

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|------------------------|---|----------------|
| Makeda Yeru | : | |
| | : | |
| v. | : | C-2024-3048428 |
| | : | |
| Philadelphia Gas Works | : | |

INITIAL DECISION

Before
Michael J. Mroczka
Special Agent

INTRODUCTION

This Initial Decision sustains the Formal Complaint of a gas service customer because she met her burden of proving that Philadelphia Gas Works is improperly holding her liable for all arrearages at the service address and that she is eligible for a Commission-issued payment arrangement.

HISTORY OF THE PROCEEDING

On April 16, 2024, Makeda Yeru (Complainant or Ms. Yeru) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW, Company or Respondent). Ms. Yeru checked the boxes on the Complaint form stating that the utility is threatening to shut off her service or has already shut off her service and that there are incorrect charges on her bill. Complainant requests a Commission-issued payment arrangement.

Further Ms. Yeru alleges that she moved back to her mother's house and is trying to get service in her name. She says PGW told her that she would have to pay past due bills from both addresses when she was only residing at one.

On May 6, 2024, PGW filed its Answer to the Formal Complaint which admitted in part and denied in part various material allegations of the Complaint.

By Hearing Notice dated May 22, 2024, an Initial Call-In Telephonic Hearing was scheduled for August 6, 2024, at 10:00 a.m. and the matter was assigned to me.

A Prehearing Order was issued and served on July 1, 2024, again advising the parties of the date and time of the scheduled hearing and informing them of the procedures applicable to the proceeding.

On August 6, 2024, the hearing convened as scheduled. The Complainant appeared *pro se* and testified on her own behalf. Anita Murray, Esquire, appeared on behalf of PGW and presented the testimony of one witness, David Kauffman, a customer review officer for PGW. Mr. Kauffman sponsored the following five exhibits, which were admitted into the record without objection:

PGW Exhibit 1 – Customer Contact History

PGW Exhibit 2 – Statement of Account (as revised by testimony)

PGW Exhibit 3 – Payment History

PGW Exhibit 4 – PAR History (as revised by testimony)

PGW Exhibit 5 – BCS Determination #3515559

At the hearing, I provided Complainant 10 days to submit late-filed exhibits if she wished to do so. On August 13, 2023, Complainant, via email, submitted three late-filed exhibits. PGW was provided ten days to object to the late-filed exhibits but did not do so. The following late-filed exhibits will be admitted in the ordering paragraphs below:

Complainant Exhibit 1 – PGW Monthly Statement dated October 7, 2020
for 4927 Morris Street

Complainant Exhibit 2 – Lease Agreement for 4927 Morris Street

Complainant Exhibit 3 – Comcast bill for 410 N. 53rd Street

FINDINGS OF FACT

1. The Complainant is Makeda Yeru, who resides at 4113 Parrish Street, Philadelphia, Pennsylvania 19104 (Service Address). Tr. 8.

2. The Respondent is Philadelphia Gas Works, a jurisdictional public utility, which provides gas service to Complainant at the Service Address.

3. Complainant resides at the Service Address with her minor child.
Tr. 14.

4. When possible, Complainant works with Amazon Flex grossing \$60-\$90 per day for 2-3 days per week, but she has not been able to work recently. Tr. 14, 18.

5. Complainant's income and household size places her at less than 150% of the Federal poverty level.

6. The PGW account for the service address is currently in Complainant's mother's name. Tr. 27-29.
7. Complainant's mother passed away in December of 2019. Tr. 11, 18-19.
8. Complainant's sister resided at the service address from 2019-2022. Tr. 11-12.
9. Complainant moved into the service address in June of 2022. Tr. 10.
10. Prior to residing at the service address, Complainant resided at 4927 Morris Street from June 2020 through June 2022. Tr. 10; *see* Compl. Exs. 1, 2.
11. Prior to residing at 4927 Morris Street, Complainant resided at 410 North 53rd Street from January 2018 until June 2020. Tr. 10-11; *see* Compl. Ex. 3.
12. Prior to January 2018, Complainant resided at the service address as it was her childhood home. Tr. 10.
13. Complainant never changed her mailing address from her childhood home. Tr. 11.
14. On April 2, 2022, Complainant applied for gas service, in her name, at the service address, to begin on April 4, 2022. Tr. 23; PGW Ex. 2 at 1.
15. PGW linked Complainant to the service address since August 2005, using Experian Link. Tr. 23-24.

