

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120**

Public Meeting held November 7, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman  
Kimberly Barrow, Vice Chair  
Kathryn L. Zerfuss  
John F. Coleman, Jr.  
Ralph V. Yanora

Florence Ackridge

C-2022-3035899

v.

Philadelphia Gas Works

**OPINION AND ORDER**

**BEFORE THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a Petition for Rescission (Petition) received from Florence Ackridge (Ms. Ackridge, Complainant, or Petitioner) on July 31, 2024, directed to our Opinion and Order entered February 15, 2024, in the above-captioned proceeding.

Philadelphia Gas Works (PGW, the Company, or Respondent) filed an Answer to the Petition (Answer) on October 1, 2024.<sup>1</sup>

This matter involved a billing dispute and Formal Complaint (FC or Complaint) of Ms. Ackridge alleging excessive billing by PGW, as the Respondent. On consideration of the Petition, it shall be denied, consistent with the discussion in this Opinion and Order.

## I. Background

In a Complaint filed October 7, 2022, Ms. Ackridge alleged: (1) that PGW was threatening to shut off her service; and (2) that there were incorrect charges on her bill. *See* Complaint at ¶ 4. The Complaint was an appeal of an informal decision issued by the Commission's Bureau of Consumer Services (BCS) at BCS Case No. 3840152. BCS dismissed the Complainant's informal complaint on July 12, 2022. Tr. at 44; PGW Exh. 7. For relief, the Complainant indicated that she wanted her bill corrected to reflect the correct amount owed, minus penalties and interest, and that she wanted to go on a payment plan for the balance. Complaint at ¶ 5.

By our Opinion and Order entered February 15, 2024 (*February 2024 Order*) we noted that the Complainant advised that she is elderly, has various ailments and had a recent surgery; that she has had to spend nights away from her home due to lack of heat; and that an HVAC company she hired for certain repairs to her home heating unit did not fix her heater after she paid more than \$950. It was further noted that

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<sup>1</sup> Due to the failure of Ms. Ackridge to provide a Certificate of Service evidencing service of her Petition on all parties of record to the case, and upon being advised of a failure of service of the Petition by Commission Secretarial Letter, PGW was provided an extension of time in which to file an Answer.

the utility bills submitted amounted to, approximately, \$700 per month. *See February 2024 Order.*

The Complaint was assigned to the Office of Administrative Law Judge (OALJ) for such proceedings, as necessary, and the issuance of an Initial Decision (I.D.). The Complaint was assigned to Administrative Law Judge Marta Guhl, as presiding officer and an Initial Decision was issued March 15, 2023. Exceptions and Replies to Exceptions to the Initial Decision were filed and considered. On consideration of the Parties' filings, we denied the Exceptions of Ms. Ackridge alleging high billing on the part of PGW. We granted her Exceptions and sustained the Complaint to the extent she requested a payment arrangement.

As previously noted, subsequent to the issuance of the *February 2024 Order*, on July 31, 2024, Ms. Ackridge filed the instant Petition. PGW filed an Answer on October 1, 2024.

## **II. Discussion**

### **A. Legal Standards**

With respect to petitions for rehearing, reconsideration, rescission and amendment of Commission orders, the Public Utility Code (Code) establishes a party's right to seek relief within fifteen days following the service of a Commission order pursuant to Subsection 703(f). 66 Pa. Code § 703(f) (relating to rehearing).<sup>2</sup> Upon the filing of a petition for relief pursuant to Section 703(f), the Commission may affirm,

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<sup>2</sup> Petitions under this section which do not allege new evidence are typically treated as petitions for reconsideration. Petitions for rehearing pursuant to Section 703(f) of the Code typically include an allegation of new evidence. 66 Pa. Code § 703(f); *see, West Penn Power Co. v. Pa. PUC*, 659 A. 2d 1055 (Cmwlt. 1995).

rescind, or modify its original order. 66 Pa.C.S. § 703(f). The Code further provides that the Commission may, at any time, after notice and opportunity to be heard by all affected parties, rescind or amend any order made by the Commission, pursuant to Section 703(g). 66 Pa.C.S. § 703(g) (relating to rescission and amendment of orders). A request for relief pursuant to § 703(f) or § 703(g) must be brought as a petition for relief consistent with Section 5.572 of Commission Regulations. 52 Pa. Code § 5.572 (relating to petitions for relief).

Petitions for relief predicated upon Sections 703(f) and 703(g) of the Code, whether brought under Section 5.572(c) of Commission Regulations as a petition for reconsideration, rehearing, reargument, clarification, supersedeas or others within fifteen days of the service of a Commission order, or under Section 5.572(d) as a petition for rescission or amendment filed at any time following service of a Commission order, are reviewed by the Commission under the same standard.

