

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Charlene Miller	:	
	:	C-2022-3032554
v.	:	
	:	
Peoples Natural Gas Company LLC.	:	

INITIAL DECISION

Before
Conrad A. Johnson
Administrative Law Judge

INTRODUCTION

This decision dismisses a Formal Complaint alleging 1) threat of service termination and 2) incorrect billing charges because Complainant failed to establish her burden of proof that she was incorrectly billed or that Respondent’s issuance of a 10-Day Shut Off Notice for a delinquent account violated the Public Utility Code, a Commission regulation or order of the Commission.

HISTORY OF THE PROCEEDINGS

Complainant Charlene Miller (Complainant or Ms. Miller) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Respondent Peoples Natural Gas Company LLC (Peoples or Respondent) on May 16, 2022. Complainant alleged that on or about April 4, 2022, Respondent changed the address for her gas service at 504 Western Avenue, Apartment 8, East Pittsburgh, Pennsylvania to 502 Western Avenue, Apartment 8, East Pittsburgh, Pennsylvania. Complainant alleges the address change

resulted in incorrect charges on her gas bill. Complainant also alleges Respondent is threatening service termination.

On July 6, 2022, Respondent filed an Answer, in pertinent part, as follows:

Peoples avers that the building that Complainant lives in and the actual apartment that she resides in have different street addresses. Although the building as a whole has an address of 301 Bessemer Avenue, East Pittsburgh, PA, Complainant's unit faces Western Avenue and has an address of 502 Western Avenue. Additionally, Complainant's address was changed from 504 Western Avenue to 502 Western Avenue due to 911 updates. Regardless of the address changes, Complainant has consistently been billed from the same meter number, which is the meter that serves the apartment she lives in, No. 8. Complainant is responsible for the charges billed to her.

Recently, Complainant contacted the Commission's Bureau of Consumer Services ("BCS") seeking help with preventing the termination of natural gas service. On April 27, 2022, the BCS rendered its decision verbally closing the matter.

Answer ¶ 4. Respondent also alleges that Complainant presently owes \$231.11. *Id.*

By Notice dated September 1, 2022, the Parties were informed that a telephonic hearing would convene before me on October 19, 2022. Also on September 1, 2022, I issued a Prehearing Order, which informed the Parties about the procedural rules for the hearing.

The evidentiary hearing convened as scheduled. Ms. Miller appeared self-represented, and she called her neighbor, Yvette Gibson, as a witness (Witness Gibson). Ms. Miller sponsored Exhibit E, a Statement of Account, which was admitted into the record.

Peoples was represented by Jennifer Petrisek, Esquire, who called as a witness, Yvonne Zentz, a senior customer relations specialist for Peoples (Witness Zentz). Witness Zentz sponsored Peoples Exhibits A through D and H, which were admitted into the record.

While Complainant did not raise the issue in her Complaint, during the hearing, Witness Gibson's testimony suggested there may be a foreign load at the service address. Tr. 74. A foreign load exists when the utility service to other parts of a building is connected to a residential rental unit's meter, thereby providing service to parts of a building outside of the rental unit, such as a common area. Also, counsel for Respondent stated, "I just sent in a note to our customer service team about a possible foreign load." Tr. 74. Consequently, a definitive determination of whether there was a foreign load at the service address was needed before a decision could be issued in this proceeding. Accordingly, by First Interim Order entered on January 5, 2023, Respondent was directed to conduct a foreign load investigation at the service address and to file a report as to the results of the investigation by February 10, 2023.

On February 10, 2023, Respondent filed a foreign load investigation report and served Complainant a copy of the report along with a Late-Filed Exhibit purporting to indicate the date, the serviceman's finding, and the outcome of the investigation. Respondent's report indicated that a foreign load investigation had been conducted at the service address on October 20, 2022. The Late-Filed Exhibit was not filed with the Secretary's Bureau, according to Respondent, because it contained Complainant's confidential information.

On March 13, 2023, I issued a Second Interim Order Admitting Respondent's Late File Exhibit into the Record Subject To Timely Objection. The Second Interim Order informed the Parties that Respondent's Late-Filed Exhibit would be marked as Late Filed-Exhibit I, subject to Complainant filing an objection to the admission of the Late-Filed Exhibit by March 27, 2023.

On April 7, 2023, I issued a Third Interim Order Closing the Record. The Third Interim Order stated Complainant had not filed any objection to the admission of Respondent's Late-Filed Exhibit I. Therefore, Exhibit I was admitted into the record, and the record was closed.

On July 2, 2023, I reviewed the docket and noted that apparently through an inadvertence the Respondent's Confidential Late-Filed Exhibit I had not been docketed.

