

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kimberly Fisher	:	
	:	
v.	:	F-2024-3049915
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Marta Guhl  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision grants the Complainant’s Formal Complaint because the Complainant established that there were incorrect charges on the bills because she was living in another location at the time the charges accrued.

**HISTORY OF THE PROCEEDING**

On June 24, 2024, Kimberly Fisher (Complainant or Ms. Fisher) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent or Company) with the Pennsylvania Public Utility Commission (Commission).<sup>1</sup> In the

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<sup>1</sup> The Complaint is a timely appeal from the determination of the Commission’s Bureau of Consumer Services (BCS), at BCS No. 3970655, which dismissed Complainant’s informal complaint. A timely BCS appeal is subject to de novo review. 52 Pa. Code § 56.173(a).

Complaint, the Complainant contends that the utility was threatening to shut off or had already shut off her service. The Complainant indicated that she did not live at the Service Address at the time when the Company alleged she was using service, and that she should not be responsible for the balance from a previous tenant.

On July 23, 2024,<sup>2</sup> Respondent filed an Answer denying the material allegations of the Complaint.

On August 2, 2024, an Interim Order was issued setting the matter for resolution conference. However, the parties were unable to resolve the issues in the Complaint.

By Telephonic Hearing Notice dated September 13, 2024, an initial hearing was scheduled for December 10, 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 December 10, 2024. Complainant participated *pro se* and testified. The Complainant also presented the testimony of Helen Alexander. Respondent appeared and was represented by Anita Murray, Esq., who presented the testimony of David Kauffman, a Customer Review Officer. Respondent offered five exhibits, which were all entered into the record. At the time of the hearing, I requested that the Complainant provide any documentation that she had to support her position that she lived elsewhere during the time period at issue.

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<sup>2</sup> The Formal Complaint was served on the Respondent by the Secretary's Bureau on July 3, 2024.

The Complainant presented her late filed exhibits on December 16, 2024, and PGW provided its written objections on December 20, 2024. The Complainant's late filed exhibits will be addressed below.

The record closed on January 13, 2025, when I received the transcript of the hearing.

### FINDINGS OF FACT

1. The Complainant in this case is Kimberly Fisher, who resides at 1234 North 57<sup>th</sup> Street, Philadelphia, Pennsylvania (Service Address). Tr. 7.

2. The Respondent is Philadelphia Gas Works.

3. The Complainant's mother, Helen Alexander, purchased the property in approximately 1989. Tr. 11, 29; PGW Exh. 1.

4. The Complainant lived at the Service Address as a child, until approximately 2006 when her family moved. Tr. 29-30.

5. The Complainant has lived at a variety of addresses since 2006. Tr. 9-11.

6. From February 8, 2019, through March 30, 2022, the Complainant lived at 2322-2 Raleigh Court, Clarksville, Tennessee and had gas and water service in her name. Tr. 16, 19; Complainant's Late Filed Exhibit Proof of Utility Service.

7. After March 2022, the Complainant moved in with her mother at 16 Maplegrove Court, Swedesboro, New Jersey. Tr. 18, 22, 31; Complainant's Late Filed Exhibits, Bank Statements and Benefit Letter.

8. On February 29, 2024, the Complainant contacted PGW to request service in her name at the Service Address. Tr. 39; PGW Exh. 3.

9. On March 1, 2024, the Complainant moved into the Service Address. Tr. 18; PGW Exh. 3.

10. Between December 3, 2020, and December 3, 2024, gas service at the Service Address was in the name of David Jones-Taylor. Tr. 42-43; PGW Exh. 4.

11. PGW never received any request to stop service at the Service Address from Mr. Jones-Taylor. Tr. 43.

12. Mr. Jones-Taylor left an outstanding balance of \$2,229.06. Tr. 42; PGW Exh. 4.

### 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 Tele. 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 more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling*

*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. 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);. 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. Cmwlth. 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. Cmwlth. 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. Cmwlth. 2001).

## **Late Filed Exhibits**

The Complainant provided a number of late filed exhibits to establish her residency in other locations. These included the following documents:

- a. A 1-page document with partial copies of Complainant's bank statements reflecting her address in Swedesboro, NJ in September 2023 and December 2023 ("Bank Statements").
- b. A 1-page document from Clarksville Gas & Water dated December 10, 2024, with "Proof of Service" as a heading. The document states that Complainant had service at Raleigh Ct., Clarksville, TN from February 8, 2019, to March 30, 2022 ("Proof of Utility Service").
- c. A 1-page document containing a photo of an unidentified payment coupon of an unknown date, showing Complainant's address in Swedesboro, NJ ("Photo").
- d. Complainant's pay stub from Macy's dated January 18, 2019, with a Raleigh Ct. address ("Pay Stub").
- e. A 1-page document with a partial copy of Complainant's Social Security Benefit Verification Letter dated February 16, 2024, showing her Swedesboro, NJ address ("Benefit Letter").
- f. A 1-page document with a partial copy of Complainant's Social Security Supplemental Security Income Award Letter dated February 14, 2018, showing her Ephrata, PA address ("Award Letter").
- g. A 1-page document with a partial copy of Complainant's "Change to Contact Information" for her bank dated February 9, 2018, showing her Ephrata, PA address ("Bank Change of Address").
- h. A 1-page document with a partial copy of Complainant's Notice of Medicaid Eligibility, undated, showing her Ephrata, PA address ("Medicaid Notice").

PGW had no objections to the Benefit Letter, or the Bank Statements, and as such these documents are entered into the record through this Decision.

