



PHILADELPHIA GAS WORKS

800 West Montgomery Avenue • Philadelphia, PA 19122

Anita J. Murray, Esquire
Senior Attorney
Legal Department
Direct Dial: 215-684-6659
Fax: 215-684-6798
Email: anita.murray@pgworks.com

July 26, 2024

VIA ELECTRONIC FILING

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

Re: Donovan Jacob Adams v. Philadelphia Gas Works,
Docket No. C-2023-3043707

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.): Donovan Jacob Adams via Email and Regular U.S. Mail
ALJ Eranda Vero 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:

Donovan Jacob Adams
4815 North Marshall Street
Philadelphia, PA 19120
4cloudsrecords@gmail.com
Via Email and First Class Mail

The Honorable Judge Eranda Vero
pmcneal@pa.gov
Via Email

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

Date: July 26, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|-------------------------|---|---------------------------|
| Donovan Jacob Adams, | : | |
| Complainant, | : | |
| v. | : | Docket No. C-2023-3043707 |
| | : | |
| 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 July 16, 2024, Philadelphia Gas Works (“PGW” or “Respondent”) hereby submits the following Reply to the Exceptions filed by Donovan Jacob Adams (“Mr. Adams” or “Complainant”) to the Initial Decision dated June 24, 2024 (“Initial Decision”).

I. STATEMENT OF FACTS AND PROCEDURAL HISTORY

Mr. Adams filed a Formal Complaint (“Complaint”) against PGW with the Pennsylvania Public Utility Commission (“Commission”) on or about October 19, 2023. In the Formal Complaint, Mr. Adams asserted three allegations against PGW: (1) PGW has or is threatening to terminate his gas service; (2) he is unable to pay his outstanding balance; and (3) there are incorrect charges on his gas bills. Mr. Adams then requested, as relief, an affordable payment arrangement established by the Commission. *See* Complaint.

PGW filed a responding Answer on August 22, 2023. In the Answer, PGW admitted that a shut-off notice has been issued and that Mr. Adams was seeking a payment arrangement for gas service at 4815 North Marshall Street, Philadelphia, PA (“Service Address”). *See* Answer. PGW further averred that previously, PGW issued Mr. Adams two payment arrangements and the Commission awarded him a payment agreement, all of which remained unsatisfied. *Id.* PGW denied the remaining allegations and requested dismissal of the Complaint. *Id.*

An Initial Call-In Telephonic Hearing Notice was issued on November 15, 2023 and a telephone hearing was scheduled for January 12, 2024 before the Honorable Judge Eranda Vero. The Prehearing Order was issued on December 13, 2023.

PGW moved to continue the hearing on January 5, 2024, and said motion was granted by Order dated January 9, 2024. The hearing was rescheduled for March 1, 2024, with the Call-In Telephone Cancellation/Reschedule Hearing Notice issued on January 10, 2024. A second Prehearing Order was later issued on January 17, 2024.

The hearing proceeded as scheduled on March 1, 2024 with Mr. Adams appearing *pro se* and testifying on his behalf. He presented no witnesses at the hearing. He presented testimony only as to his allegations and request for a second affordable payment agreement issued by the Commission; he did not pursue his allegations regarding termination or potential termination of service or incorrect charges. *See* Transcript; Initial Decision, p. 4. PGW was represented by legal counsel Anita J. Murray, Esquire. PGW also presented the testimony of its witness, Jessica Antonetti, Customer Review Officer, at PGW. PGW offered five exhibits which were admitted in evidence.¹ The record closed on March 25, 2024, upon receipt of the hearing transcript.

On June 24, 2024, Judge Vero issued her Initial Decision which dismissed Mr. Adams' Complaint. After an initial unsuccessful attempt at filing exceptions to the Initial Decision, Mr. Adams ultimately filed his Exceptions on or about July 16, 2024. Although Mr. Adams failed to serve PGW with a copy, PGW was served with the same on July 16, 2024, by the PUC. PGW now files this Reply to Mr. Adams' Exceptions.

II. COMPLAINANT'S EXCEPTIONS AND PGW'S REPLY

Mr. Adams' Exceptions fail to demonstrate that the Initial Decision is unsupported by the substantial evidence.² Rather than identifying and discussing those (if any) alleged errors of law or fact were made by Judge Vero,³ Mr. Adams simply stated that he disagreed with the decision and reiterated his request for an affordable Commission issued payment arrangement. *See* Exceptions. In doing so, Mr. Adams is simply attempting to re-litigate the matter.

¹ PGW's exhibits which were admitted into evidence are as follows: Statement of Account (Exhibit 1); a collection of enrollment and cancellation letters (Exhibit 2); the Opening and Closing Decisions for Informal Complaints BCS #3714659 and #3915809 (Exhibit 3, pgs. 1-4; 31-34); History of Payment Arrangements (Exhibit 4); and Meter Test Results (Exhibit 5).

² *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.")

³ 52 Pa. Code § 5.533(b).

The Commission should sustain the Initial Decision because Mr. Adams failed to meet his burden of proof⁴ and establish, by a preponderance of the evidence⁵, his claims against PGW. Upon review of the parties' testimony and documentary evidence, Judge Vero properly determined that Mr. Adams failed to establish that he is entitled to a second Commission-based payment arrangement because: he previously had a Commission-based arrangement dated July 2, 2019 which was defaulted upon⁶; since the date of the prior Commission-based arrangement, his gross monthly income has *increased* and his household size has decreased, thereby failing to demonstrate a change in circumstances⁷; and his four (4) payments made over forty (40) months did not demonstrate a good faith effort to pay his outstanding balance owed to PGW.⁸

Therefore, based on the above, the record clearly demonstrates that Judge Vero properly considered all of the evidence before her and properly applied the facts to the correct, applicable law, in reaching her Initial Decision. The record clearly demonstrates that the Initial Decision is supported by substantial evidence and applicable and relevant law and the Commission should uphold the Initial Decision.

III. CONCLUSION

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

Respectfully submitted,

/s/Anita J. Murray
Anita J. Murray, Esquire
Attorney I.D. 84703
Philadelphia Gas Works
800 W. Montgomery Avenue

⁴ 66 Pa.C.S. § 332(a).

⁵ *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).

⁶ Initial Decision Finding of Fact ¶¶ 11-12, page 7, and Conclusion of Law ¶ 5; Tr. 10, 26-27, 29-30; PGW Exh. 3, 4; 66 Pa.C.S. § 1405(d).

⁷ Initial Decision Finding of Fact ¶¶ 4-5, 11, page 7, and Conclusion of Law ¶ 5; Tr. 12-18, 26-27; PGW Exh. 3; 66 Pa.C.S. § 1405(d), (e); 66 Pa.C.S. § 1403; *Crawford v. Nat'l Fuel Gas Dist. Corp.*, Docket No. C-20066348 (Op. and Order entered Dec. 6, 2007).

⁸ Initial Finding of Fact ¶¶ 6-9, 11, page 7, and Conclusion of Law ¶ 5; Tr. 23- 25; PGW Exh. 1; 66 Pa.C.S. § 1405(a), (c), and (d); *Crawford, supra*.

Philadelphia, PA 19122
Telephone: (215) 684-6659
anita.murray@pgworks.com

Date: July 26, 2024

Counsel for PGW