Accordingly, on July 5, 2023, I issued a Fourth Interim Order Opening the Record for the Docketing of Respondent's Confidential Late-Filed Exhibit I, which was attached to the Fourth Interim Order, and the record was reclosed.

On July 5, 2023, Complainant emailed the OALJ staff claiming that Respondent "never checked the pipe" and never checked for a foreign load. As a result of Complainant's July 5, 2023, email, I directed Respondent to respond to Complainant's claims by July 12, 2023, and afterwards, I would determine whether the scheduling of an informal conference was necessary. On July 6, 2023, Respondent responded to Complainant's claims that the company never checked the pipe at the service address and never checked for a foreign load. Consequently, on September 13, 2023, I informed the parties that an informal conference could convene to discuss the foreign load investigation.

The informal conference convened on September 19, 2023. Complainant Charlene Miller, Respondent's counsel Jennife Petrisek, and Witness Zentz were present for the conference. Accordingly, on December 11, 2023, I issued a Fifth Interim Order Opening the Record to Memorialize the Convening of the Informal Telephone Conference and reclosed the record.

This case is procedurally ready for ruling.

FINDINGS OF FACT

1. Complainant Charlene Miller leases, resides, and receives gas service at 502 Western Avenue, Apartment 8, East Pittsburgh, Pennsylvania 15112 (502 Western Avenue Service Location). Tr. 11, 29; Complaint Attachment - Lease.

2. Respondent Peoples Natural Gas Company LLC is a jurisdictional public utility providing gas services to Complainant and other Pennsylvania customers.

3. On October 16, 2016, Peoples established gas service for Ms. Miller at the 504 Western Avenue, Apartment 8, East Pittsburgh, Pennsylvania, under account number ending in 4344 and meter number 840413 located in the basement of Ms. Miller's apartment building. Tr. 18-19, 38.

4. Ms. Miller's account number and meter number 840413 for gas service from Peoples have remained the same since gas service was established for her in 2016 in her Apartment 8. Tr. 46, 54, 79.

5. Ms. Miller's apartment building is located at the corner of Bessemer and Western Avenues in East Pittsburgh, Pennsylvania. Peoples Exhibit A.

6. The address for Ms. Miller's apartment building is 301 Bessemer Avenue, East Pittsburgh, Pennsylvania. Peoples Exhibit A.

7. Complainant's mailing address for her Peoples' gas bill is 301 Bessemer Avenue, Apartment 8, East Pittsburgh, Pennsylvania for service at the 502 Western Avenue Service Location. Tr. 20; Complaint Attachment - 10-Day Shut-Off Notice.

8. On or about March 14, 2022, East Pittsburgh officials, for 911 emergency purposes, updated Ms. Miller's address designation from 504 Western Avenue, Apartment 8, East Pittsburgh, Pennsylvania to 502 Western Avenue, Apartment 8, East Pittsburgh, Pennsylvania. Tr. 18-19, 40, 54, 79-84; Peoples Exhibit D.

9. On April 4, 2022, Peoples issued Ms. Miller a 10-Day Shut-Off Notice for a past due amount of \$759.56. Tr. 301-31, 76-77; Peoples Exhibit D; Complaint Attachment - 10-Day Shut-Off Notice.

10. On April 5, 2022, due to the 911 emergency update of Ms. Miller's address, Peoples began billing Ms. Miller for gas service at 502 Western Avenue, Apartment 8, East Pittsburgh, Pennsylvania 15112. Tr. 12, 19, 39-40.

11. On April 8, 2022, Peoples placed Ms. Miller's service termination on hold. Tr. 31; Peoples Exhibit D.

12. On April 11, 2022, Ms. Miller filed an informal complaint at BCS No. 38288959, alleging she was under threat of service termination, she was concerned about shared metering in her apartment billing, and her billing charges were incorrect. Peoples Exhibit D.

13. On April 27, 2022, BCS verbally issued a decision directing Ms. Miller to contact Peoples to request a meter investigation and to contact LIHEAP for assistance with her gas bill. Peoples Exhibit D.

14. On May 4, 2022, Ms. Miller received a \$500.00 LIHEAP grant, which was applied to her account balance. Tr. 76-77.

15. The street address, 504 Western Avenue, East Pittsburgh, Pennsylvania (504 Western Avenue), is next door to Complainant's 502 Western Avenue Service Location. Tr. 89.

16. Prior to Ms. Miller moving into Apartment 8, there was a lawyer's office at 504 Western Avenue; currently, 504 Western Avenue is an empty lot that partially abuts the side exterior wall of Ms. Miller's Apartment 8. Tr. 11, 19, 28, 35, 85, 89-91; Exhibit A, pp. 2 and 5.