PGW specifically objected to the Medicaid Notice, and the Photo because they were undated and therefore were not relevant to the proceedings because it cannot be determined whether they are within the appropriate time period involved in the Complaint. PGW also objected to the Bank Change of Address, Award Letter, Pay Stub, and Proof of Utility Service on the basis that they were not relevant to the proceedings because they were outside of the time period that is at issue in this matter.

The Company alleged that the Complainant is responsible for bills that occurred at the service address since the Complainant is associated with the address since 2007. The Company is alleging that the Complainant is responsible for an outstanding balance that accrued from December 20, 2020, to December 3, 2024.

I will sustain the objections related to the Bank Change of Address, Award Letter, Pay Stub, Medicaid Notice, and the Photo as there are no dates on the documents or they are outside of the time period in question and are therefore, not relevant to the proceedings. However, I will overrule the objection related to the Proof of Utility Service because it does include dates that are a part of the time period in question and therefore, are relevant to the matters at issue in the Complaint. Therefore, the Proof of Utility Service is also entered into the record through this decision.

### **Outstanding Balance from Prior Tenant**

The Complainant applied to have service in her name at the Service Address as of March 1, 2024. The Company contends that the Complainant must pay the

outstanding balance of a previous tenant at the Service Address because the Complainant has been associated with the Service Address since 2007 according to a credit report.

Under the Commission's regulations, an applicant is a natural person at least 18 years of age not currently receiving service who applies for residential service provided by a public utility or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested. 52 Pa. Code § 56.2.

Further, 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. 52 Pa. Code § 56.35(a).

However, 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 below:

(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. The 4-year limit does not apply if the balance includes amounts that the public utility was not aware of because of fraud or theft on the part of the applicant.

(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(b)(1)-(2).

The Complainant's mother, Helen Alexander, purchased the property in approximately 1989. Tr. 11, 29; PGW Exh. 1. The Complainant lived in the Service Address as a child, until approximately 2006 when her family moved. Tr. 29-30. The Complainant has lived at a variety of addresses since 2006. Tr. 9-11. The Complainant lived at 2322-2 Raleigh Court, Clarksville, Tennessee and had gas and water service in her name from February 8, 2019 to March 30, 2022. Tr. 16, 19; Complainant's Late Filed Exhibit Proof of Utility Service. After March 2022, the Complainant moved in with her mother at 16 Maplegrove Court, Swedesboro, New Jersey. Tr. 18, 22, 31; Complainant's Late Filed Exhibits, Bank Statements and Benefit Letter.

The Complainant contacted PGW on February 29, 2024, to request service in her name at the Service Address. Tr. 39; PGW Exh. 3. The Complainant moved into the Service Address on March 1, 2024. Tr. 18; PGW Exh. 3.

Mr. Kauffman testified that between December 3, 2020, and December 3, 2024, gas service at the Service Address was in the name of David Jones-Taylor. Tr. 42-43; PGW Exh. 4. He indicated that PGW never received any request to stop service at the Service Address from Mr. Jones-Taylor. Tr. 43. Mr. Kauffman noted that Mr. Jones-Taylor had an outstanding balance of \$2,229.06. Tr. 42; PGW Exh. 4.

The Complainant has presented sufficient evidence to establish that she lived in locations other than the Service Address between December 3, 2020, and

February 29, 2024. The Complainant credibly testified that she moved from the Service Address in approximately 2007 after living there as a child. In addition to her own testimony, the Complainant presented the testimony of her mother as well as documentation clearly demonstrating that she was living in Clarksville, Tennessee between February 2019 to March 2022. Further, the Complainant and her mother both credibly testified that the Complainant moved in with her mother in Swedesboro, New Jersey after she left Tennessee, and that she lived there until she moved into the Service Address on March 1, 2024. While PGW presented a credit report indicating that the Complainant was associated with the Service Address since 2007, both the Complainant and Ms. Alexander testified that the Complainant resided there as a child, and that Ms. Alexander owns the property. Under the circumstances, I conclude that the Complainant has met her burden of establishing that she lived elsewhere during the period at issue in this matter, and that she should only be held responsible for usage or charges at the Service Address starting on March 1, 2024. Therefore, the Complaint will be granted.

### 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. 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).

4. An applicant is a natural person at least 18 years of age not currently receiving service who applies for residential service provided by a public utility or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested. 52 Pa. Code § 56.2.

5. 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. 52 Pa. Code § 56.35(a).

6. 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 unless it can establish that the Complaint was associated with the property or benefited from the service provided. 52 Pa. Code § 56.35(b)(2).

7. The Complainant met her burden of proving that she was not responsible for any charges at the Service Address prior to March 1, 2024.

8. The Complainant is responsible for usage and charges that occurred at the Service Address after March 1, 2024.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complainant's Late Filed Exhibits the Benefit Letter, the Bank Statements, and the Proof of Utility Service are entered into the record in this matter.
2. That the Complaint of Kimberly Fisher at *Kimberly Fisher v. Philadelphia Gas Works* at Docket No. F-2024-3049915 is granted.
3. That the Complainant, Kimberly Fisher, is only responsible for usage and charges that accrued at the Service Address on or after March 1, 2024.
4. That Philadelphia Gas Works should recalculate the billing for the Complainant, Kimberly Fisher, which excludes any charges from prior to March 1, 2024.
5. That Docket No. F-2024-3049915 be marked closed.

Date: April 11, 2025

\_\_\_\_\_/s/  
Marta Guhl  
Administrative Law Judge