

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tirlochan S. Walia	:	
	:	
v.	:	F-2022-3032572
	:	
The Pittsburgh Water and Sewer Authority	:	

**INTERIM ORDER
DIRECTING PWSA TO SUBMIT LATE-FILED EXHIBIT**

On May 9, 2022, Tirlochan S. Walia (Complainant or Mr. Walia) filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) against The Pittsburgh Water and Sewer Authority (Respondent, Company, or PWSA).¹ In pertinent part, Complainant alleged there is an inequity in two of Respondent’s billing practices: (1) billing in blocks of 1,000 gallons and (2) billing periods varying from 26-35 days. Complaint ¶ 4. For relief, Complainant asked the Commission to order PWSA to do the following:

Bill by gallons and maintain a constant calendar date billing period.

If for some reasons, not apparent, it is not feasible; then at least standard concept of rounding off should be used, whereby up to 1,499 gallons will be billed as one thousand gallons, anything between 1,500-2,499 gallons will be billed as two thousand gallons, and so on.

Complaint ¶ 5.

Respondent filed an Answer² and Preliminary Objections (POs) on June 10, 2022.

Respondent averred in pertinent part as follows:

¹ The Complaint sought timely review of the Commission’s Bureau of Consumer Services’ (BCS) decision entered on April 1, 2022, at BCS No. 3823111, which found that Complainant’s billings were based upon actual meter readings and in accordance with the definitions for a billing month.

² Respondent’s Answer is captioned “THE PITTSBURGH WATER AND SEWER AUTHORITY’S ANSWER AND NEW MATTER TO FORMAL COMPLAINT.” However, the filing does not

PWSA's Billing Practices

- (a) It is admitted that PWSA's bills are based on 1,000-gallon increments of water consumption. By way of further response, this billing practice is consistent with PWSA's Commission-approved tariff. PWSA is required by the Public Utility Code to follow its tariff, which the appellate courts have described as having the force of law and being binding on both the utility and its customer.

- (b) It is admitted that PWSA's billing period is not a constant number of days each month and that it can vary from 26 to 35 days. By way of further response, this practice is consistent with the Commission's regulations. Section 56.2 of the regulations defines a billing month as being a period "of not less than 26 days and not more than 35 days," except under specified circumstances that permit public utilities to bill for less than 26 or more than 35 days. Nothing in that provision requires a public utility to maintain a billing period with a constant number of days each billing month.

Answer ¶¶ 4a and 4b. (Footnotes omitted).

Thus, Respondent argued Complainant failed to allege a violation by PWSA of its tariff or a violation by PWSA of the Public Utility Code (Code), a Commission regulation, or a Commission order. For relief, Respondent requested that the Complaint be dismissed.

In its POs, Respondent argued, in part, that the Complaint was legally insufficient for the following reasons:

- 10. The material factual averments in the Complaint are that PWSA bills for water consumption in 1,000-gallon increments and that the Authority's billing period varies from 26 to 35 days. In the Complainant's opinion, which the Commission is not required to accept as true for purposes of preliminary objections, [footnote omitted] PWSA should either bill for consumption based upon

contain a separate section titled New Matter, nor is there a Notice to Plead to New Matter. Thus, for clarity the filing is referred to as an Answer.

each gallon used or implement a rounding method for billing. It is further the Complainant's opinion that PWSA should maintain a constant billing period each month.

11. Assuming for purposes of these Preliminary Objections that the material factual averments in the Complaint are true, they do not demonstrate a violation of the Public Utility Code, Commission regulations, or a Commission order.
12. PWSA's Commission-approved water tariff provides for the Authority to bill in 1,000-gallon increments. . . . Section 1303 of the Public Utility Code requires public utilities to adhere to their tariffs. Further, the appellate courts in Pennsylvania have long and consistently held that tariffs have the force of law and are binding on both the utility and its customer. Therefore, it is not within PWSA's power to change its billing period that is set forth in a Commission-approved tariff.
13. The Commission's regulations define a billing month as being 26 to 35 days. Although the regulations permit variations from the 26- and 35-day billing periods, for specific reasons set forth therein, they do not require public utilities to maintain a constant number of days each billing month. Thus, a variation in the billing period of 26 to 35 days, for whatever reason, is consistent with the Commission's regulations.
14. As the Complainant has made no allegations that could lead to a finding that PWSA violated the Public Utility Code, Commission regulations or a Commission order, there is no reason for going to a hearing. Dismissal of the complaint would conserve valuable resources and promote judicial economy.

PO ¶¶ 10-14. (Footnotes omitted).

Respondent's POs contained a Notice to Plead. Complainant did not file a response.³

³ An answer to a preliminary objection may be filed within 10 days of date of service. 52 Pa. Code § 5.101(f)(1).

By Notice dated July 14, 2022, the Parties were informed that this case was assigned to Administrative Law Judge Conrad Johnson (ALJ Johnson) as the presiding officer.

