

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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| Louis Matzel and Jodi Asay | : | |
| | : | |
| v. | : | C-2023-3045163 |
| | : | |
| Pennsylvania-American Water Company | : | |

INITIAL DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

This decision denies the Formal Complaint because Complainants did not meet the burden of proving Respondent failed to comply with the Public Utility Code, and the Commission’s orders and regulations, by failing to maintain the correct pressure in its water main.

HISTORY OF THE PROCEEDING

On December 27, 2023, Louis Matzel and Jodi Asay (Complainants, Mr. Matzel or Ms. Asay) filed the Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Pennsylvania-American Water Company (PAWC). In the Complaint, Complainants alleged “dangerously” high water pressure led to the damage of the water service line at the service address. Complainants

requested PAWC place a pressure-reducing valve on the supply side of the service line. Complainants further requested reimbursement in the amount of \$12,336, which represented the charges on their water leak bill exceeding their average usage of 2,500 gallons per month; the reimbursement for an excavation bill, the replacement of their service line, and the damage to their fence and landscaping at the service address.

On January 19, 2024, PAWC filed an answer to the Complaint. In its answer, PAWC denied the water pressure was too high; asserted Complainants are responsible to install a water pressure regulator; and noted Commission regulations which state the Commission does not have jurisdiction to award monetary damages. PAWC requested the matter be referred to the Commission's mediation program.

On January 22, 2024, the Commission served an Interim Order directing the parties to hold a resolution conference no later than February 19, 2024, however, the case did not resolve in mediation.

Thereafter, on February 6, 2024, the Commission's Office of Administrative Law Judge (OALJ) served an initial telephonic hearing notice setting a formal call-in telephonic hearing for March 20, 2024, and assigning Administrative Law Judge Charece Z. Collins (ALJ Collins) as the presiding officer. On February 7, 2024, ALJ Collins served a prehearing order, setting forth hearing information and the rules that would govern that proceeding.

On March 12, 2024, PAWC, through its counsel, Michael Gruin, Esquire, filed a Motion for Continuance. In its Motion, PAWC requested a postponement for approximately 30 to 60 days, due to the unavailability of counsel on the day of the hearing. Counsel asserted Complainants did not object to the continuance request. On the same date, March 12, 2024, ALJ Collins granted the continuance request and ALJ Collins rescheduled the hearing to June 5, 2024.

On June 5, 2024, ALJ Collins conducted the telephonic hearing as scheduled. Ms. Asay and counsel for PAWC appeared with one witness (Mr. Kasey White) for PAWC. Ms. Asay and Mr. White testified and ALJ Collins admitted evidence into the record. Near the end of the hearing, the parties entered into settlement discussions, and the parties reached a tentative settlement plan. The parties requested time to continue settlement discussions to see if a final agreement could be reached. ALJ Collins ordered the record to remain open while the parties continue to explore the possibility of settlement.

On July 1, 2024, ALJ Collins issued the Order Modifying Procedural Schedule (Order dated July 1, 2024) which memorialized the discussions at the hearing and required the parties to provide a status update on or before August 2, 2024.

On August 19, 2024, ALJ Collins issued the Order #2 Modifying the Procedural Schedule (Order #2) in response to communication from the parties, requesting an extension of time in which to pursue settlement. ALJ Collins extended the time in which the parties could pursue settlement to August 31, 2024, and required the parties to submit a status update on or before that date.

On August 27, 2024, the OALJ issued a notice to the parties and re-assigned the proceeding to Administrative Law Judge Katrina L. Dunderdale (ALJ Dunderdale).

On August 30, 2024, Complainants filed a request for a hearing to better remediate any possible solutions to the problems at the service address, citing engineering difficulties arising during the settlement discussion stage.

On September 6, 2024, the Commission received the transcript from the Telephonic Hearing conducted on June 5, 2024, consisting of 122 pages, Complainants' Exhibits 1, 2b, 3, 4, 5, 7 and 8, and Respondent's Exhibits 1 through 10.

On September 11, 2024, the OALJ issued a telephonic post-hearing conference notice to the parties and scheduled a conference to be conducted telephonically on October 29, 2024.

On October 29, 2024, ALJ Dunderdale conducted a post-hearing telephonic conference at which Complainant Ms. Asay and Respondent's counsel appeared. The parties engaged in a robust discussion of the factual scenario at the service address, the attempts made by the parties to find a resolution and how best to proceed herein. After discussion, the presiding officer indicated an order would be issued after the conference that would direct the parties to meet at the service address to test the water pressure at the main line, on the service line and inside the residence. Further, the parties agreed Complainants should provide a concise list of what actions Complainants requested from the Commission.

Also, on October 29, 2024, ALJ Dunderdale issued the Third Post-Hearing Order which memorialized the discussions during the telephonic conference. The presiding officer directed, *inter alia*, the parties to conduct tests on the water pressure at the service address within sixty (60) days, Respondent to provide a status report within ten (10) days of the site visit and Complainants to provide a specific and detailed list of their requested forms of relief within ten (10) days of the status report. Lastly, the presiding officer indicated a briefing order would be issued.

