

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rondell Cliett	:	
	:	
v.	:	F-2024-3047144
	:	
UGI Utilities, Inc.-Gas Division	:	

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial Decision denies the Formal Complaint filed by Rondell Cliett against UGI Utilities, Inc.-Gas Division because the Complainant failed to meet his burden of proving that the Company failed to accept payments to his account.

HISTORY OF THE PROCEEDING

On February 20, 2024, Rondell Cliett (Complainant or Mr. Cliett) filed a Formal Complaint (Complaint) against UGI Utilities, Inc.-Gas Division (UGI, Company, or Respondent) with the Pennsylvania Public Utility Commission (Commission), regarding his gas utility service.¹ In the Complaint, the Complainant placed a checkmark in the box

¹ The Complaint is a timely appeal from the determination of the Commission's Bureau of Consumer Services (BCS), at BCS No. 3939659. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

indicating “[t]he utility is threatening to shut off my service or has already shut off my service.” The Complainant also indicated that the Respondent was not accepting his payments to his account.

On March 27, 2024,² the Respondent filed an Answer to the Complaint denying the material allegations.

By Initial Call-In Telephonic Hearing Notice dated April 1, 2024, an initial call-in telephonic hearing was scheduled for May 22, 2024, at 10:00 a.m., and the matter was assigned to Administrative Law Judge (ALJ) Eranda Vero.

On April 2, 2024, a Hearing Cancellation Notice was issued which cancelled the May 22, 2024 hearing before ALJ Vero.

On April 2, 2024, a Judge Change Notice was issued and the matter was reassigned to me and scheduled for a telephonic hearing on May 22, 2024.

On May 13, 2024, counsel for the Respondent sent via email a request for a continuance due to the unavailability of its witness for the May 22, 2024, telephonic hearing. I granted the request on May 14, 2024, via email.

On May 21, 2024, a Hearing Cancellation Notice was issued and the hearing scheduled for May 22, 2024, was cancelled.

² The Secretary’s Bureau served the Respondent with the Complaint on March 6, 2024.

On December 17, 2024, an Initial Telephonic Hearing Notice was issued which set an initial hearing on January 17, 2025 at 1:00 p.m.³

The hearing convened as scheduled on January 17, 2025. The Complainant appeared *Pro Se* and testified. The Complainant offered three exhibits, which were entered into the record. The Respondent appeared and was represented by Peter J. Kramer, Esquire, who presented the testimony of Amy Wynn, the Senior Regulatory Compliance Representative. UGI offered three exhibits which were all admitted into the record.

The record closed on February 10, 2025, when I received my copy of the hearing transcript.

FINDINGS OF FACT

1. The Complainant, Rondell Cliett, resides at 249 Green Street, Edwardsville, Pennsylvania 18704 (Service Address). Tr. 8.
2. The Respondent is UGI Utilities, Inc-Gas Division.
3. The Complainant currently has active gas service at the Service Address. Tr. 26; UGI Exh. 1.
4. The Complainant sent documents to UGI in regard to his account on March 28, 2022. Tr. 13; Complainant Exh. 1-3.

³ Due to an administrative error a Prehearing Order was not issued in this case.

5. These documents were a Power of Attorney and Notice of Intention. Tr. 13-14; Complainant Exh. 2, 3.

6. The Complainant intended these documents to serve as payment for his account with UGI. Tr. 17.

7. UGI did not receive the documents that the Complainant submitted. Tr. 28; UGI Exh. 2.

8. The Complainant first enrolled in UGI's Customer Assistance Program (CAP) in May 2021. Tr. 26; UGI Exh. 1.

9. UGI sent a letter to the Complainant on May 18, 2024, indicating that he needed to recertify to remain on the CAP program. Tr. 26; UGI Exh. 3.

10. UGI sent a second letter to the Complainant on June 18, 2024, again stating that the Complainant needed to recertify to remain on the CAP program and that failure to do so could result in his removal. Tr. 26; UGI Exh. 3.

11. The Complainant was removed from CAP on September 18, 2024, due to failing to recertify for the program. Tr. 26; UGI Exh. 3.

12. The last payment the Company received from the Complainant on his gas service account was on September 2, 2021, in the amount of \$65.00. Tr. 27; UGI Exh. 1.

13. The Company has received Low Income Home Energy Assistance Program (LIHEAP) grants for the Complainant's account which have been applied to his balance. Tr. 27, UGI Exh. 1.

14. The Complainant also received CAP forgiveness on his gas account while he was still enrolled in the program. Tr. 27; UGI Exh. 1.

15. The Complainant's current balance as of the hearing date was \$1,268.80. Tr. 26; UGI Exh. 1.

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, the 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 (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. Unemployment 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 his 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), *aff'd*, 461 A.2d 1234 (Pa. 1983).

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).

