

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Reena Faust	:	
	:	
v.	:	C-2024-3050555
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial Decision denies the Complainant’s Formal Complaint because the Complainant failed to establish that there were incorrect charges on the bills.

HISTORY OF THE PROCEEDING

On August 1, 2024, Reena Faust (Complainant or Ms. Faust) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent or Company) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant contends that there were incorrect charges on the bills and the utility was threatening to shut off or had already shut off her service.

On August 29, 2024,¹ Respondent filed an Answer denying the material allegations of the Complaint.

By Telephonic Hearing Notice dated September 9, 2024, an initial hearing was scheduled for November 19, 2024, and the matter was assigned to me.

On October 24, 2024, a Prehearing Order was issued and served on the parties.

The hearing proceeded as scheduled on November 19, 2024. Complainant participated *pro se* and testified. Respondent appeared and was represented by Graciela Christlieb, Esq., who presented the testimony of Jessica Antonetti, a Senior Customer Review Officer. Respondent offered six exhibits, which were all entered into the record.²

The hearing resulted in a 42-page transcript. The record closed on December 30, 2024, when I received the transcript of the hearing.

FINDINGS OF FACT

1. The Complainant in this case is Reena Faust, who resides at 6525 North Woodstock Street, Philadelphia, Pennsylvania 19138 (Service Address). Tr. 8.

2. The Respondent is Philadelphia Gas Works.

¹ The Formal Complaint was served on the Respondent by the Secretary's Bureau on August 5, 2024.

² PGW made a motion on the record to bar the Complainant from filing any further informal or formal complaints with the Commission until she pays off her current account balance. However, PGW did not provide the Complainant with any formal notice that it was seeking this relief in its Answer or any other document prior to the hearing. Tr. 40. As such, the motion is denied at this time.

3. The Service Address is a rowhome. Tr. 11.
4. The Service Address has three bedrooms and one bathroom. Tr. 12.
5. The Complainant lives alone at the Service Address. Tr. 13.
6. The Service Address has a gas house heater, oven and stove and water heater. Tr. 12-13.
7. Between October 2, 2019, and April 26, 2024, the Complainant was on PGW's Customer Responsibility Program (CRP). Tr. 18.
8. Customers on CRP are billed a set monthly rate based on the household income information and the number of people in the residence. Tr. 18.
9. After April 26, 2024, the Complainant was billed based on actual usage. Tr. 18-19; PGW Exh. 1 & 2.
10. From October 13, 2014, to October 11, 2024, the Complainant's gas usage decreased, and has decreased markedly in 2024. Tr. 20-21; PGW Exh. 2.
11. The last payment PGW received on the Complainant's account was on April 29, 2022, in the amount of \$71.94. Tr. 23; PGW Exh. 1.
12. The Complainant's account balance is \$4,273.07. Tr. 24; PGW Exh. 1.

13. The balance is due to the accumulation of unpaid bills and late payment charges. Tr. 23; PGW Exh. 1.

14. On November 11, 2024, PGW removed the Complainant's meter at the Service Address for testing. Tr. 24; PGW Exh. 4.

15. On November 14, 2024, PGW conducted testing on the meter from the Complainant's Service Address and found that it tested at 98.9% at Open 100%, and 98.9% at Check 20%. Tr. 25; PGW Exh. 5.

DISCUSSION

The Public Utility Code places the burden of proof upon the proponent of a rule or order. 66 Pa.C.S. § 332(a). As the proponent of a rule or order, Complainant has the burden of proof in this matter. *Id.*

To establish a sufficient case and satisfy the burden of proof, Complainant must show that the respondent public utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990), *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (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, 602 (Pa. Cmwlth. 1990). A preponderance of the evidence is evidence that is more convincing, by even the smallest amount, than that presented by the other party. *Selling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). Additionally, 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. 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. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie*

Resistor Corp. v. Unempl. Comp. Bd. of Rev., 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlt. 1984).

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, the Complainant has not satisfied her burden of proof. The Complainant would 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. Cmwlt. 1982).

While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlt. 2001).

The Complainant is disputing the bills, starting in 2020, as being too high. She specifically indicated that her usage was down from prior years because she was caring for a relative out of town after 2020 and was not at home as often.