On November 13, 2024, Respondent filed a status report concerning the site visit on November 8, 2024, and the test results obtained on that day. The status report noted a pressure gauge was installed in the meter pit, and the pressure gauge reflected a

reading of 125 pounds per square inch (psi). The pressure gauge located on the service line (before the first quarter turn valve) reflected a reading of 132 psi, and the pressure gauge installed behind the pressure-reducing valve inside the service address reflected a reading of 75 psi.

Also, on November 13, 2024, Complainants emailed a response to the presiding officer and Respondent, indicating their agreement that the statements in Respondent's status report were factual.

On November 15, 2024, the Commission received the transcript of the post-hearing conference on October 29, 2024, consisting of pages 123 to 175.

On November 27, 2024, Complainants filed their requests for what specific items they wanted Respondent and/or the Commission to address.¹ Complainants noted there was a 43% reduction in pressure on the service line between the interior home pressure gauge and the water filtration gauge (from 132 psi to 75 psi). Complainants requested the Commission require PAWC to use "good engineering practices" and argued a standard pressure-reducing valve (PRV) should reduce no more than 20% in pressure to avoid failure of the PRV. Complainants' requests included a requirement that PAWC regulate the water pressure entering the service line not in excess of 100 psi, at PAWC's cost and expense.

On December 9, 2024, the presiding officer issued the Fourth Post-Hearing Order, directing the parties to submit briefs on or before December 27, 2024.

¹ Complainants' Request was dated November 18, 2024, but was not received at the Commission until November 26, 2024, and was not added into the hearing record until November 27, 2024.

Complainants filed their Main Brief on December 23, 2024, and Respondent filed its Main Brief on December 27, 2024.

On February 4, 2025, an Interim Order was issued closing the evidentiary hearing record.

FINDINGS OF FACT

1. Complainants, Louis Matzel (Mr. Matzel) and Jodi Asay (Ms. Asay), live in a residence located at 231 Manchester Drive, Bushkill, Pennsylvania (service address), where they have resided since 2021. (Tr. 15, 16).

2. Respondent, Pennsylvania-American Water Company, has provided residential water service at the service address since Complainants moved in in 2021. (Tr. 15, 44, 61).

3. While both Mr. Matzel and Ms. Asay are married and reside together, the account is in the name of Louis Matzel, but it is Ms. Asay who pays the PAWC bills from her bank account. (Tr. 10, 16).

4. The service address is served through PAWC's Saw Creek Distribution System that serves Complainants' residence and neighboring properties. (Tr. 61).

5. The Saw Creek Distribution System relies on gravity to provide water service, which results in higher water pressure at the lowest points in the distribution system than the water pressure at a higher elevation. (Tr. 61).

6. PAWC acquired the Saw Creek Distribution System as part of an acquisition in 2002 from Lehman Pike Water and Sewer. (Tr. 62).

7. Complainants' water meter is located out by the street in front of their home which is where the service line begins. (Tr. 46).

8. PAWC has no pressure-reducing valve station on Manchester Drive and relies on gravity at the tank level to control pressure on the main in the Saw Creek Distribution System. (Tr. 91).

9. PAWC's tariff requires customers to install pressure-reducing valves on the inlet side of the meter if the static pressure on a service line is above 100 psi. (Tr. 76; PAWC Exhibit 9).

10. On June 22, 2023, Complainants had a plumber install a whole house water filtration system with three stages of filters and a water pressure gauge on each filter, in the crawl space. (Tr. 16, 17, 45, 48).

11. The pressure gauge measures the pressure of the water after the water goes through the filtration system. (Tr. 45, 46).

12. On June 22, 2022, Ms. Asay called PAWC to report an immediate concern about the pressure level on her service line, based on advice from their plumber. (Tr. 17, 19, 44; Complainants Exhibit 1).

13. Upon visiting the service address on June 22, 2022, PAWC's field technician indicated to Ms. Asay that the water service line was rated to 150 psi, and she did not have to worry about the line. (Tr. 17, 44; Complainants Exhibit 1).

14. After installation of the whole house water filtration system, Ms. Asay noted the pressure reading was 143 psi at the point on the service line where the water exits the filtration system. (Tr. 17, 46).

15. On June 23, 2022, Ms. Asay contacted PAWC again to investigate the high/low pressure and asked PAWC how to get a pressure-reducing valve (PRV) installed at the curb stop. (Tr. 19; Complainants Exhibit 1).

16. When PAWC's technician visited the service address on June 23, 2022, Ms. Asay was told no PRV could be installed that would touch PAWC's equipment. (Tr. 19, 20).

17. PAWC's field technician made two suggestions for the installation of a PRV at the service address: (1) build a pit in the yard to connect the service line to a PRV and then connect the service line to the curb stop; or (2) dig down three feet away from the curb stop and bury a pressure-reducing valve underground. (Tr. 20).

