

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BLR Properties LLC c/o Reginald Bell	:	
	:	
v.	:	F-2024-3046024
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Michael J. Mroczka
Special Agent

INTRODUCTION

This Initial Decision dismisses the Formal Complaint for failure of Complainant to meet the burden of proof to show that Philadelphia Gas Works violated the Public Utility Code, a Commission regulation, or a Commission Order by holding it responsible for unauthorized usage charges at the service address.

HISTORY OF THE PROCEEDING

On January 29, 2024, BLR Properties, LLC (Complainant or BLR) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW, Company or Respondent).¹ In its Complaint, BLR checked the boxes stating the utility is threatening to shut off his service or has already shut off his service and requesting a payment agreement. BLR further explained under “Other” that

¹ The Complaint is a timely appeal of a decision by the Commission’s Bureau of Consumer Services (BCS) at BCS No. 3961290. The timely appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

Tenant had gas service placed in someone else's name. Service was turned off for non-payment. While tenants continued to live in the property, the gas service was tampered with and unauthorized use of service occurred for several months until PGW removed the gas meter 10/2022. Tenant moved out in 12/2023. I requested to have a meter installed and have service turned on. I was informed that I would have to pay . . . for the unauthorized use of service made by the tenant. I was never informed of any of this fraudulent activity. I believe I am being wrongfully held responsible for someone else's crime[.]

Compl. at ¶ 2.

Under “Requested Relief,” Complainant requested the following:

I would like the PUC to order the Philadelphia Gas Works to absolve me from the liability of the unauthorized use of services and charges made [b]y a known account holder.

I would like the PUC to order PGW to remove charges that was [sic] passed on to me from the tenant/previous account holder and pursue the account holder for those charges.

I would like the PUC to order PGW to restore services at 2537 N. Bancroft St[.] so I can continue to provide affordable housing to people in need during the ongoing housing crisis in Philadelphia.

I would like the PUC to recognize that I was registered under the Landlord CO-OP program during the time of the unauthorized charges were made. Which should insulate me from any liability of unauthorized use of service without anyway for to know of said activity.

Compl. at ¶ 5.

On February 26, 2024, PGW filed a timely Answer to the Formal Complaint which admitted in part and denied in part various material allegations of the Complaint.²

² The Formal Complaint was served on PGW on February 5, 2024.

By Hearing Notice dated March 1, 2024, an Initial Call-In Telephonic Hearing was scheduled for April 10, 2024, and the matter was assigned to me.

A Prehearing Order was issued and served on March 15, 2024, reminding the parties of the date and time of the scheduled hearing, and informing them of the procedures applicable to this proceeding.

Prior to the hearing on April 10, 2024, PGW made an oral Motion to Dismiss arguing that the Commission lacked jurisdiction on certain matters raised by the Complainant. I provided time for PGW and Complainant to argue the Motion to Dismiss; however, I explained that Complainant would be provided a chance to review the arguments and reply. I explained that had PGW filed a Preliminary Objection or a Motion before the hearing, Complainant would have had a chance to respond. I requested that PGW file written Preliminary Objections/Motion to Dismiss and provided Complainant 10 days from service of the Preliminary Objections/Motion to file a reply.

On April 10, 2024, the hearing convened as scheduled. The Complainant appeared and was represented by Anntwinette Dupree, Esquire. Complainant offered seven exhibits, which were admitted into the record. Attorney Graciela C. Christlieb, Esq., appeared on behalf of PGW and presented the testimony of two witnesses, Albert Teti, general supervisor of the revenue protection unit at PGW, and Jessica Antonetti, customer review officer. PGW's witnesses sponsored 10 exhibits, which were admitted into the record. The following Exhibits were entered into the record:

Complainant Exhibit 1 – Rental Application

Complainant Exhibit 2 – Lease

Complainant Exhibit 3 – Landlord Cooperation Program login page

Complainant Exhibit 4 – PGW Landlord Program Registered Properties

Complainant Exhibit 5 – Landlord Program History for 2537 N. Bancroft St. and
2920 N. 24th Street.