On August 3, 2022, ALJ Johnson issued an Interim Order (First Interim Order), granting in part and denying in part Respondent's POs. ALJ Johnson granted Respondent's POs to the extent that the Commission's regulations authorize billing periods varying between 26 and 35 days. ALJ Johnson explained that under the Code, a billing month is defined as a period of not less than 26 days and not more than 35 days, except in certain circumstances, which do not apply to the Complaint. *See* 52 Pa. Code § 56.2. ALJ Johnson held that Respondent's billing periods did not constitute a violation of the Code, the Commission's regulations, or a Commission order, and dismissed those claims.

The First Interim Order denied Respondent's POs to the extent that Complainant was challenging the reasonableness of PWSA's tariff pertaining to billing in increments or blocks of 1,000 gallons of water consumption. ALJ Johnson explained that a utility's Commission-approved tariff is *prima facie* reasonable. However, a complainant may later challenge the tariff by establishing that the facts and circumstances have changed so drastically as to render the application of the tariff provision unreasonable. *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981) (*Brockway*); *see* First Interim Order at 6.

By Notice dated August 3, 2022, the Commission scheduled this matter for an initial call-in telephonic hearing on September 14, 2022, at 10:00 a.m. On August 4, 2022, ALJ Johnson issued a Prehearing Order informing the parties about the procedures for the hearing.

The telephone hearing convened as scheduled. Complainant appeared, self-represented, and testified on his own behalf. Complainant did not offer any exhibits. PWSA was represented by Sarah C. Stoner, Esquire, who called one witness, PWSA's Director of Consumer Services, Julie Mechling. PWSA's witness sponsored pre-marked Exhibits 1 through 8, which were admitted into the record.

The evidentiary hearing generated a 64-page transcript, which was filed with the Commission's Secretary's Bureau on October 7, 2022. The record was closed by an Interim Order issued on October 11, 2022.

On January 5, 2023, ALJ Johnson issued an Initial Decision (I.D.), which denied and dismissed the Complaint in this matter, ruling that Complainant did not meet his burden of establishing that Respondent's Commission-approved billing tariff was no longer reasonable or that the application of the existing billing tariff was applied unreasonably. I.D. at 1, 12-13. Complainant filed Exceptions to the I.D. on January 19, 2023. Respondent filed Replies to Exceptions on February 13, 2023.

By Opinion and Order issued on April 20, 2023, the Commission addressed the Exceptions and Reply Exceptions. It reasoned in part as follows:

Based upon examination of the billing data supplied by PWSA, we cannot agree with the ALJ that the Complainant has failed to carry his burden of proving PWSA's Commission-approved tariff is no longer reasonable or has been applied unreasonably. In order to conclude that the tariff is being applied reasonably, the facts of PWSA's billing method requires clarification as to why the Complainant's bills do not appear to match the tariff-approved billing method. PWSA testified that it was billing in accordance with its approved tariff. However, we cannot agree with PWSA's assertion based on Mr. Walia's bills. It appears as if Mr. Walia may not have been billed in accordance with the terms of the tariff.

Opinion and Order entered on April 20, 2023, at 14.

The Commission continued,

Mr. Walia testified, and we confirmed, that on PWSA's website, a sample residential bill has a water consumption charge that indicates billing is for every 1,000-gallon increment over the 1,000-gallon minimum. Tr. at 22-23. Further, PWSA's witness, Ms. Mechling also testified that pursuant to PWSA's Commission-approved tariff, billing is for every 1,000-gallon

increment over the 1,000-gallon minimum. Tr. at 39-42. Mr. Walia's bills do not seem to match this billing practice reflected in the sample bill on PWSA's website.

While PWSA testified that it billed in accordance with its tariff, Mr. Walia's bills for November 18, 2021 and February 17, 2022 do not appear to have been calculated in accordance with PWSA's Commission-approved tariff.

Therefore, we will remand the case to the OALJ for PWSA to review the customer's account, providing a refund to the customer, if necessary. PWSA shall also review its billing procedures to assure that its tariff is being correctly applied to the billing procedures.

Id. 17-18.

Accordingly, the Commission ordered as follows:

1. That the Exceptions of Mr. Tirlochan S. Walia, filed on January 19, 2023, to the Initial Decision of Administrative Law Judge Conrad A. Johnson, issued on January 5, 2023, at this docket, are granted, in part, and denied, in part, consistent with this Opinion and Order.
2. That the Initial Decision of Administrative Law Judge Conrad A. Johnson, issued on January 5, 2023, at this docket, is modified, consistent with this Opinion and Order.
3. That this proceeding at Docket No. F-2022-3032572 is remanded to the Office of Administrative Law Judge for clarification, and/or the receipt of additional evidence, as necessary, consistent with this Opinion and Order.
4. That at the conclusion of the remanded proceeding, the presiding Administrative Law Judge shall issue a subsequent Initial Decision, consistent with this Opinion and Order.
5. That the Parties may file Exceptions and Replies to Exceptions pertaining to the subsequent Initial Decision, consistent with the provisions of 52 Pa. Code §§ 5.533 and 5.535.

Id. 19-20.