17. Ms. Miller's gas usage has been consistent before and after the 911 emergency update of her Apartment 8 address. Tr. 47-48; Peoples Exhibit C and Miller Exhibit E.

18. On October 20, 2022, Peoples conducted a foreign load investigation at the Western Avenue Service Location. Peoples Late-Filed Exhibit I.

19. There is no foreign load at the 502 Western Avenue Service Location. Peoples Late-Filed Exhibit I.

20. As of the hearing date, Ms. Miller's gas service was active, and her account balance was \$95.01. Tr. 31-32, 77; Miller Exhibit E.

DISCUSSION

Legal Standards

Complaints and Burden of Proof

Section 701 of the Public Utility Code (Code), 66 Pa.C.S. § 701, provides that any person may complain, in writing, about any act or thing done or omitted to be done by a public utility in violation, or claimed violation, of any law which the Commission has the jurisdiction to administer, or of any regulation or order of the Commission.

As the proponent of a rule or order, Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of Code. 66 Pa.C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, Complainant must show that Respondent is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlt. 1990). A preponderance of the evidence is evidence that is more convincing, by even the smallest amount, than that presented by Respondent. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon 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 & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

Upon the presentation by Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of Complainant shifts to Respondent. If the evidence presented by Respondent is of co-equal value or “weight,” the burden of proof has not been satisfied. Complainant now must provide some additional evidence to rebut that of Respondent. *Burleson v. Pa. Pub. Util. Comm’n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

While the burden of going forward with the evidence 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. *Milkie v. Pa. Pub. Util. Comm’n*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

Reasonable Service

Section 1501 of the Code, 66 Pa.C.S. § 1501, mandates that a public utility must furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and must make such repairs, changes, alterations, substitutions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience and safety of its patrons and the public. Section 102 of the Code defines “service” as:

Used in its broadest and most inclusive sense, includes *any and all acts done, rendered, or performed*, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities

66 Pa.C.S. § 102 (emphasis added). A utility’s “service” is not merely confined to the distribution of utility service, but also includes “any and all acts” related to that function. *West Penn Power Co. v. Pa. Pub. Util. Comm’n*, 578 A.2d 75 (Pa. Cmwlth. 1990). Accordingly, a utility’s response to a customer’s incorrect billing claim or a suspected foreign load claim falls within the scope of reasonable service.

Termination of Service

Section 1406 of the Code permits a utility company to terminate service under certain conditions. Section 1406, in relevant part, states:

(a) Authorized termination. — A public utility may notify a customer and terminate service provided to a customer after notice as provided in subsection (b) for any of the following actions by the customer.

(1) Nonpayment of an undisputed delinquent account.

66 Pa.C.S. § 1406(a)(1).

Analysis

Complainant's Incorrect Billing and Service Termination Claims

The crux of Ms. Miller's Complaint is that Peoples billed her incorrectly because of an address change. Ms. Miller's apartment building is situated at the corner of Bessemer and Western Avenues in East Pittsburgh, Pennsylvania. Peoples Exhibit A pp. 1-5. The address for Ms. Miller's apartment building is 301 Bessemer Avenue, East Pittsburgh, Pennsylvania. *Id.* Ms. Miller's mailing address for her Peoples' gas bill is 301 Bessemer Avenue, Apartment 8, East Pittsburgh, Pennsylvania. Tr. 20; Complaint Attachment - 10-Day Shut-Off Notice. When Ms. Miller moved into Apartment 8 in 2016 her gas bill from Peoples listed her address as 504 Western Avenue, Apartment 8, East Pittsburgh, Pennsylvania 15112. Tr. 18-19. In March 2022, East Pittsburgh officials, for 911 emergency purposes, updated Ms. Miller's address designation from 504 Western Avenue, Apartment 8, East Pittsburgh, Pennsylvania to 502 Western Avenue, Apartment 8, East Pittsburgh, Pennsylvania. Tr. 18-19, 39-40, 54, 79-84.

Because of the 911 emergency update, Peoples on April 5, 2022, began billing Ms. Miller for gas service at 502 Western Avenue, Apartment 8, East Pittsburgh, Pennsylvania 15112. Tr. 12, 19, 39-40. The street address, 504 Western Avenue, East Pittsburgh,

Pennsylvania, is next door to Complainant's 502 Western Avenue Service Location. Previously, there was a lawyer's office at 504 Western Avenue; currently, 504 Western Avenue is an empty lot. Tr. 11, 19, 28, 35, 85, 89-91; Exhibit A, p.2 and 5. Thus, Ms. Miller concludes that Peoples had been incorrectly billing her for service at 504 Western Avenue because she in fact resides at 502 Western Avenue. Tr. 98-99.