Complainant Exhibit 6 – Bill dated 12/15/2023

Complainant Exhibit 7 – BCS Informal Complaint Decision #3961290

PGW Exhibit 1 – Customer Contact and Gas Shut-Off Information

PGW Exhibit 2 – Field Information

PGW Exhibit 3 – Theft Reporting Sheet

PGW Exhibit 4 – Photographs of Meter

PGW Exhibit 5 – Field Information

PGW Exhibit 6 – Certificate of Organization

PGW Exhibit 7 – Deed

PGW Exhibit 8 – Degree Days Calculator and Bill Calculation

PGW Exhibit 9 – Operating Agreement

PGW Exhibit 10 – Belltown Properties Rental Application and Lease

On April 12, 2024, PGW filed a Preliminary Objection, which was endorsed with a Notice to Plead within 10 days of its service, as well as a Certificate of Service. Complainant did not file a reply to the Preliminary Objection.

The record closed on May 1, 2024, upon the filing of the 77-page transcript with the Commission.

FINDINGS OF FACT

1. The Complainant is BLR Properties, a limited liability company, with the addresses 323 East Cheltenham Avenue, Philadelphia PA 19120 and 461 East Locust Avenue, Philadelphia, PA, 19120.

2. Reginald Bell is the managing member and sole member of BLR Properties, LLC.

3. BLR Properties, LLC is the owner of the residence at 2537 North Bancroft Street, Philadelphia, PA, 19132 (service address). Tr. 16, 18; PGW Ex. 7.

4. The Respondent is Philadelphia Gas Works, a jurisdictional public utility, which provided gas service at the service address.

5. BLR acquired the service address on November 30, 2016. Tr. 17, 25-26; PGW Ex. 7.

6. BLR leased the service address to a tenant on November 27, 2018. Tr. 17; Compl. Ex. 2; PGW Ex. 10.

7. The gas service at the service address was shut off at the curb on April 10, 2019, due to non-payment. Tr. 36; PGW Ex. 1.

8. A final bill was sent to the customer of record after the service was terminated on April 10, 2019. Tr. 66.

9. PGW did a curb valve safety recheck on May 2, 2022, and the curb valve was found on. Tr. 38; PGW Ex. 2.

10. The curb valve was left off with an anti-theft device in place. Tr. 38-39; PGW Ex. 2.

11. On October 6, 2022, PGW, after being contacted for gas service, visited the service address. Tr. 39-40; PGW Ex. 3.

12. A tampered meter was found during the October 6, 2022, visit. Tr. 40; PGW Exs. 3, 4.

13. The gas service was found off at the curb and left off during PGW's October 6, 2022, visit to the service address. Tr. 44; PGW Ex. 5.

14. During the October 6, 2022, visit, PGW observed three gas appliances at the service address: a 22,000 BTU dryer, a 55,000 BTU range and a 40,000 BTU water heater. Tr. 44; PGW Ex. 5.

15. The theft calculation was based on the BTUs of the appliances found at the property beginning April 11, 2019 (the date the service was shut off for non-payment) and ending on May 2, 2022 (the date the curb valve was found turned back on). Tr. 53-54; PGW Ex. 8.

16. The total bill for the theft period is \$1,845.27. Tr. 55; PGW Ex. 8 at 3.

17. The tenant vacated the property in early January 2024. Tr. 17.

18. Complainant noticed that the gas meter was missing in January 2024, when he did an inspection on the property to get it ready for a new tenant. Tr. 18.

19. Complainant contacted PGW on January 8, 2024, and was informed that the meter was removed due to unauthorized use. Tr. 18, 62.

20. Complainant did not receive any notices from PGW for the service address, regarding the gas service. Tr. 17, 56-57.

21. Complainant was not the customer of record for the service address. Tr. 23, 46.

22. The lease for the service property provided Complainant the right to enter the property to do inspections and check for safety or maintenance problems. Tr. 23; Comp. Ex. 2; PGW Ex. 10.

