

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lisa Werts	:	
	:	
v.	:	C-2024-3048687
	:	
Philadelphia Gas Works	:	

**INTERIM ORDER
DENYING RESPONDENT’S PRELIMINARY OBJECTION
AND SCHEDULING EVIDENTIARY HEARING**

On April 25, 2024, Lisa Werts (Complainant or Ms. Werts) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission), using the Formal Complaint form. She checked the box indicating that Philadelphia Gas Works (PGW, Company, or Respondent) was threatening to shut off her service or had already shut off her service. She also checked the box requesting a payment arrangement (PAR), and the “Other” box, writing,

“My grandmother, Edith Wertz (d- 11/12/2016) had a bill which was on CRP. I went to PGW ... and changed the bill over to my name. Upon doing so, I was told that I would have to pay the balance on the account. My grandmother’s account was about 2500.00. I was also informed that I had a bill from a previous address, (5547 Matthews St.). I was then billed for both, plus any usage going forward. From 2017-2022, I paid PGW a total of \$8967.00 for bills. Currently, my bill in 2024 reads \$8,570.05. I have file complaints and every time they side with PGW.”

As relief, she requests “this bill be closed and restarted.” She avers she was given a PAR “several times,” but was unable to pay due to circumstances that caused a hardship. On her Complaint, Ms. Wertz indicated she wanted to be served by the Commission via eService.

On May 15, 2024, PGW filed a Preliminary Objection and Answer and New Matter to the Complaint. In its Answer, PGW admits that the Company issued a termination notice to Complainant for an outstanding balance.

In its New Matter, PGW avers the balance transfer from 5547 Matthews Street occurred on August 1, 2018, and, on September 14, 2018, Complainant filed an informal complaint with the Commission's Bureau of Consumer Services (BCS) at BCS No. 3652116, wherein Complainant did not dispute the transfer, but requested a PAR for the amount transferred to her account. PGW avers BCS issued a decision at BCS No. 3652116, wherein BCS awarded Complainant a PAR on her entire outstanding balance. PGW argues the statute of limitations at 66 Pa.C.S. § 3314 provides that no action for recovery of penalties or forfeitures, or any prosecution, may be maintained unless brought within three years from the date the liability arose. The statute of limitations at 66 Pa.C.S. § 3314 divests the Commission of jurisdiction to hear an action brought more than three years from the date the liability arose. As such, PGW requests the Commission dismiss the Complaint in its entirety.

A Notice to Plead was attached to the New Matter, advising Complainant to file a response within twenty (20) days. Complainant did not file a response.

In its Preliminary Objection, PGW argues the issue of the balance transfer from Matthews Street occurred in August 2018, almost six years ago, and is time barred under the Commission's statute of limitations, which is three years. Further, PGW avers the balance transferred from Matthews Street account has already been the subject of a Commission-awarded PAR.

A Notice to Plead was attached to the Preliminary Objection, advising Complainant to file a response within ten (10) days. Complainant did not file a response.

It is now appropriate to rule on the Preliminary Objection.

Discussion

Preliminary objection practice before the Commission is similar to Pennsylvania civil practice respecting preliminary objections.¹ The moving party may not rely on its own factual assertions but must accept for the purposes of disposition of the preliminary objection, all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts.² However, the Commission need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion.³

PGW argues in its Preliminary Objection that the balance transfer from the Matthews Street account occurred in 2018, but, as discussed above, when disposing of Preliminary Objections, I look only at the factual assertions contained in the Complaint. Complainant does not specify in the Complaint when this transfer occurred. PGW also argues the Matthews Street account balance has already been the subject of a Commission-awarded PAR. Again, Complainant does not specifically make this averment in her Complaint, it is based on representations made in PGW's filings.

I note that, in its New Matter, PGW pled that the balance transfer occurred in 2018, and that it had already been the subject of Commission-awarded PAR. Complainant did not file a response to the New Matter. While Commission regulations provide that a party's failure to file a timely response may result in the averments made in the New Matter being deemed admitted,⁴ Complainant is *pro se*. Well-established Commission precedent tends to afford unrepresented complainants the opportunity to orally set forth their cases on the record and cautions against dismissing cases on a preliminary basis.⁵

¹ *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

² *County of Allegheny v. Cmwlt. of Pa.*, 490 A.2d 402 (Pa. 1985).

³ *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlt. 2007).

⁴ 52 Pa. Code § 5.63.

⁵ *Carlock v. The United Telephone Company of Pennsylvania*, Docket No. F-00163617 (Order entered July 14, 1993).

As such, the Preliminary Objection will be denied and this matter will be set for an evidentiary hearing. At the hearing, Complainant will have the burden of presenting substantial evidence that DLC violated a regulation, statute, tariff provision or order over which the Commission has authority. PGW shall have the opportunity to present evidence that some or all of Complainant's claims are barred by either the statute of limitations or *res judicata*.

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection filed by Philadelphia Gas Works against the Formal Complaint filed by Lisa Werts at Docket Number C-2024-3048687 is denied.
2. That the Complaint filed by Lisa Werts at Docket Number C-2024-3048687 shall move forward to an evidentiary hearing.
3. That an evidentiary hearing be convened at 10:00 am on August 27, 2024.
4. That Complainant appear at the evidentiary hearing on August 27, 2024. Complainant's failure to appear at the hearing on August 27, 2024, may result in dismissal of the Complaint.

Date: July 3, 2024

_____/s/_____
Emily I. DeVoe
Administrative Law Judge

C-2024-3048687 - LISA WERTS v. PHILADELPHIA GAS WORKS

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