

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kealonda Roberts	:	
	:	
v.	:	F-2024-3047146
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Darlene Heep
Administrative Law Judge

INTRODUCTION

This Initial Decision denies the Formal Complaint because the preponderance of evidence does not support a finding that Philadelphia Gas Works violated the Public Utility Code or a Commission regulation or Order when it transferred a balance to the Complainant and issued a shut off notice.

HISTORY OF THE PROCEEDING

On March 23, 2024, Kealonda Roberts filed a Formal Complaint (“Complaint”) with the Pennsylvania Public Utility Commission (“Commission”) against Philadelphia Gas Works (“PGW”). On the Complaint form, Ms. Roberts checked boxes indicating that the utility is threatening to shut off her service or had already shut it off. Under “Other,” Ms. Roberts stated that PGW charged her \$168 for service provided to a house on 25th Street although she never lived there. She also stated that PGW sent her a

shut off notice and that she believed that someone else used her name to get utilities. This is an appeal of an adverse decision from the Commission's Bureau of Consumer Services, BCS No. 3943609.¹

On March 27, 2024, PGW filed an Answer. PGW admitted that a shut off notice was issued to the Complainant and denied all other material allegations.

On March 29, 2024, an Interim Order Setting Resolution Conference was issued. The parties could not reach a settlement agreement.

On May 9, 2024, an Initial Call-In Telephone Hearing Notice was issued setting a hearing for July 9, 2024 and assigning the matter to me.

A Prehearing Order was issued on June 7, 2024.

The telephonic hearing began as scheduled on July 9, 2024. Ms. Roberts called into the hearing, represented herself and offered no exhibits. PGW was represented by Graciela Christlieb, Esquire, who presented witness Jessica Antonelli, PGW Senior Customer Review Officer, and five exhibits. PGW Exhibits 1-5 were admitted into the record.

The record closed on July 31, 2024, upon receipt of the 51-page transcript.

¹ A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

FINDINGS OF FACT

1. The Complainant is Kealonda Roberts, who is a PGW customer currently residing on Jackson Street in Philadelphia. Tr. 6.
2. The Respondent in this case is Philadelphia Gas Works.
3. Since 2015, Ms. Roberts owns a residence at 2803 25th Street, Philadelphia, Pennsylvania (service address), in which she has tenants. Tr. 7-9; PGW Exhibit 1.
4. PGW provides gas service to the service address.
5. Ms. Roberts has never lived at the service address. Tr. 8.
6. PGW records show the Complainant was the customer of record at the service address from March 9, 2019 through July 15, 2019 during which period a balance of \$168.06 was accrued. PGW Exhibits 2-4; Tr. 28, 37.
7. Ms. Roberts lived in the 1800 block of Brunner Street in Philadelphia, PA as a child and until the fall of 2022. Tr. 12.
8. Ms. Roberts purchased and moved into her current residence on Jackson Street in October of 2022. Tr. 14.
9. On October 8, 2022, Ms. Roberts contacted PGW to turn on the gas service at the Jackson Street address. PGW Exhibit 2; Tr. 26.

10. On October 18, 2022, the \$168.06 balance from the 25th Street address was transferred to the Complainant's account for the Jackson Street address. PECO Exhibit 4; Tr. 26.

11. On December 27, 2022, Ms. Roberts paid \$168.06, leaving a zero balance. PECO Exhibit 4; Tr. 29.

12. Subsequently, the Complainant began paying her PGW bill minus \$168 dollars. Tr. 11.

13. On September 20, 2023, the Complainant filed an informal complaint with the Commission's BCS disputing the October 18, 2022 transfer of \$168.06 to her account. PGW Exhibit 5.

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). The complainant must establish his case 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).

Upon the presentation by the 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 the evidence presented by the respondent is of co-equal weight to the evidence presented by the complainant, the complainant has not satisfied his burden of proof. The complainant would then be

required to provide additional evidence to rebut the evidence of the respondent. *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983).