23. Complainant did not perform any inspections on the property between 2018 and 2024. Tr. 19.

DISCUSSION

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *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 established by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A complainant can meet that burden if he presents evidence more convincing, by even the smallest amount, than that evidence presented by Respondent. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). The offense must be a violation of the Public Utility Code (Code), a Commission Regulation or Order, or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701.

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).

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. 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).

Notice of Disconnection

Complainant argues that as the owner and landlord of the property, it should have been given notice that the gas service was terminated at the service address. BLR argues that it was signed up for PGW's Landlord Cooperation Program (LCP or program) and under the LCP, it should have been notified when the gas service was terminated or during any other collection activity.

The LCP is the subject of PGW's Preliminary Objection/Motion to Dismiss. PGW argues that enrollment in the LCP is a private contract between PGW and a landlord which supplements the public services provided by PGW. Prelim. Obj. at ¶ 7 (citing *Fisher v. Phila. Gas Works*, Docket No. F-2010-2215047 (Final Order entered July 31, 2012)). PGW further argues that any rights or obligations provided in connection with the LCP do not arise from the obligations imposed by the Public Utility Code, but from the terms of the private contract between PGW and the landlord and that disputes arising out of participation in the LCP do not involve a law, regulation, or order that the Commission has jurisdiction to administer; they constitute private disputes, which fall beyond the scope of the Commission's jurisdiction. Prelim Obj. ¶ 8 (citing *Ovrutsky v. Phila. Gas Works*, Docket No. C-2012-2321385 (Final Order entered Dec. 19, 2012); *McCastle v. Phila. Gas Works*, Docket No. F-2013-2345223 (Final Order entered May 21, 2013)).

The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. Pub. Util. Comm'n.*, 43 A.2d 348 (Pa. Super. 1945). Jurisdiction relates solely to the competency of the particular court or administrative

body to determine controversies of the general class to which the case then presented for its consideration belongs. *Riedel v. Human Rel. Comm'n of the City of Reading*, 739 A.2d 121 (Pa. 1999). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992).

After review of the relevant precedent, I agree with PGW's contention that the Commission does not have jurisdiction to adjudicate claims involving PGW's Landlord Cooperation Program. The LCP is a private contract between PGW and the landlord. *Fisher v. Phila. Gas Works*, Docket No. F-2010-2215047 (Final Order entered July 31, 2012)). Therefore, any claim that PGW failed to notify Complainant of collection activities under the LCP must be dismissed.

Since the question of whether PGW was required to provide notice to Complainant of collection activities under the LCP is outside of the Commission's Jurisdiction, the next question is whether there is anything within the Public Utility Code, Commission Regulations or a Commission order that required PGW to provide notice to the Complainant when the gas service was terminated or during any other collection activity for Complainant's account.

The Public Utility Code and Commission regulations require public utilities to provide notice of termination. The Code provides the following:

§ 1406. Termination of utility service.

(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.
- (2) Failure to comply with the material terms of a payment arrangement.
- (3) Failure to complete payment of a deposit, provide a guarantee of payment or establish credit.

(4) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(b) Notice of termination of service.--

(1) Prior to terminating service under subsection (a), a public utility:

(i) Shall provide written notice of the termination to the *customer* at least ten days prior to the date of the proposed termination. The termination notice shall remain effective for 60 days.

(ii) Shall attempt to contact the *customer* or occupant to provide notice of the proposed termination at least three days prior to the scheduled termination, using one or more of the following methods:

(A) in person;

(B) by telephone. Phone contact shall be deemed complete upon attempted calls on two separate days to the residence between the hours of 8 a.m. and 9 p.m. if the calls were made at various times each day; or

(C) by e-mail, text message or other electronic messaging format consistent with the commission's privacy guidelines and approved by commission order.

(D) In the case of electronic notification only, the customer must affirmatively consent to be contacted using a specific electronic messaging format for purpose of termination.

(iii) During the months of December through March, unless personal contact has been made with the customer or responsible adult by personally visiting the customer's residence, the public utility shall, within 48 hours of the scheduled date of termination, post a notice of the proposed termination at the service location.

(iv) After complying with paragraphs (ii) and (iii), the public utility shall attempt to make personal contact with the *customer* or responsible adult at the time service is terminated. Termination of service shall not be delayed for failure to make personal contact.