Peoples' Witness Zentz explained that since Ms. Miller began receiving gas service from Peoples in 2016 at her Apartment 8 her account ending in Number 4344 and her Meter Number 840413, through which her gas service is billed, have remained the same. Tr. 44-48, 54, 79; Peoples Exhibits C; Miller Exhibit E.

Ms. Miller's claim that there are incorrect charges on her bill because of the 911 emergency address change is understandable. Initially, Peoples billed her for service at 504 Western Avenue, Apartment 8. When Ms. Miller moved into Apartment 8 in 2016, next door to her apartment building there was empty lot designated as 504 Western Avenue; however, previously, 504 Western Avenue was the address for a lawyer's office building. Tr. 89-91. Thus Ms. Miller concludes she has been incorrectly billed for service at 504 Western Avenue. Ms. Miller's conclusion is flawed on two counts. One, when she moved into her Apartment 8, 504 Western Avenue was the address for the empty lot next door to her apartment building. Thus, since Ms. Miller has resided in her Apartment 8, there has been no structure to which Peoples could provide gas service at 504 Western Avenue. Two, the meter through which Peoples bills service to Ms. Miller's Apartment 8 has remained the same since Peoples initially established service for Ms. Miller in 2016. Tr. 44-48, 54, 79; Peoples Exhibit C; Miller Exhibit E.

While the evidence is silent as to how the address billing error occurred when service was first established for Ms. Miller in 2016, the evidence is clear that a change in Ms. Miller's address did not result in incorrect charges on her bill. Additionally, Ms. Miller's gas usage has been consistent before and after the 911 emergency update of her Apartment 8 address. Tr. 47-48; Peoples Exhibits C; Miller Exhibit E. Therefore, Ms. Miller's incorrect billing claim must be dismissed.

Turning to the foreign load issue that arose during the hearing, Peoples conducted a foreign load investigation at the Western Avenue Service Location on October 20, 2022. Peoples Late-Filed Exhibit I. Peoples evidence did not uncover a foreign load at the 502 Western Avenue Service Location. Ms. Miller did not present any evidence to counter Peoples' investigation. Therefore, Ms. Miller failed to carry her burden of proof on this issue.

Lastly, Ms. Miller alleged she was under threat of gas service termination. Ms. Miller did establish that she received a 10-Day Shut-Off Notice from Peoples on April 4, 2022, for a past due amount of \$759.56. Tr. 30-31, 76-77; Peoples Exhibit D; Complaint Attachment - 10-Day Shut-Off Notice. However, under the Code a public utility may notify a customer of an impending service termination for nonpayment of an undisputed delinquent account. *See* 66 Pa.C.S. § 1406. Here, Ms. Miller did not dispute her delinquent account balance until April 11, 2022, the date she filed her informal complaint at BCS No. 38288959. Therefore, when Peoples sent Ms. Miller a 10-Day Shut-Off Notice on April 4, 2022, the delinquent account was undisputed. Thus, Peoples did not violate the Code by sending the termination notice to Ms. Miller. Additionally, the evidence establishes that on April 8, 2022, Peoples placed Ms. Miller's service termination on hold, and her service remained active up to the date of the hearing. Tr. 31; Peoples Exhibit D. Tr. 31-32, 77; Miller Exhibit E. Under these circumstances, Ms. Miller's threat of service termination claim is without merit.

Ruling

Reviewing the above findings of fact, applicable legal principles and the above analysis, a conclusion is required that Ms. Miller did not establish her burden of proving unreasonable service on the part of Peoples in issuing her a service termination notice, incorrect billing charges or the existence of a foreign load at the service address. Therefore, the Complaint must be dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S. § 701.

2. Complainant carries the burden of proving Respondent has in some manner violated the provisions of the Public Utility Code, or the regulations of the Commission or a Commission order in providing her electric service. 66 Pa.C.S. § 332(a).

3. The Public Utility Code requires a public utility to furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and must make such repairs, changes, alterations, substitutions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons and the public. 66 Pa.C.S. § 1501.

4. A public utility may notify a customer of an impending service termination for nonpayment of an undisputed delinquent account. 66 Pa.C.S. § 1406.

5. Complainant failed to carry her burden of proving Respondent has in some manner violated the provisions of the Public Utility Code, or the regulations of the Commission or a Commission order in providing her electric service. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Charlene Miller in Charlene Miller v. Peoples Natural Gas Company LLC at Docket No. C-2022-3032554 is dismissed.
2. That the Commission's Secretary's Bureau shall mark docket No. C-2022-3032554 closed.

Dated: April 9, 2024

/s/
Conrad A. Johnson
Administrative Law Judge