In addition, the Commission's decision must be supported by "substantial evidence," which consists of evidence that a reasonable mind might accept as adequate to support a conclusion. A mere trace of evidence or a suspicion of the existence of a fact is insufficient. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

As a matter of law, to establish a legally sufficient claim, 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. The Bell Tel. Co. of Pa.*, 72 Pa. P.U.C. 196 (1990). 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.

When a customer opens a second or subsequent service account, the regulations provide that the utility may transfer an outstanding balance from that prior account to the new account. The regulations state in pertinent part:

§ 56.16. Transfer of accounts.

(a) A customer who is about to vacate premises supplied with public utility service or who wishes to have service discontinued shall give at least 7 days' notice to the public utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered.

(b) In the event of discontinuance or termination of service at a residence or dwelling in accordance with this

chapter, a public utility may transfer an unpaid balance to a new residential service account of the same customer.

52 Pa. Code § 56.16(a), (b).

As to service termination notices, Commission regulations provide as follows:

A public utility may notify a customer and terminate service provided to a customer after notice as provided in §§ 56.91—56.100 (relating to notice procedures prior to termination) for any of the following actions by the customer:

(1) Nonpayment of an undisputed delinquent account.

(2) Failure to complete payment of a deposit, provide a guarantee of payment or establish credit.

(3) 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.

(4) Failure to comply with the material terms of a payment arrangement.

52 Pa. Code § 56.81.

In her Complaint and in testimony, Ms. Roberts challenges PGW transferring charges from the 25th Street service address to her Jackson Street account and threatening to shut off her service.²

² The dates involved raise a question of whether the Complaint was filed within the three-year statute of limitations of 66 Pa.C.S. § 3314. The charges at issue were incurred March 9, 2019 through July 15, 2019 and an Informal Complaint was filed on September 20, 2023. However, the Complainant is contesting the transfer of the

The Complainant cannot prevail in this action. Although Ms. Roberts did not live at the 25th Street service address when PGW gas charges were incurred, PGW records and testimony establish that the Complainant was the customer of record during that time. PGW Exhibits 2-4; Tr. 28, 37, 43-44. As the customer of record, the Complainant is responsible for the charges incurred at the 25th Street address. Therefore, the transfer of the balance from the 25th Street address to the Complainant's PGW account that she opened on Jackson Street was authorized under 52 Pa. Code § 56.16(b).

Ms. Roberts testified that she began paying her monthly bills minus \$168. Tr. 11. She also testified, without specifying a date, that she was told by someone at PGW that the company could shut off her service on Jackson Street for nonpayment of the service address balance. *Id.*

Under 52 Pa. Code § 56.81, a utility may notify a customer of the possibility of service termination when there is an unpaid delinquent balance. The Complainant's own testimony demonstrated that she was carrying a delinquent balance since she was withholding \$168 from her payments each month. *See also* PGW Exhibit 4. A utility employee simply advising a customer with a delinquent balance that there was a possibility of service termination is not a violation.³

The record establishes that PGW did not violate the Code or Commission regulations or Orders. The Complaint will be dismissed.

charges to her account, which occurred on October 18, 2022. *See* PGW Exhibits 4; Tr. 26.

³ There was no testimony or evidence that PGW shut off service at Ms. Robert's residence.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this dispute. 66 Pa.C.S. § 701.
2. The Complainant has the burden of proof. 66 Pa.C.S. § 332(a).
3. A public utility may transfer an unpaid balance to a new residential service account of the same customer. 52 Pa. Code § 56.16(b).
4. PGW was authorized to transfer charges the Complainant incurred at the 25th Street service address to the account she opened for the Jackson Street address. 52 Pa. Code § 56.16(b).
5. A public utility may notify a customer and terminate service for nonpayment of an undisputed delinquent account. 52 Pa. Code § 56.81.
6. There was no violation when PGW notified the Complainant that her service could be cut off for non-payment. 52 Pa. Code § 56.81.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Kealonda Roberts at Kealonda Roberts v. Philadelphia Gas Works, Docket No. F-2024-3047146, is denied.

2. That Docket No. F-2024-3047146 be marked closed.

Date: October 28, 2024

/s/
Darlene Heep
Administrative Law Judge