(2) *The public utility shall not be required by the commission to take any additional actions prior to termination.*

66 Pa.C.S. § 1406(a), (b) (emphasis added). The Commission regulations state the following:

§ 56.91. General notice provisions and contents of termination notice.

(a) Prior to terminating service for grounds authorized by § 56.81 (relating to authorized termination of service), a public utility shall provide written notice of the termination to the *customer* at least 10 days prior to the date of the proposed termination. The termination notice shall remain effective for 60 days. In the event of a user without contract as defined in § 56.2 (relating to definitions), the public utility shall comply with § § 56.93—56.97, but need not provide notice 10 days prior to termination.

(b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

- (1) The reason for the proposed termination.
- (2) An itemized statement of amounts currently due, including any required deposit.
- (3) A statement that a reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is a part of the tariff of the public utility on file with the Commission. The statement must include the maximum possible dollar amount of the reconnection fee that may apply.
- (4) The date on or after which service will be terminated unless one of the following occurs:
 - (i) Payment in full is received.
 - (ii) The grounds for termination are otherwise eliminated.
 - (iii) A payment arrangement is established.
 - (iv) Enrollment is made in a customer assistance program or its equivalent, if the customer is eligible for the program.
 - (v) A dispute is filed with the Public Utility or the Commission.
 - (vi) Payment in full of amounts past due on the most recent payment arrangement is received.
- (5) A statement that specifies that the notice is valid for 60 days.
- (6) A statement that the customer should immediately contact the public utility to attempt to resolve the matter. The statement must include the address and telephone number where questions may be asked, how payment arrangements may be negotiated and entered into with the public utility, and where applications can be found and submitted for enrollment into the public utility's universal service programs, if these programs are offered by the public utility.

(7) The following statement: “If you have questions or need more information, contact us as soon as possible at (public utility phone number). After you talk to us, if you are not satisfied, you may file a complaint with the Public Utility Commission. The Public Utility Commission may delay the shut off if you file the complaint before the shut off date. To contact them, call 1 (800) 692-7380 or write to the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, Pennsylvania 17105-3265.”

(8) A medical certificate notice in compliance with the form in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.96 (relating to post-termination notice), the notice must comply with the form in Appendix B (relating to medical emergency notice).

(9) If the public utility has universal service programs, information indicating that special assistance programs may be available and how to contact the public utility for information and enrollment, and that enrollment in the program may be a method of avoiding the termination of service.

(10) Notices sent by electric and gas utilities threatening termination in the months of December, January, February and March must include information on the Federal poverty guidelines by household size, the protections available to customers at or below 250% of the Federal poverty level and the required documentation or information the customer shall supply to avoid termination.

(11) Information indicating that special protections are available for victims under a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence and how to contact the public utility to obtain more information on these protections.

(12) Information indicating that special protections are available for tenants if the landlord is responsible for paying the public utility bill and how to contact the public utility to obtain more information on these protections.

(13) Information indicating that all adult occupants of the premise whose names appear on the mortgage, deed or lease are considered “customers” and are responsible for payment of the bill.

(14) Information indicating that if service is shut off, an adult occupant who has been living at the premise may have to pay all or portions of the bill that accrued while the adult occupant lived there to have service turned back on.

(15) Information indicating that if service is shut off, the customer may be required to pay more than the amount listed on the notice to have service turned back on.

(16) Information indicating that if service is shut off, the customer shall contact the public utility after payment has been made to arrange reconnection of the service and that it may take up to 7 days to have the service turned back on.

(17) Information in Spanish directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates that 5% or more of the residents of the public utility's service territory are using that language.

(18) Contact information for customers with disabilities that need assistance.

52 Pa. Code § 56.91 (emphasis added). The Commission's Regulations allow utilities to immediately terminate service for unauthorized use, fraud, tampering or tariff violations, citing Section 56.98 of our Regulations, which provides:

§ 56.98. Immediate termination for unauthorized use, fraud, tampering or tariff violations.

