appears to be based solely on her belief that PGW's policy is unreasonable or flawed.

PGW's policy reflects an unwillingness to transfer service and the attendant financial obligation for gas service to an individual without the express consent of that person.

⁵ Ms. Preston argued that PGW counsel had established PGW's policy to increase the right of squatters. Tr. 14.

The policy seems reasonable on its face.⁶ Testimony and documentary evidence submitted by PGW demonstrate that the new tenant did not request that gas service at the Service Address be placed in their name until December 23, 2021. Tr. 22; PGW Ex. 1. Further, Ms. Preston did not present any testimony or evidence to demonstrate that PGW did not follow its account transfer policy in this case, or that it did so in an unreasonable manner.

It is well established that mere opinion, without more, is insufficient to meet the Complainant's burden. *Kirby v. PPL Elec. Utils. Corp.*, Docket No. C-20066297 (Final Order entered Nov. 16, 2006) (*Kirby*); *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (1987) (*City of Pittsburgh*). That case also held that bald assertions, personal opinions or perceptions do not constitute evidence. *Kirby*; *City of Pittsburgh*.

The Complainant failed to prove that PGW violated the Public Utility Code, Commission regulations or any Commission orders in this proceeding. Accordingly, the Complaint is denied in the ordering paragraphs to follow.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. § 701.
2. The Complainant has the burden of proof in this proceeding. 66 Pa.C.S. § 332(a).
3. Mere opinion, without more, is insufficient to meet the Complainant's burden. *Kirby v. PPL Elec. Utils. Corp.*, Docket No. C-20066297 (Final Order entered Nov. 16, 2006); *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (1987).

⁶ The parties' dispute presented in this case regarding the identity of the "new tenant" highlights an issue that can arise when someone other than the customer initiating service endeavors to shift financial responsibility for gas service to another individual. See Tr. 13, 19, 26-27.