16. PGW required the following to process a new account for Complainant: have a fraud alert removed from her Experian account; provide two forms of identification; and provide a signed lease to PGW.

17. On June 23, 2023, Complainant provided a Pennsylvania driver's license and a U.S. passport to PGW. Complainant did not provide a lease or have the fraud alert lifted. Tr. 26-27.

18. Complainant's driver's license lists the service address as her address since September 13, 2018. Tr. 27-28; PGW Ex. 3 at 1.

19. Complainant has an outstanding PGW balance of \$723.58 from the 4927 Morris Street address from the service period of July 27, 2020 to May 4, 2021. Tr. 25, 28-29, 32-33.

20. Complainant was informed that in order to open an account in her name, she would also need to assume the balance on her mother's account. Tr. 27.

21. The outstanding balance of Complainant's Mother's account at the time of the hearing was \$5,234.61. Tr. 29-30, PGW Ex. 5.

22. The balance on Complainant's Mother's account is for usage at the service address from January 7, 2020 to August 2, 2024. Tr. 29-30; PGW Ex. 5.

23. In order for PGW to offer a payment arrangement, the service request must be completed. Tr. 30.

24. The service request has not been completed because the fraud alert has not been lifted. Tr. 30-31.

25. Complainant agrees that she is responsible for any gas usage at the service address from the July 2022 bill through July 2024. Tr. 38-39.

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 she 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).

Link to Service Address

Complainant alleges that PGW improperly found that she resided at the service address before June 2022 and is improperly holding her liable for a past due balance if she were to open a gas service account in her name at the service address.

The Commission's regulation at 52 Pa. Code § 56.35 provides, in relevant part, as follows:

(a) A public utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the public utility which accrued within the past 4 years for which the applicant is legally responsible and for which the applicant was billed properly.

(b) A public utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant, except as provided for in paragraphs (1) and (2).

(1) A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided

there, not exceeding 4 years from the date of the service request. . . .

(2) A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially-available consumer credit reporting service or other methods approved as valid by the Commission. Public utilities shall include in their tariffs filed with the Commission the methods, other than those specifically mentioned in this paragraph, used to determine the applicant's liability for any outstanding balance.

52 Pa. Code § 56.35(a), (b)(1)-(2).

On or around April 2, 2022, Ms. Yeru filled out an online application with PGW requesting to open an account for gas at the service address in her name. Tr. 23; PGW Ex. 2 at 1. PGW ran an Experian report that “linked” her to the address since August 2005. PGW Ex. 1; Tr. 23-24. Because the Experian report “linked” Complainant to the address, PGW is requiring Ms. Yeru to assume a \$5,234.61 balance, should service be placed in her name. Tr. 27, 29-30; PGW Exs. 2, 5. The \$5,234.61 balance is calculated from January 7, 2020 through August 2, 2024. Tr. 29-30; PGW Ex. 5. The account at the service address is currently in Ms. Yeru’s mother’s name. Tr. 27-29. Complainant’s mother passed away in December of 2019 but the account remained in her name. Tr. 11.

Ms. Yeru argues that she did not reside at the service address between January 2018 and June 2022. Tr. 10-11. She testified that she resided at different addresses prior to June 2022. First, she lived at 410 N. 53rd Street from January 2018 until June 2020. Tr. 10-11. In support of this allegation, Complainant supplied a copy of a Comcast bill with her name and the 410 N. 53rd Street address dated June 24, 2018. Compl. Ex. 3. Second, she resided at 4927 Morris Street from June 2020 through June

2022. Tr. 10. To support this, Complainant provided a copy of PGW monthly statement dated October 7, 2020 and a signed lease for 4297 Morris Street address. Compl. Exs. 1, 2. She moved out of the Morris Street address in June of 2022 when she finally moved into the service address. Prior to January 2018, Complainant resided at the service address as it was her childhood home. Tr. 10. Complainant never formally changed her mailing address after moving from her childhood home in January 2018. Tr. 11.

Ms. Yeru's direct testimony and exhibits has put forth a *prima facie* case that she was not living at the Service address between January 2018 and June 2022. With the Complainant having put forth a *prima facie* case, the burden of production shifts to PGW to rebut the evidence presented by Complainant.