(a) A public utility may terminate service for any of the following actions by the *customer*:

(1) Unauthorized use of the service delivered on or about the affected dwelling.

(2) Fraud or material misrepresentation of the customer's identity for the purpose of obtaining service.

(3) Tampering with meters or other public utility equipment.

(4) Violating tariff provisions on file with the Commission which endanger the safety of a person or the integrity of the public utility's delivery system.

(b) Upon termination, the public utility shall make a good faith attempt to provide a post-termination notice *to the customer* or a responsible adult person or occupant at the affected premises. If providing a post-termination notice to the customer or responsible person at the affected premises is not possible, the public utility shall conspicuously post the notice at the affected premises

52 Pa. Code § 56.98 (emphasis added).

Both the Code and the regulations provide that notice of termination must be provided to the *customer*. “Customer” is defined as “a natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or any adult *occupant* whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested.” 66 Pa.C.S. § 1403 (emphasis added). Further, the Code and the regulations provide several requirements for the notices, but neither requires notification to the landlord who is not a “customer” or “occupant.” In fact, Section 1406(b)(2) of the Code states that the utility shall not be required by the Commission to take any additional actions prior to termination.

Complainant has failed to allege any Section of the Code, Commission regulation, or Commission order that PGW has violated by failing to provide a non-customer landlord notice of the service shutoff.

Responsibility for the Theft Charges

Complainant has challenged his responsibility for unauthorized usage charges at the service address. BLR does not argue that there was no meter tampering or theft at the property.

The Commission has held that a property owner having dominion and control over a service address is responsible for knowing, or should know, of tampering and theft of service occurring at the property. *Simmons v. UGI Utils., Inc.*, Docket No. C-2017-2605783 (Opinion and Order entered July 12, 2018) (*Simmons*).

The record shows that Complainant purchased the service address on November 30, 2016. Tr. 17, 25-26; PGW Ex. 7. BLR then rented the property to a tenant from November 2018 through January 2024. Tr. 17; Compl. Ex. 2; PGW Ex. 10. Complainant argues that it did not have dominion and control over the property because it was leased to a tenant; however, this argument has previously failed before the Commission. *See Scott v. Phila. Gas Works*, Docket No. F-2018-3001138 (Final Order entered Dec. 28, 2018) (*Scott*) (property owner’s argument that he was not responsible for the theft charges because he has two different tenants in the years

during the timeframe of the theft was denied because as the owner of the property, he knew or should have known that the property was connected to gas service.). In fact, stronger arguments for lack of dominion and control have failed. *See Ruffin v. Phila. Gas Works*, Docket No. F-2018-2646481 (Order entered Dec. 6, 2018) (property owner was held responsible for approximately seven years of theft charges, although he was incarcerated for approximately five of the seven years in which the charges arose.).

Since Complainant purchased the property in 2016 and still owns the property, it had dominion and control over the property at all times relevant to this case. Tr. 17, 25-26; PGW Ex. 7. The Complainant was responsible for ensuring that theft of PGW's service did not occur at the service address. The lease for the service property clearly provided Complainant the right to enter the property to perform inspections and check for safety or maintenance problems. Tr. 23; Comp. Ex. 2; PGW Ex. 10. Complainant did not do so. Tr. 19. Complainant's failure to exercise its dominion and control over the property does not shield it from responsibility for the unauthorized usage charges.

Further, regarding how the financial responsibility for utility services is divided between a landlord and a tenant, a lease is a private contract. *Scott* (citing *Andrews v. PECO Energy Co.*, Docket No. C-2012-2283978 (Final Order entered Jan. 25, 2013)). The Complainant is free to pursue any remedies available to it in his county or magisterial district court for any alleged breach of contract between it and its tenant.³ 66 Pa.C.S. § 103.

