

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Debbie Jasinski	:	
	:	
v.	:	C-2023-3044619
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Alphonso Arnold III  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the Complaint of a gas service customer, wherein the customer alleged that her bills were too high and that she was placed on a payment arrangement that she did not agree to and cannot afford. The Complaint is dismissed in its entirety because the customer did not meet her burden of proof as it relates to either issue. To the extent that the Complaint also requests a payment arrangement, this Initial Decision additionally finds that the customer is not eligible for a second Commission-issued payment arrangement or to an extension of her first Commission-issued payment arrangement.

**HISTORY OF THE PROCEEDINGS**

On November 17, 2023, Debbie Jasinski (“Complainant”) filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) against Philadelphia Gas Works (“Respondent”) concerning gas service provided to 4732 Melrose Street, Philadelphia, PA 19137 (“service address”). First, Complainant argued that she was placed on a \$109 payment arrangement that she did not agree to and cannot afford. Second, Complainant argued that the gas bills for the

service address were too high considering that the service address was unoccupied. The Complaint was served on Respondent on December 5, 2023.

On December 26, 2023, Respondent filed an Answer against the Complaint. Respondent admitted or denied the averments of the Complaint and requested that the Complaint be dismissed.

On January 3, 2024, the Commission issued an Initial Call-In Telephonic Hearing Notice, scheduling this matter for a telephonic evidentiary hearing on March 12, 2024, and assigning this matter to the undersigned as Presiding Officer.

On February 12, 2024, the Commission issued my Prehearing Order, which set forth the procedural rules governing this matter.

On March 12, 2024, the evidentiary hearing was held as scheduled. Complainant appeared *pro se* and testified in support of her Complaint. Respondent was present and was represented by Anita J. Murray, Esquire, who presented the testimony of one witness, Patricia Bernard. Respondent offered four exhibits at the hearing, all of which were admitted into the record.

During the hearing, the topic of testing the gas meter servicing the service address for accuracy was discussed. The parties agreed to work together following the hearing to schedule a date for testing the meter. In that regard, the Commission issued my Interim Order #1 on March 13, 2024. In this Interim Order, I directed Respondent to submit a Status Report informally via email on or before March 26, 2024, informing me if the Parties were able to agree to a date for the meter test.

On March 26, 2024, Respondent submitted its Status Report as directed by Interim Order #1. In this Status Report, Respondent indicated that Complainant was unresponsive in Respondent's attempts to gain access to Complainant's property at the service address for the purposes of conducting a meter test.

On March 28, 2024, the Commission issued my Interim Order #2, wherein I formally closed the record in this proceeding. The evidentiary record in this proceeding consists of the 47-page electronic transcript of the evidentiary hearing and Respondent's four exhibits admitted into the record during the hearing.

For the reasons discussed below, the Complaint will be dismissed in its entirety.

#### FINDINGS OF FACT

1. Complainant is Debbie Jasinski, whose place of residence is in New Jersey. Tr. 7.
2. Respondent is Philadelphia Gas Works.
3. The service address is 4732 Melrose Street, Philadelphia, Pennsylvania 19137. Tr. 7, 8.
4. The property at the service address previously belonged to Complainant's brother before he passed away. Tr. 7, 9.
5. The previous gas meter at the service address was exchanged for the current gas meter servicing the service address on September 24, 2021. Tr. 29, 30.
6. Gas service at the service address was placed in Complainant's name on October 25, 2021. Tr. 19.
7. The meter servicing the service address is an automatic meter reading device and Complainant's bills are based on actual meter readings. Tr. 33, 34.
8. The accuracy of the gas meter servicing the service address has not been tested since the meter was placed into service. Tr. 36.

9. Complainant's statement of account for gas service provided to the service address shows that gas usage at the service address is seasonal in nature in that more gas is used in the winter months as compared to the warmer months. PGW Exhibit 1.

10. The property at the service address is a two-floor single-family home with five rooms. Tr. 11.

11. Complainant has a gas hot water heater and a gas house heater at the service address. Tr. 11.

12. On January 19, 2022, Complainant submitted a dispute to Respondent regarding her gas bill from November 26, 2021, through December 29, 2021, in the amount of \$252.86, arguing that the service address was vacant and that the address has electric heaters. PGW Exhibit 4, pg. 1.