In rebuttal, PGW relies on an Experian report to link Ms. Yeru to the service address since 2005. Tr. 23-24. PGW did not attempt to enter the Experian report into evidence, and only testified to its contents. Tr. 23-24. While the Experian report was not entered into evidence, it is hearsay. Any testimony regarding the contents of the hearsay document is also hearsay. Therefore, the testimony regarding the Experian report is hearsay and is subject to the *Walker* rule, which provides that hearsay evidence, properly objected to, is not competent evidence to support a finding of the agency. *Walker v. Unemployment Comp. Bd. of Rev.*, 367 A.2d 366 (Pa. Cmwlth. 1976) (*Walker*). Hearsay evidence admitted without objection will be given its natural probative effect and may support a finding of the agency if it is corroborated by any competent evidence in the record. However, a finding of fact based solely on hearsay will not stand. *Walker*. In further support of their position, PGW submitted Complainant's Pennsylvania driver's license, which list the service address as her address since issued on September 13, 2018. Tr. 27-28; PGW Ex. 3 at 1.

While the address on her driver's license may suggest that she has resided at the property, Ms. Yeru's credible testimony and exhibits refute any allegation that she

resided at the property between January 2020 and August 2024. Furthermore, PGW's own testimony and exhibits suggest that Ms. Yeru did not reside at the service address from July 27, 2020 to May 4, 2021. Tr. 32; PGW Ex. 4 at 1. In fact, Ms. Yeru resided at 4927 Morris Street and has an outstanding PGW balance of \$723.58 from that time. Tr. 29-3032; PGW Ex. 4.

Based on the foregoing, Complainant has met her burden of proof that PGW was improperly holding her liable for all arrearages since January 7, 2020. As such, the Complainant shall not be held liable for any outstanding balance incurred with PGW at 4113 Parrish Street, Philadelphia, Pennsylvania prior to April 4, 2022.¹ Should Ms. Yeru have gas service put in her name, PGW may hold her liable for any gas usage at the service address accrued on and after April 4, 2022, minus any late charges. Ms. Yeru is also liable for the \$723.58 balance from her Morris Street address.

Payment Arrangement

Complainant requests a Commission-issued payment arrangement. The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1419, applies to complaints alleging inability to pay and requesting a Commission-issued payment arrangement. The law provides strict guidelines that the Commission must follow when determining whether a payment arrangement can be issued. Sections 1405(a) and (b) of the Public Utility Code (the Code) reads as follows:

§ 1405. Payment arrangements

(a) General rule.—The commission is authorized to investigate complaints regarding payment disputes

¹ While Ms. Yeru testified that she did not move into the property until June 2022, she requested service and intended on being liable for any bills after she applied for service on April 2, 2022 to be effective on April 4, 2022. Tr. 23; PGW Ex. 2 at 1.

between a public utility, applicants, and customers. The commission is authorized to establish payment arrangements between a public utility, customers, and applicants within the limits established by the chapter.

(b) Length of payment arrangements.—The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment arrangement that is investigated by the commission and is entered into by a public utility and a customer shall not extend beyond:

- (1) Five years for customers with a gross monthly household income level not exceeding 150% of the Federal poverty level.
- (2) Three years for customers with a gross monthly household income level exceeding 150% and not more than 250% of the Federal poverty level.
- (3) One year for customers with a gross monthly household income level exceeding 250% of the Federal poverty level and not more than 300% of the Federal poverty level.
- (4) Six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level.

66 Pa.C.S. §§ 1405(a)-(b). The Code also restricts the Commission from issuing a second or subsequent payment arrangement if a customer defaults on a previous Commission-issued payment arrangement absent a change in income and restricts the Commission from reinstating and extending a previous payment arrangement absent a significant change in circumstances. 66 Pa.C.S. §§ 1405(d), (e).

If the Commission has not previously ordered a payment arrangement for a complainant, the Commission has the authority to establish a payment arrangement, pursuant to 66 Pa.C.S. § 1405(a), on a complainant's arrearages within the strict guidelines set forth in 66 Pa.C.S. § 1405(b), as stated above. Ms. Yeru's gross monthly

household income does not exceed 150% of the Federal poverty level.² Further, Ms. Yeru has not previously been granted a Commission-issued payment arrangement. Therefore, pursuant to the Code, Ms. Yeru is eligible for a five-year payment arrangement under 66 Pa.C.S. § 1405(b).