On April 27, 2023, a Notice of Initial In-Person Hearing on Remand was served upon the Parties informing them that an Initial In-Person Hearing on Remand would convene before ALJ Johnson in the Commission's Pittsburgh office on June 7, 2023, at 10:00 a.m.

On April 28, 2023, ALJ Johnson issued a Prehearing Order, which reminded the Parties about the June 7, 2023, remand hearing and informed them about the procedures for the remand hearing.

On May 5, 2023, pursuant to Section 5.572 of the regulations of the Commission, 52 Pa.Code § 5.572, Respondent filed a Petition for Reconsideration (Petition) of the Commission's Order entered on April 20, 2023, and requested that the Commission adopt the Initial Decision entered in this proceeding and dismiss the Complaint.

On May 18, 2023, the Commission ruled as follows:

IT IS ORDERED: That the Petition for Reconsideration filed by the Pittsburgh Water and Sewer Authority on May 5, 2023, is hereby granted, pending further review of, and consideration on, the merits.

Opinion and Order entered May 18, 2023, at 3 (emphasis in original).

On May 19, 2023, ALJ Jonson issued an Interim Order cancelling the June 7, 2023, remand hearing and advising its scheduling would be held in abeyance pending the Commission's disposition of the Petition.

On June 1, 2023, the Commission issued a Notice cancelling the June 7, 2023, remand hearing.

On June 15, 2023, the Commission issued an Opinion and Order denying PWSA's Petition for Reconsideration. The Commission explained,

Upon review, we conclude that PWSA's arguments in its Petition are not new or novel, that we have thoroughly considered PWSA's arguments concerning the application of its tariff, and that our decision to remand the case to the OALJ is supported by substantial evidence in the record. There is a disconnect between what is prescribed in PWSA's tariff and Mr. Walia's account billing and/or what occurred for at least two months of Mr. Walia's recent billing. The Commission's questions regarding how PWSA applied its tariff to Mr. Walia's account billing are appropriate and necessary. The Commission is asking PWSA, by remand, to clarify why Mr. Walia's bills do not match the tariff. PWSA's arguments regarding the application of the tariff do not demonstrate a consideration that has not previously been heard or has been overlooked by the Commission. Thus, we shall decline to reconsider our April 2023 Order on this basis.

Order and Opinion entered June 15, 2023, at 15.

On June 28, 2023, Complainant filed correspondence with the Commission, providing further argument regarding the issues raised in his Complaint.

On June 7, 2023, Complainant filed correspondence with the Commission regarding PWSA's rate case then pending before the Commission at R-2023-3039920, *et al.* It is unclear from the Commission's online docket for the rate case whether Complainant's correspondence was docketed at the R-docket rate case or if it was only docketed at the instant C-docket complaint case.

On September 25, 2023, the Commission issued a Notice, scheduling an in-person remand hearing for November 30, 2023.

The remand hearing convened as scheduled. Complainant appeared self-represented and did not offer any exhibits. PWSA was again represented by Ms. Stoner who called one witness, Ms. Mechling. PWSA's witness sponsored pre-marked Exhibit 9, which was admitted into the record. Exhibit 9 is a record of meter readings for Complainant's residence for November 2021 and February 2022.

The remand hearing generated a 75-page transcript, which was filed with the Commission's Secretary's Bureau on December 21, 2023.

On March 24, 2025, the Commission issued a Judge Change Notice, reassigning this matter to me.

After review of the entire case record, I have determined the record, as it stands today, is not sufficient such that I can render a written decision in response to the Commission's directive in its Opinion and Order entered on April 20, 2023. The Commission raised issues regarding the accuracy of the bills issued to Complainant. While the November 2021 bill, the February 2022 bill, and extensive meter read data are in the record, it is necessary for me to match the meter read data to the bills issued to Mr. Walia in order to determine whether the bills are correct, based on his usage and what PWSA claims are its billing practices and what is described in its tariff. **Importantly, due to the testimony of PWSA's witness about PWSA's billing practice of carrying over usage from one month to the next until usage hits 1,000 gallons so it can be billed, it is necessary for me to have bills not only for the two months identified by the Commission, but for several months before and after so I can compare usage data to dates when PWSA billed for an additional 1,000 when usage reached an additional 1,000 gallons.**

THEREFORE,

IT IS ORDERED:

1. That, by **April 25, 2025**, Pittsburgh Water and Sewer Authority shall submit copies of all bills issued to Tirlochan Walia for service to 110 Denniston Street from September 1, 2021, to July 31, 2022, to me by email at edevoe@pa.gov and to Mr. Walia by First Class Mail.

2. That Pittsburgh Water and Sewer Authority shall file a certificate of service evidencing its compliance with Ordering Paragraph 1.

3. That, by **May 7, 2023**, Mr. Walia may file an objection to the admission into the record of the documents served per Ordering Paragraph 1.

Date: April 15, 2025

_____/s/
Emily I. DeVoe
Administrative Law Judge

F-2022-3032572 - TIROCHAN S WALIA v. THE PITTSBURGH WATER AND SEWER AUTHORITY

Revised: September 25, 2023

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