Acceptance of Payment Form

The Complainant contends that UGI is threatening to shut off or has already shut off his gas service. The Complainant also alleges that the Company is refusing to accept his form of payment for his account balance. The Complainant testified that he sent documents to UGI regarding his account on March 28, 2022. Tr. 13; Complainant Exh. 1-3. These documents were a Power of Attorney and Notice of Intention. Tr. 13-14; Complainant Exh. 2 & 3. The Complainant intended these documents to serve as payment for his account with UGI. Tr. 17. UGI asserts that it did not receive the documents that the Complainant submitted. Tr. 28; UGI Exh. 2.

The Pennsylvania Public Utility Code requires each public utility to comply with the following:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities . . .

Such service and facilities shall be in conformity with the regulations and orders of the commission.

66 Pa.C.S. § 1501.

The statutory definition of “service” is to be broadly construed. *Betchy v. West Penn Power Co.*, Docket No. C-2018-3000257 (Opinion and Order entered Oct. 8, 2020) (citing *Country Place Waste Treatment Co., Inc. v. Pa. Pub. Util. Comm’n*, 654 A.2d 72 (Pa. Cmwlth. 1995)). As defined in the Code:

“Service.” Used in its broadest and most inclusive sense, includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities, or contract carriers by motor vehicle, in the performance of their duties under this part to their patrons, employees, other public utilities, and the public, as well as the interchange of facilities between two or more of them

66 Pa.C.S. § 102.

UGI’s witness, Ms. Wynn, testified that the Complainant currently has active gas service at the Service Address. Tr. 26; UGI Exh. 1. She also stated that the Complainant first enrolled in UGI’s CAP in May 2021. Tr. 26; UGI Exh. 1. UGI sent a letter to the Complainant on May 18, 2024 indicating that he needed to recertify to remain on the CAP program. Tr. 26; UGI Exh. 3. UGI sent a second letter to the Complainant on June 18, 2024, again, stating that the Complainant needed to recertify to remain on the CAP program and failure to do so could result in his removal. Tr. 26; UGI Exh. 3. Ms. Wynn noted that the Complainant was removed from the CAP on September 18, 2024, due to failing to recertify for the program. Tr. 26; UGI Exh. 3.

Ms. Wynn also testified that the last payment the Company received from the Complainant on his gas service account was on September 2, 2021, in the amount of \$65.00. Tr. 27; UGI Exh. 1. Ms. Wynn also noted the Company has received LIHEAP grants for the Complainant's account which have been applied to his balance, and also that the Complainant received CAP forgiveness on his gas account while he was still enrolled in the program. Tr. 27; UGI Exh. 1. The Complainant's current balance as of the hearing date was \$1,268.80. Tr. 26; UGI Exh. 1.

Although the Complainant indicated in his Complaint that UGI was threatening to shut off or had already shut off his gas service, the record demonstrates the Complainant has active gas service at the Service Address. Moreover, although the Complainant contends that UGI was not accepting his payments, UGI's witness credibly testified that the Company did not receive the documents, and also that these submitted forms of payment do not constitute payments towards the account.⁴ Lastly, UGI's witness credibly testified that UGI applied all payments that it received towards the Complainant's account. Specifically, UGI applied LIHEAP grants and CAP forgiveness to his account, as well as the last payment the Complainant made in September 2021 in the amount of \$65.00. Based on all of the above, I cannot conclude that UGI failed to properly apply the Complainant's payments to his gas account. As such, the Complainant has not met his burden of establishing that the Company violated Section 1501 of the Public Utility Code related to UGI's application of payments to his gas account.

⁴ The Commission's regulations do not specifically address the forms of payment which a utility is required to accept from a customer as payment for services rendered. However, the regulations relating to termination note that a customer may avoid termination if "payment in full is tendered in *any reasonable manner...*" The regulation also notes that payment "in any reasonable manner includes payment by personal check ..." 52 Pa. Code § 56.94 (emphasis added).

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. "Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities . . . Such service and facilities shall be in conformity with the regulations and orders of the commission." 66 Pa.C.S. § 1501.
5. The statutory definition of "service" is to be broadly construed. *Betchy v. West Penn Power Co.*, Docket No. C-2018-3000257 (Opinion and Order entered Oct. 8, 2020) (citing *Country Place Waste Treatment Co., Inc. v. Pa. Pub. Util. Comm'n*, 654 A.2d 72 (Pa. Cmwlth. 1995)).
6. The Complainant has failed to meet his burden to establish that UGI failed to provide adequate and reasonable service related to its acceptance of payments towards his account. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Rondell Cliett in *Rondell Cliett v. UGI Utilities, Inc.* at Docket No. F-2024-3047144 is denied.
2. That the Secretary's Bureau shall mark Docket No. F-2024-3047144 as closed.

Date: April 29, 2025

_____/s/
Marta Guhl
Administrative Law Judge