

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tamika Anderson

v.

Philadelphia Gas Works

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C-2024-3048214

**INITIAL DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision denies the Formal Complaint of Tamika Anderson because she failed to satisfy her burden of proving that Philadelphia Gas Works billed her incorrectly or that she is eligible for a payment arrangement.

**HISTORY OF THE PROCEEDING**

On April 5, 2024, Tamika Anderson (Ms. Anderson or Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW or Respondent). In the Complaint, Ms. Anderson requested a payment arrangement, alleged that her gas bills were incorrect, and requested that her meter be exchanged.

On April 29, 2024, PGW filed an Answer to the Complaint. In its Answer, PGW admitted in part, and denied in part, various material allegations of the Complaint. Specifically, PGW denied there were incorrect charges on the Complainant's bills and that there was a reliability, safety, or quality problem with the Complainant's gas service.

By Hearing Notice dated May 1, 2024, an Initial Call-In Telephonic Hearing was scheduled for June 18, 2024, and the matter was assigned to me.

A Prehearing Order was issued on May 16, 2024, advising the parties of the date and time of the scheduled hearing, and informing them of the procedures applicable to the proceeding.

On June 18, 2024, the hearing convened as scheduled. The Complainant appeared *pro se*, testified on her own behalf, and offered no exhibits for the record. Graciela Christlieb, Esquire, appeared on behalf of PGW and presented the testimony of two witnesses, Jessica Antonetti, a Senior Customer Review Officer at PGW, and Andrew Coyle, a Field Service Department Technician at PGW. Ms. Antonetti sponsored six exhibits, which were all admitted into the record.

The record closed on July 31, 2024, upon the filing of the transcript with the Commission.

### FINDINGS OF FACT

1. The Complainant is Tamika Anderson.
2. The Respondent is Philadelphia Gas Works, a utility under the jurisdiction of the Pennsylvania Public Utility Commission.

3. The Complainant resides and receives gas service from PGW at 2716 West Master Street, Philadelphia, PA 19121 (Service Address). Tr. 6.
4. The Complainant most recently began service with PGW in 2019. Tr. 40.
5. The household consists of three adults. Tr. 7.
6. The Complainant declined to provide her total household income. Tr. 7, 26-27.
7. Andrew Coyle is a Field Service Department (FSD) Technician at PGW. Tr. 55.
8. On May 13, 2024, the meter at the Service Address was exchanged by Andrew Coyle. Tr. 36; PGW Exh. 3.
9. During the exchange, Mr. Coyle found a heater, a range, and a water heater at the Service Address connected to the fuel line. Tr. 58; PGW Exh. 3.
10. Mr. Coyle found all appliances operational, did not issue any hazard tags, re-lit all appliances, made all checks, and left the gas on at the Service Address. Tr. 58-59.
11. The removed meter (No. 1824120) was tested on June 3, 2024. Tr. 39; PGW Exh. 5.
12. The removed meter (No. 1824120) tested within the two percent accuracy tolerance level. Tr. 39; PGW Exh. 5.

13. PGW records demonstrate consistent gas usage at the Service Address since 2020. PGW Exh. 4.

14. November 12, 2020, was the last payment the Complainant made on the account that was not returned. Tr. 31.

15. As of the date of the hearing, the total outstanding balance on the account is \$12,182.41. Tr. 31; PGW Exh. 1.

### 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 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; *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993). “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); and *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).

In the Complaint, Ms. Anderson requested a payment arrangement, alleged that her gas bills were incorrect, and requested that her meter be exchanged.

First, it has been established that PGW has exchanged the Complainant's meter on May 13, 2024. Therefore, this portion of the Complaint is moot.

Next, the Complainant requested a Commission-issued payment arrangement on her outstanding balance. However, at the hearing, the Complainant was unwilling to provide the income for all members of her household. Tr. 7. The Complainant stated her individual income ranges from \$1,000 to \$1,300, and there are two other adults with their own income, but she is unwilling to provide it. Tr. 26-27. The Commission is unable to order a payment arrangement without knowing "the combined gross income of all adults in a residential household who benefit from the public utility service." 66 Pa.C.S. § 1403. The

household income is essential to determining the length of any payment arrangement. 66 Pa.C.S. § 1405(b). Thus, as Complainant has the burden of proof and has failed to present evidence necessary to support her claim, this portion of the Complaint is dismissed. 66 Pa.C.S. § 332(a).

Finally, the Complainant alleged that her gas bills were incorrect (*i.e.* too high). The burden of proof for high billing complaints has been explained in *Waldron v. Philadelphia Electric Company*, 54 Pa.P.U.C. 98 (1980), and its progeny. In *Waldron*, the Commission adopted the Michigan Public Service Commission's (PSC'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 (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 Complainant failed to establish even a *prima facie* case to support her contention of a high bill. The Complainant did not present any evidence showing that her bills are abnormally high when compared to prior usage patterns, her pattern of usage changed, or any other relevant evidence showing that the disputed bill is unreasonably high. The Complainant made general allegations during the hearing that gas is not properly flowing through her home and that is affecting the meter, but she did not present any evidence to corroborate those claims. Tr. 10-11, 13-15. No matter how honest and strong her assertions are, they cannot form a basis for a finding of fact in her favor. Mere bald assertions, personal opinions or perceptions do not constitute evidence to bolster a claim. *MidAtlantic Power Supply Assoc. of Pa. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196 (Pa. Cmwlth. 2000) (citing *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987)). Nor does testimony consisting of guesses, conjecture or speculation – supposition without a premise of fact – which is ordinarily rejected as inadmissible and as proving nothing. *Cuthbert v. City of Philadelphia*, 209 A.2d 261 (Pa. 1965); *B & K Inc. v. Commonwealth Dep't of Highways*, 159 A.2d 206 (Pa. 1960). Moreover, the PGW technician that performed the meter exchange, Andrew Coyle, credibly testified that he did not find any issues with the meter or the gas flow to the household appliances. Tr. 58-59, 61-62. Additionally, PGW presented evidence that the removed meter tested accurate, and records demonstrate consistent gas usage at the Service Address since 2020. Tr. 39; PGW Exhs. 4, 5.

Based on the foregoing, I find that the Complainant has failed to carry her burden of proving that her gas bills are not correct as rendered and that she is not consuming the gas she is being charged for. Accordingly, the Complaint is denied.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. § 701.

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

3. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704.

4. The Commission is unable to order a payment arrangement without knowing "the combined gross income of all adults in a residential household who benefit from the public utility service." 66 Pa.C.S. § 1403.

5. Household income is essential to determining the length of any payment arrangement. 66 Pa.C.S. § 1405(b).

6. In establishing whether a "high bill" has been demonstrated, while the accuracy of the meter is an important factor in resolving billing disputes, the Commission will also consider 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 v. Phila. Elec. Co.*, 54 Pa. PUC 98 (1980).

7. Mere bald assertions, personal opinions or perceptions do not constitute evidence to bolster a claim. *MidAtlantic Power Supply Assoc. of Pa. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196 (Pa. Cmwlth. 2000) (citing *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987)).