In exercising Commission authority to amend or rescind an order pursuant to Section 703(g) of the Code, the Supreme Court of Pennsylvania has stated: “Because such relief may result in disturbance of final orders, it must be granted judiciously and only under appropriate circumstances.” *See City of Pittsburgh v. Pennsylvania Department of Transportation*, 490 Pa. 264, 416 A.2d 461 (1980); *see also, West Penn Power Co. v. Pa. PUC*, 659 A.2d 1055, 1056 (Pa. Cmwlth. 1995) (*West Penn Power*); *see also, Richard Feleccia v. PPL Electric Utilities Corporation, d/b/a PPL Utilities and Barbara A. Lima*, Docket No. C-20016210 (Opinion and Order entered March 7, 2003) (*Feleccia*).

The Commission's application of the standard for granting a petition for amendment, reconsideration, or rescission is set forth in *Duick* as follows:

A petition for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part on the grounds that the decision or ruling of the Commission on a matter or issue was either unwise or in error.

In this regard we agree with the Court in the *Pennsylvania Railroad Company* case, wherein the Court said,

[b]ut the grounds for reconsideration should be restricted to the new matters and new or changed conditions set up in the joint petition, which had arisen since and were not presented in the several petitions of these appellants ... and dismissed by the Commission ... and not appealed from. Parties, ..., cannot be permitted, by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them and not appealed from. ...

*Pennsylvania Railroad Co. v. Public Service Commission*, 118 Pa. Super. 380 (1935).

What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

*Duick* at 559; see also, *AT&T v Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth. 1990). With respect to petitions for rescission, specifically, we have stated that in order “[t]o establish a proper basis for rescission, a petitioner must first establish the existence of newly

discovered evidence, a substantial change in circumstances, or an error of fact or law.” *Feleccia*, slip op. at 3 (citing *Duick* at 559).

A Commission decision to deny a petition for rescission or amendment is a matter squarely within its discretion, subject to being overturned only where a reviewing court finds “the agency’s decision demonstrates evidence of bad faith, fraud, capricious action or abuse of power.” *West Penn Power*, 659 A.2d at 1065.

## **B. Petition**

In the Petition, Ms. Ackridge explains her financial circumstances and, in general, advises of her expenses associated with her Service Address. Petition at 1.

Ms. Ackridge further states that her gas was turned off, November 200 [sic] and that she later had occasion to have a third party, outside contractor, come to the Service Address and perform work on her heating system. The Complainant goes on to state that in March (year not specified) after her son smelled gas, PGW was called. The Petition is not clear regarding the details of what occurred after this call to PGW regarding the gas odor. We find that the Petition refers to the facts that a HVAC contractor performed service work on the Petitioner’s heating system, charged Petitioner \$18,000 for the work and that she was later advised by a “Heating Hotline” organization that she could have had heating replacement assistance without such charge. The Petition appears to dispute contact with a PGW representative leading to a November 10 (year not specified) service contact where her gas was shut off. Petition at 1-2.

Attached to the Petition is a January 23, 2023, notice from the City of Philadelphia that Ms. Ackridge has unclaimed property held by the City on her behalf, and two “Transaction Reports” indicating fax exchanges with unnamed recipients.

### **C. PGW Answer**

PGW argues in opposition to granting the Petition. PGW cites the cases of *City of Pittsburgh v. Pennsylvania Department of Transportation*, 416 A.2d 461 (Pa. 1980); *West Penn Power Co. v. Pa. PUC*, 659 A.2d 1055 (Pa. Cmwlth. 1995) (*West Penn Power*) and *Feleccia v. PPL Electric Utilities Corp.*, Docket No. C-20016210 (Order entered March 7, 2003) (*Feleccia*), to explain that a petition to amend or rescind a final Commission order is within the Commission's discretion. However, PGW submits that because the granting of such a petition would, necessarily, result in the disturbance of a final order, they should be granted judiciously and only under appropriate circumstances, such as where special relief is warranted. *See*, PGW Answer at 2.

PGW takes the position that the Petition fails to meet the standards for reconsideration and/or rescission.<sup>3</sup> Rather, notes PGW, the Petitioner reiterates the same arguments previously raised during the hearing regarding incorrect billing allegations. PGW Answer at 2-3.

### **D. Disposition**

Before we dispose of the contentions raised in the Petition, we advise the Parties that any issue or argument that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider, expressly or at length, each contention or argument raised by the

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<sup>3</sup> *Philip Duick, et al v. Pa. Gas and Water Co.*, 56 Pa. PUC 553 (1982), *supra*, is also referenced as cited in *Feleccia*.

parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, Univ. of Pa. v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).<sup>4</sup>

On consideration of the Petition, we are constrained to deny the Petition, consistent with the discussion in this Opinion and Order.