The burden of proof for “high bill” complaints has been explained in *Waldron v. Philadelphia Electric Co.*, 54 Pa.P.U.C. 98 (1980) (*Waldron*), 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 (Opinion and Order entered Oct. 13, 2010) (*Bennet*), 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.” *Bennet*, at 6; *see also Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Opinion and Order entered Nov. 15, 2011).

The Service Address is a rowhome. Tr. 11. The Complainant has three bedrooms and one bathroom. Tr. 12. The Complainant lives alone at the Service Address. Tr. 13. The Service Address has a gas house heater, oven and stove and water heater. Tr. 12-13. The Complainant testified that she noticed that her bill was high starting in 2020. However, Ms. Faust did not provide any evidence beyond her testimony to support her claims. “Mere bald assertions ... do not constitute evidence.” *Mid-Atl. Power Supply Ass'n of Pa. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000) (*Mid-Atl.*); *Pa. Bur. of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987) (*City of Pittsburgh*); *see also, Steffy's Pattern Shop v. Frontier Commc'ns of Pa., Inc.*, Docket No. R-00994808 (Opinion and Order entered Mar. 3, 2000) (*Steffy's*).

PGW presented the testimony of Ms. Antonetti in this matter. Between October 2, 2019, and April 26, 2024, the Complainant was on PGW's CRP. Tr. 18. Customers on CRP are billed a set monthly rate based on the household income information and the number of people in the residence. Tr. 18. The Complainant was not billed on her actual usage at the Service Address, during this time period. Tr. 18. After April 26, 2024, the Complainant was billed based on actual usage. Tr. 18-19; PGW Exh. 1 & 2. From October 13, 2014, to October 11, 2024, the Complainant's gas usage decreased, and has decreased markedly in 2024. Tr. 20-21; PGW Exh. 2.

Ms. Antonetti also testified that the last payment PGW received on the Complainant's account was on April 29, 2022, in the amount of \$71.94. Tr. 23; PGW Exh. 1. The Complainant's account balance is \$4,273.07. Tr. 24; PGW Exh. 1. The balance is due to the accumulation of unpaid bills and late payment charges. Tr. 23; PGW Exh. 1.

Further, Ms. Antonetti testified that on November 11, 2024, PGW removed the Complainant's meter at the Service Address for testing. Tr. 24; PGW Exh. 4. On November 14, 2024, PGW conducted testing on the meter from the Complainant's Service Address and found that it tested at 98.9% at Open 100%, and 98.9% at Check 20%. Tr. 25; PGW Exh. 5. These results are within the 2.0% error limits under the Commission's regulations. *See* 52 Pa. Code § 59.22.

The Complainant did not present any evidence besides her own testimony that her bills were too high starting in 2020. PGW explained that the Complainant's bills from October 2, 2019 to April 26, 2024 were based on the monthly income and household size because she was enrolled in the CRP program. The Complainant was not billed based on usage and therefore, even if the usage was high since 2020, it would not affect her monthly bills. . There is nothing in the record to suggest that PGW violated the Public Utility Code or the Commission's regulations or a Commission order in this

case. The Complainant's bald assertions alone are not enough to meet the burden of proof. (*Mid-Atl.*); (*City of Pittsburgh*); (*Steffy's*). As such, the Complainant has not met her burden of proving that the charges on her bill were incorrect, and the Complainant must be dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.
2. The burden of proof in this proceeding is upon 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 stated that it will 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 v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980).
5. “[T]he 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.” *Thomas v.*

PECO Energy Co., Docket No. C-2010-2187197, at 5 (Opinion and Order entered Nov. 15, 2011).

6. “Mere bald assertions ... do not constitute evidence.” *Mid-Atlantic Power Supply Ass'n of Pa. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000); *Pa. Bur. of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *see also, Steffy's Pattern Shop v. Frontier Commc'ns of Pa., Inc.*, Docket No. R-00994808 (Opinion and Order entered Mar. 3, 2000).

7. The Complainant did not meet her burden of proving that there were incorrect charges on her bills starting in 2020. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Reena Faust in *Reena Faust v. Philadelphia Gas Works* at Docket No. C-2024-3050555 is denied and dismissed; and

2. That Docket No. C-2024-3050555 be marked closed.

Date: March 28, 2025

_____/s/
Marta Guhl
Administrative Law Judge