The Complainant has failed to demonstrate that PGW is incorrectly holding it responsible for the unauthorized usage charges that accrued at the service address or that PGW

³ It is not clear from the record whether the person who contacted PGW to have the gas service reconnected on or around October 6, 2022, was the prior customer of record or whether the prior customer of record is being or would be refused gas service until the theft charges are paid in full (it does seem that it was the same tenant throughout this period). However, even if that is the case, this does not shield BLR from overall responsibility for the theft charges at the service address. It is BLR's responsibility to seek indemnification for any damages caused by the tenant in an appropriate court of competent jurisdiction.

violated the Public Utility Code, a Commission regulation, or a Commission Order. Since the Complainant was unable to meet its burden in this matter, its Complaint is denied.⁴

Payment Arrangement

In its Complaint, BLR requested a payment arrangement on the unauthorized usage charges. While the request for payment arrangement was not thoroughly discussed at the hearing, I will deny Complainant's request for a payment arrangement as Chapter 14 of the Code does not apply to commercial accounts. 66 Pa.C.S. §§ 1401-1419. Section 1405 of the Code authorizes the Commission to direct payment arrangements for residential customers. 66 Pa.C.S. § 1405. As mentioned above, the Code defines a "customer" as: "[a] natural person in whose name a *residential* service account is listed and who is primarily responsible for payment of bills rendered for the service or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested." 66 Pa.C.S. § 1403 (emphasis added).

As a business entity, Complainant is not eligible for a Commission-issued payment arrangement. Further, the Commission has refused to provide payment arrangements on unauthorized use charges. *See Fassett v. Phila. Gas Works*, Docket No. F-2014-2408541 (Opinion and Order entered Apr. 27, 2015); *Simmons*.

Therefore, Complainant has failed to meet its burden of proof to show that it is eligible for a Commission-issued payment arrangement and its Complaint will be denied.

CONCLUSIONS OF LAW

1. This Commission has jurisdiction over the parties to and subject matter of this case. 66 Pa.C.S. § 701.

⁴ I do find it alarming that after the gas service was shut off for non-payment, PGW took three years before checking on the curb valve, thereby permitting the theft charges to build.

2. Any rights or obligations provided in connection with the Landlord Cooperation Program do not arise from the obligations imposed by the Public Utility Code, but from the terms of the private contract between PGW and the landlord and that disputes arising out of participation in the Landlord Cooperation Program do not involve a law, regulation, or order that the Commission has jurisdiction to administer; they constitute private disputes, which fall beyond the scope of the Commission’s jurisdiction. *McCastle v. Phila. Gas Works*, Docket No. F-2013-2345223 (Final Order entered May 21, 2013); *Ovrutsky v. Phila. Gas Works*, Docket No. C-2012-2321385 (Final Order entered Dec. 19, 2012); *Fisher v. Phila. Gas Works*, Docket No. F-2010-2215047 (Final Order entered July 31, 2012).

3. The burden of proof in this proceeding is upon the Complainant. 66 Pa.C.S. § 332(a).

4. The Public Utility Code and Commission regulations do not require PGW to provide notice of service termination to a non-customer landlord. 66 Pa.C.S. § 1406; 52 Pa. Code §§ 56.91, 56.98.

5. A property owner having dominion and control over a service address is responsible for knowing, or should know, of tampering and theft of service occurring at the property. *Simmons v. UGI Utils., Inc.*, Docket No. C-2017-2605783 (Opinion and Order entered July 12, 2018).

6. The Code authorizes the Commission to direct payment arrangements for residential customers. 66 Pa.C.S. § 1405.

7. The Code defines a “customer” for purposes of a Commission-issued payment arrangement as: “[a] natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested.” 66 Pa.C.S. § 1403.

8. The Complainant has failed to carry his burden of proving that Philadelphia Gas Works violated the Public Utility Code, a Commission regulation, or a Commission Order. 66 Pa.C.S. §§ 332(a), 701.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Philadelphia Gas Works Preliminary Objection/Motion to Dismiss Complainant's argument regarding the Landlord Cooperation Program is sustained and granted.
2. That the Formal Complaint filed by BLR Properties LLC in BLR Properties LLC v. Philadelphia Gas Works at Docket No. F-2024-3046024 is dismissed.
3. That Docket No. F-2024-3046024 be marked closed.

Date: July 30, 2024

_____/s/
Michael J. Mroczka
Special Agent