13. Respondent investigated the January 19, 2022, dispute and issued a letter to Complainant on February 17, 2022, containing the results of the investigation. PGW Exhibit 4.

14. The February 17, 2022, letter concluded that the bill in question was correct as rendered. PGW Exhibit 4, pg. 1.

15. The February 17, 2022, letter indicated that although the property was unoccupied, appliances such as the furnace worked by thermostat setting and that the furnace would turn on every time the temperature in the residence falls below the thermostat set temperature. PGW Exhibit 4, pg. 1.

16. Complainant receives \$965 per month in Supplemental Security Income ("SSI"). Tr. 15.

17. Complainant resides at her household alone. Tr. 15.

18. On October 16, 2023, the Commission’s Bureau of Consumer Services (“BCS”) opened an Informal Complaint, docketed at BCS No. 3948987, after Complainant contacted BCS requesting a payment arrangement. Tr. 31; PGW Exhibit 3, p. 13.<sup>1</sup>

19. On October 17, 2023, BCS closed the Informal Complaint at BCS No. 3948987, issuing Complainant a payment arrangement of \$109. Tr. 32; PGW Exhibit 3, p. 15.

20. The payment arrangement issued to Complainant at BCS No. 3948987 was based on a reported household income of \$945 for a household of 1. Tr. 31; PGW Exhibit 3, p. 13.

21. Complainant defaulted upon the payment arrangement issued at BCS No. 3948987. Tr. 30; PGW Exhibit 2.

### DISCUSSION

Section 332(a) of the Public Utility Code (“Code”) provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, a complainant must show that the respondent public utility is responsible or accountable for the problem described in the complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (Opinion and Order entered Feb. 8, 1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (Opinion and Order entered Oct. 6, 1976). 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. Cmwlth. 1990). A preponderance of the evidence is evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). The offense must be a violation of the Code, a Commission Regulation or Order, or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701.

---

<sup>1</sup> Respondent moved only for the admission of the last four pages of PGW Exhibit 3, that is pages 13-16, into the record.

Upon the presentation by a complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the complainant shifts to the respondent. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on the complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *see also, Burlison v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. 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); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

### *High Bill Dispute*

In this matter, Complainant complains of high bills for the service address. According to Complainant, the bills have been too high ever since the new meter was installed. Tr. 6, 9, 10. Patricia Bernard, a customer review officer testifying on Respondent's behalf, testified that the current gas meter servicing the service address was installed on September 24, 2021, and that gas service was placed in Complainant's name on October 25, 2021. Complainant, therefore, complains of every bill issued to her under her name for gas service provided to the service address.

Concerning high bill complaints, the Commission applies the *Waldron* rule. In *Waldron v. Philadelphia Electric Co.*, 54 Pa.P.U.C. 98 (1980) ("*Waldron*"), the Commission adopted the Michigan Public Service Commission's policy announced in *Hallifax v. O & A Electric Co-Op*, Case No. U-5825, (May 1979), which stated that, while the accuracy of the

meter is an important factor in resolving billing disputes, it is not the sole criterion. The Commission stated that it will also consider the following factors: the billing history of the Complainant; any change in the number of occupants residing at the household; the potential for energy utilization; and any other relevant facts or circumstances that are brought to light during the complaint proceeding. *Waldron* at 100.

Consistent with the Commission's holding in *Bennett v. Peoples Natural Gas Co.*, Docket No. C-2009-2122979 (Opinion and Order entered Oct. 13, 2010), 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 his or her pattern of usage has not changed or by providing other relevant evidence showing that the disputed bill is unreasonably high. In evaluating a “high bill” complaint, the Commission may consider such evidence as “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.” *Id.* at 6; *See also Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Opinion and Order entered Nov. 15, 2011).

In this case, the period that Complainant is challenging begins with the initiation of gas service at the service address in her name. Therefore, Complainant does not have the relevant prior usage information contemplated by *Waldron*. Thus, without the availability of prior usage information, the *Waldron* Rule contemplates that Complainant must provide relevant evidence that shows that the disputed bill is unreasonably high to establish a prima facie case.

The service address property is a single-family home with two floors and five rooms. Complainant has a gas hot water heater and a gas house heater at the service address. Complainant testified that the service address was unoccupied during the disputed period. Tr. 5. Complainant also testified that she uses electric heaters or a kerosine heater to heat the service address and does not use gas heat. Tr. 13, 14; PGW Exhibit 4, pg. 1.