Accordingly, the Complainant's request for a Commission-issued payment arrangement will be granted and Complainant will be issued a five-year payment arrangement under 66 Pa.C.S. § 1405(b). Under the payment arrangement, Ms. Yeru will be required to pay her current budget bill plus 1/60th of her arrearage until paid in full.³

Conclusion

In accordance with the discussion above, once an account is opened in Ms. Yeru's name,⁴ PGW may hold Ms. Yeru liable for any usage that occurred at the service address on or after, April 4, 2022, along with her arrearage from the Morris Street address. However, the total amount Ms. Yeru is liable for will be subject to a five-year payment arrangement under 66 Pa.C.S. § 1405(b).

² See Federal poverty guidelines, 89 Fed. Reg. 2961 (Jan. 17, 2024); <https://aspe.hhs.gov/sites/default/files/documents/7240229f28375f54435c5b83a3764cd1/detailed-guidelines-2024.pdf>; see also Tr. 14, 18 (Ms. Yeru works with Amazon Flex when possible, grossing \$60-\$90 per day for 2-3 days per week. However, she has recently been unable to work. Ms. Yeru has a household size of two.).

³ While I am granting Ms. Yeru's request for a Commission-issued payment on any arrearage she is currently liable for, this may not be the best payment arrangement she has available to her. I encourage Ms. Yeru to apply for PGW's Customer Assistance Program to allow PGW to assess her eligibility for that program.

⁴ Ms. Yeru may still need to lift the fraud alert on her credit in order to have an account opened in her name.

CONCLUSIONS OF LAW

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

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

3. 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).

4. A public utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the public utility which accrued within the past four years for which the applicant is legally responsible and for which the applicant was billed properly. 52 Pa. Code § 56.35(a).

5. A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially-available consumer credit reporting service or other methods approved as valid by the Commission. 52 Pa. Code § 56.35 (b)(2).

6. The *Walker* rule provides that hearsay evidence, properly objected to, is not competent evidence to support a finding of the agency. Hearsay evidence admitted without objection will be given its natural probative effect and may support a finding of the agency if it is corroborated by any competent evidence in the record. However, a finding of fact based solely on hearsay will not stand. *Walker v. Unemployment Comp. Bd. of Rev.*, 367 A.2d 366 (Pa. Cmwlth. 1976).

7. Complainant has met her burden of proof that PGW was improperly holding her liable for all arrearages since January 2020. 66 Pa.C.S. § 332.

8. Complainant is liable for all arrearages occurring after April 4, 2022. 52 Pa. Code § 56.35(a).

9. The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1419, applies to this proceeding.

10. The Commission is authorized to establish a payment arrangement between a public utility and a customer. 66 Pa.C.S. § 1405(a).

11. Complainant is eligible for a five-year payment arrangement on her arrears. 66 Pa.C.S. § 1405(b).

ORDER

THEREFORE,

IT IS ORDERED:

1. That Complainant's Exhibits 1 through 3 are hereby admitted into the record.
2. That the Formal Complaint filed by Makeda Yeru in Makeda Yeru v. Philadelphia Gas Works at Docket No. C-2024-3048428 is sustained.
3. That Philadelphia Gas Works shall not hold Makeda Yeru liable for any outstanding balance incurred with Philadelphia Gas Works at 4113 Parrish Street, Philadelphia, Pennsylvania 19104 prior to April 4, 2022.
4. That, should Makeda Yeru have gas service put in her name, Philadelphia Gas Works may hold her liable for any gas usage at the service address accrued on and after April 4, 2022.
5. That, once an account is established in her name, Makeda Yeru shall make monthly payments consisting of her current budget bill plus one-sixtieth (1/60th) of the arrearage owed on the account, commencing with the first billing due date following the entry of the Commission's Final Order in this case, and continuing thereafter on the due date for the payment of each regular monthly bill.
6. That as long as Makeda Yeru maintains the terms of the payment arrangement stated herein, Philadelphia Gas Works shall not suspend or terminate her

utility service except for valid safety or emergency reasons or assess late payments or finance charges against her account.

7. That, if Makeda Yeru does not keep the payment schedule stated herein, Philadelphia Gas Works is authorized to suspend or terminate her utility service in accordance with the Public Utility Code and Commission Regulations.

8. That Docket No. C-2024-3048428 be marked closed.

Date: November 25, 2024

/s/
Michael J. Mroczka
Special Agent