With respect to petitions for rehearing, reconsideration, rescission and amendment of Commission orders, the Code establishes a party's right to seek relief within fifteen days following the service of a Commission order pursuant to Subsection 703(f). 66 Pa.C.S. § 703(f) (relating to rehearing).<sup>5</sup> Upon the filing of a petition for relief pursuant to Section 703(f), the Commission may affirm, rescind, or modify its original order. 66 Pa.C.S. § 703(f).

The Code further provides that the Commission may, at any time, after notice and opportunity to be heard by all affected parties, rescind or amend any order made by the Commission, pursuant to Section 703(g), 66 Pa.C.S. § 703(g) (relating to rescission and amendment of orders). A request for relief pursuant to § 703(f) or § 703(g) must be brought as a petition for relief consistent with Section 5.572 of Commission Regulations. 52 Pa. Code § 5.572 (relating to petitions for relief). *See, e.g. Judith Hendin v. Met. Edison Co.*, Docket No. C-2018-3003324 (Opinion and Order entered April 18, 2024).

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<sup>4</sup> *See also, Metropolitan Edison Co. v. Pa. PUC*, 22 A.3d 353 (Pa. Cmwlth. 2011), *appeal denied*, 615 Pa. 760, 22 A.3d 353 (2012), citing *Wheeling & Lake Erie Railway Company v. Pa. PUC*, 778 A.2d 785, 794 (Pa. Cmwlth. 2001) for the proposition that the Commission is not required to expressly consider all of the arguments set forth by the parties in its Order.

<sup>5</sup> Petitions under this section which do not allege new evidence are typically treated as petitions for reconsideration. Petitions for *rehearing* pursuant to Section 703(f) of the Code, typically include an allegation of new evidence. *See West Penn. Power Co. v. Pa. PUC*, 659 A.2d 1055 (Pa. Cmwlth. 1995).

Petitions for relief predicated upon Section 703(f) or Section 703(g) must be brought as a petition for relief consistent with Section 5.572 of the Code. Whether brought under Section 5.57 of the Commission Regulations as a petition for reconsideration, rehearing, reargument, clarification, supersedeas or others, within fifteen days of the service of a Commission order, or under Section 5.57 as a petition for rescission or amendment filed at any time following service of a Commission order, such petitions are reviewed by the Commission under the same standard. *See Judith Hendin v. Met. Edison Co.* We reinforce that the standard for granting a petition for amendment, reconsideration, or rescission is *Duick, supra*, as follows:

A petition for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise *its discretion* under this code section to rescind or amend a prior order in whole or in part on the grounds that the decision or ruling of the Commission on a matter or issue was either unwise or in error.

In this regard we agree with the Court in the *Pennsylvania Railroad Company* case, wherein the Court said,

[b]ut the grounds for reconsideration should be restricted to the new matters and new or changed conditions set up in the joint petition, which had arisen since and were not presented in the several petitions of these appellants ... and dismissed by the Commission ... and not appealed from. Parties, ..., cannot be permitted, by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them and not appealed from. ...

*Pennsylvania Railroad Co. v. Public Service Commission*,  
118 Pa. Super. 380 (1935)

What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by

the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

*Duick* at 559; *See, also AT&T v. Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth. 1990).

On consideration of the allegations stated in the Petition, they fail under the standards of *Duick* to support reconsideration and/or rescission of our *February 2024 Order*. In this regard, we find that Ms. Ackridge did not present any evidence to support a rescission of our *February 2024 Order*.

As noted in the *February 2024 Order*, the Commission is a creature of statute and has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication. *See February 2024 Order* (citing *Twin Lakes Utilities, Inc. v. Pa. PUC*, 281 A.3d 384, 395 (Pa. Cmwlth. 2022); *appeal denied*, 293 A.3d 566 (Pa. 2023) (Table), citing *Feingold v. Bell Pennsylvania*, 477 Pa. 1, 8, 383 A.2d 791, 794 (1977)). To the extent that Ms. Ackridge continues to raise issues, as a consumer, alleging misrepresentation, fraud and/or unfair business conduct against third party, non-utilities, we conclude that relief must be sought under provisions of law other than the Code.

Accordingly, the Petition is denied.

### **III. Conclusion**

On consideration of the applicable law and regulations as well as the filings in this case, the said Petition is, hereby, denied, consistent with the discussion in this Opinion and Order. **THEREFORE;**

**IT IS ORDERED:**

1. That the Petition for Recission of Florence Ackridge filed to the Opinion and Order entered February 15, 2024, at Docket No. C-2022-3035899 is denied, consistent with the discussion in this Opinion and Order.

2. The proceeding at Docket No. C-2022-3055899 should be marked closed.

**BY THE COMMISSION:**

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is fluid and cursive, with the first letter of each word being capitalized and prominent.

Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: November 7, 2024

ORDER ENTERED: November 7, 2024