Ms. Bernard testified that the meter servicing the service address is an automatic meter reading device and that Complainant's bills are accurate and based on actual meter readings. The accuracy of the meter has not been tested since it has been placed into service.

Respondent additionally presented evidence that indicates that Complainant on January 19, 2022, submitted a dispute to Respondent regarding her gas bill from November 26, 2021, through December 29, 2021, in the amount of \$252.86, arguing that the service address was vacant and that the address has electric heaters. Respondent investigated the dispute and concluded that the bill in question was correct as rendered. The letter closing the dispute also pointed out that, although the property was unoccupied, appliances such as the furnace worked by thermostat setting and that the furnace would turn on every time the temperature in the residence falls below the thermostat set temperature. Respondent presented Complainant's statement of account for gas service provided to the service address which shows that the gas usage at the service address is seasonal in nature.

Complainant has failed to produce evidence that her gas bills for the service address are unreasonably high. Complainant has therefore failed to establish a prima facie case of high billing.<sup>2</sup> While Complainant provided testimony regarding gas usage at the service address to support her high billing claim, her testimony in this regard is inconsistent. Complainant testified that the service address is unoccupied, but also testified that she travels back and forth between her residence in New Jersey and the service address in Philadelphia and stays at the service address for months at a time. Tr. 12. Complainant testified that she uses electric heaters or a kerosine heater to heat the service address and does not use gas heat, but also acknowledged that she never shut off the gas heater and that she keeps the thermostat for the gas heater on low at approximately 60 degrees. Tr. 10. As Respondent indicated in its letter closing Complainant's January 19, 2022, dispute, the service address's gas heater will turn on every time the temperature in the residence at the service address falls below the thermostat set temperature. In that regard, Complainant's usage at the service address is seasonal in nature, in that more gas is used to heat the home in the winter as compared to warmer months. Given the inconsistencies in Complainant's testimony, I cannot find that the service address has been unoccupied during

---

<sup>2</sup> As Complainant did not establish a prima facie case of high billing, the burden of going forward with the evidence did not shift to Respondent.

the period at issue, nor can I find that Complainant has not used gas heat to heat the service address. Complainant did not present substantial evidence that would lead to a finding that the service address was incapable of using service consistent with the bills rendered.

Further, I will note that if Complainant believes that the meter servicing the service address is not functioning properly, then she could have availed herself of the opportunity to have the meter tested. Complainant did not avail herself of that opportunity before or after the hearing. *See* Tr. 41; *see also* March 13, 2024, Interim Order #1 and March 28, 2024, Interim Order #2. Due to Complainant's inaction in this regard, a meter test concerning the accuracy of the meter servicing the service address is not part of the evidentiary record.

Based on the analysis, above, Complainant has not met her burden of proof as it relates to the issue of high billing.

#### *Payment Arrangement Dispute*

In her Complaint, Complainant also argued that she was placed on a \$109 payment arrangement that she did not agree to and cannot afford. The evidence shows that on October 16, 2023, Complainant contacted BCS and requested a payment arrangement and that BCS issued Complainant a \$109 payment arrangement on October 17, 2023. As the payment arrangement that Complainant contests in her Complaint was established by the Commission and not by Respondent, Complainant failed to show how Respondent was accountable or responsible for this issue. Therefore, Complainant has not met her burden of proof as it relates to this issue. The evidence further shows that Complainant defaulted on this Commission-issued payment arrangement.

To the extent that Complainant is requesting a second Commission-issued payment arrangement, the Responsible Utility Customer Protection Act, 66 Pa.C.S. § 1401-1419, applies to complaints alleging inability to pay and requesting a Commission-issued payment arrangement. This law provides strict guidelines that the Commission must follow in handling customer complaints. Section 1405(a) of the Code reads as follows:

## **§ 1405. Payment arrangements**

**(a) General rule.** -- The commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers. The commission is authorized to establish payment arrangements between a public utility, customers and applicants within the limits established by this chapter.

However, Section 1405(d) of the Code states the following concerning issuing a customer a second or subsequent payment arrangement.

**(d) Number of payment arrangements.**--Absent a change in income, the commission shall not establish or order a public utility to establish a second or subsequent payment arrangement if a customer has defaulted on a previous payment arrangement established by a commission order or decision. A public utility may, at its discretion, enter into a second or subsequent payment arrangement with a customer.

66 Pa.C.S. § 1405(d). A “change in income” is defined as:

**“Change in income.”** A decrease in household income of 20% or more if the customer's household income level exceeds 200% of the Federal poverty level or a decrease in household income of 10% or more if the customer's household income level is 200% or less of the Federal poverty level.

66 Pa.C.S. § 1403.

As noted above, the Commission established a payment arrangement for Complainant on October 17, 2023. Complainant defaulted on this Commission-issued payment arrangement. The Commission-issued payment arrangement established for Complainant was based on a gross monthly household income of \$945 for a household size of one. Complainant at hearing testified that her gross monthly household income is \$965 for a household size of one. Therefore, Complainant has experienced a slight increase in household income since the issuance of the Commission-issued payment arrangement. As Complainant experienced an increase in household income, and not the decrease in household income necessary to meet the definition of

“change in income,” defined above, the Commission cannot establish a second payment arrangement for Complainant.

Also, Complainant is not eligible to an extension of the October 17, 2023, Commission-issued payment arrangement. Section 1405(e) of the Code states the following concerning extending a customer’s defaulted upon payment arrangement:

**(e) Extension of payment arrangements.** If the customer defaults on a payment arrangement established under subsections (a) and (b) as a result of a significant change in circumstance, the commission may reinstate the payment arrangement and extend the remaining term for an initial period of six months. The initial extension period may be extended for an additional six months for good cause shown.

66 Pa.C.S. § 1405(e). A “significant change in circumstance” is defined as:

**“Significant change in circumstance.”** any of the following criteria when verified by the public utility and experienced by customers with household income less than 300% of the Federal poverty level:

- (1) The onset of a chronic or acute illness resulting in a significant loss in the customer's household income.
- (2) Catastrophic damage to the customer's residence resulting in a significant net cost to the customer's household.
- (3) Loss of the customer's residence.
- (4) Increase in the customer's number of dependents in the household.

66 Pa.C.S. § 1403.

Complainant did not present any evidence that she defaulted on the Commission-issued payment arrangement as a result of a significant change in circumstance. Consequently, the Commission may not reinstate the payment arrangement issued on October 17, 2023, and extend the remaining term.

## *Conclusion*

Based on the foregoing, I find that the Complainant has failed to carry her burden of proving that Respondent overbilled her gas service. I also find that Complainant failed to meet her burden of showing that Respondent is responsible or accountable for the issuance of the \$109 payment arrangement that she contests in her Complaint. Lastly, I find that Complainant is not eligible for a second Commission-issued payment arrangement or to an extension of her prior Commission-issued payment arrangement. Accordingly, the Complaint will be dismissed in its entirety in the Ordering paragraphs below.

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 701.
2. The burden of proof in this proceeding is upon Complainant. 66 Pa.C.S. § 332(a).
3. To establish a sufficient case and satisfy the burden of proof, a complainant must show that the respondent public utility is responsible or accountable for the problem described in the complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (Opinion and Order entered Feb. 8, 1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (Opinion and Order entered Oct. 6, 1976).
4. Upon the presentation by a complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the complainant shifts to the respondent. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on the

complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *see also*, *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

5. The decision of the Commission must be supported by substantial evidence. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. 2 Pa.C.S. § 704; *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

6. 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 his or her pattern of usage has not changed or by providing other relevant evidence showing that the disputed bill is unreasonably high. *Bennett v. Peoples Nat. Gas Co.*, Docket No. C-2009-2122979 (Opinion and Order entered Oct. 13, 2010).

7. The Responsible Utility Customer Protection Act applies to complaints alleging inability to pay and requesting a Commission-issued payment arrangement. 66 Pa.C.S. § 1401-1419.

8. Absent a change in income, the commission shall not establish or order a public utility to establish a second or subsequent payment arrangement if a customer has defaulted on a previous payment arrangement established by a commission order or decision. 66 Pa.C.S. § 1405(d).

9. If the customer defaults on a payment arrangement as a result of a significant change in circumstance, the commission may reinstate the payment arrangement and extend the remaining term for an initial period of six months. 66 Pa.C.S. § 1405(e).

10. Complainant has failed to sustain her burden of proof. 66 Pa.C.S. § 332(a).