18. On June 23, 2022, Complainants had a plumber install a PRV on the new service line with a pressure gauge, at the point where the service line connected inside the service address, after speaking with PAWC's field technician. (Tr. 18, 22, 23, 48).

19. On July 7, 2022, PAWC's technician met with Ms. Asay and Complainants' plumber to discuss the installation of a PRV at the curb stop. (Tr. 20).

20. In November 2023, Complainants' service line, consisting of 3/8" black polyethylene piping, began leaking. (Tr. 21, 22, 49; Complainants Exhibit 1).

21. As a result of the broken service line, Complainants lost 20,000 gallons of water. (Tr. 25).

22. Starting on November 17, 2023, Respondent sent four letters to Complainants advising Complainants that the water meter at the service address registered continuous water usage for 24 hours, which is an indication there could be a water leak on the service line. (Tr. 86; PAWC Exhibit 3).

23. Respondent sent similar letters on December 8, 2023, December 13, 2023, and December 28, 2023. (Tr. 87; PAWC Exhibits 4, 5 and 6).

24. On December 11, 2023, PAWC visited the service address and verified there was a leak of 0.33 gallons per minute on the service line. (Tr. 89).

25. In December 2023, Complainants had the entire service line replaced, consisting of 135 feet in length. (Tr. 49).

26. On December 27, 2023, PAWC revisited the service address and confirmed Complainants repaired the leak when they had the service line replaced. (Tr. 89).

27. After replacing the service line and with the installation of the PRV, Complainants' pressure gauge on the new service line exceeded 135 psi. (Tr. 23, 28, 39).

28. Three pressure-reducing valves would be needed at the service address to bring down safely the water pressure from 143 psi to 55 psi, as recommended by Complainants' plumber. (Tr. 38).

29. Pressure-reducing valves should be used to limit the high pressure in water pipes but should reduce pressure by no more than 20% to avoid damaging the pressure-reducing valve. (Tr. 39).

30. The service address was built in 1984.

DISCUSSION

Complainants alleged the water pressure coming from PAWC's water main was too high and caused a leak to their service line, resulting in lost water, necessitating replacement of the service line and damage to their property.

Burden of Proof

As the party seeking affirmative relief from the Commission, Complainants bear the burden of proving by substantial evidence they are entitled to the requested relief. 66 Pa.C.S. § 332(a). To satisfy this burden, Complainants must show Respondent is responsible or accountable for the problem described.² Complainants must show this fact to be true by a preponderance of the evidence, that is, by presenting evidence more convincing, by even the smallest amount, than that evidence presented by the other party.³ Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence.⁴ Furthermore, more evidence is

² *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990); *Feinstein v. Philadelphia Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976).

³ *Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

⁴ *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704.

required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.⁵

Party Positions

Complainants argue the water pressure coming from the water main through its service line is excessive, resulting in a leak on the service line and forcing Complainants to replace the service line. Complainants contend Respondent violates the Public Utility Code and the Commission's regulations because the water pressure on the service line remains too high. Complainants request the Commission order PAWC to install a pressure-reducing valve on the supply side of the service line, requested reimbursement in the amount of \$12,336, which represented the charges on their water bill exceeding their average usage of 2,500 gallons per month and requested reimbursement for an excavation bill, the replacement of the service line, and damage to their fence and landscaping at the service address.

Respondent argues it did not build out the distribution system that serves the service address, which distribution system it purchased over 20 years ago. Respondent contends the service address is at the lowest point on the distribution system, which receives its water service via a gravity system. Respondent contends that it needs a higher level of water pressure to ensure it provides adequate pressure to addresses at higher elevations than the service address. Respondent argues, however, that the water pressure on its water main is consistent with the Public Utility Code, as well as the Commission's regulations and orders, and its own tariff.

⁵ *Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Dep't. of Pub. Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

Respondent's tariff,⁶ at PAWC Tariff, Supplement No. 40 to Tariff Water-PA P.U.C. No. 5, Page 47, Rule 4.7, specifies Complainants, as the Customers, were "responsible for the installation and maintenance of a pressure regulator or valve, which shall be installed on the inlet side of the meter" if the static pressure was 100 pounds or more at the service address.

Applicable Provisions

A violation of the Code may occur when a utility company fails to provide reasonable service.

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the Commission. Subject to the provisions of this part and the regulations or orders of the Commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service.^[7]

Additionally, the Commission has exclusive jurisdiction to determine the reasonableness, adequacy and sufficiency of a public utility's services and facilities.⁸ The term "service" is "used in its broadest and most inclusive sense, includ[ing] any and

⁶ PAWC Exhibit 9.

⁷ 66 Pa.C.S. § 1501.

⁸ *Elkin v. Bell of Pa.*, 420 A.2d 371 (Pa. 1980).

all acts done, rendered, or performed, and any and all things furnished or supplied...by public utilities...in the performance of their duties under [the Public Utility Code].”⁹ Thus, a utility company’s practice of billing its customers must be reasonable, adequate and sufficient.

Concerning the amount of water pressure placed on pipes in a distribution system, the regulations specify:

(a) *Variations in pressure.* The utility shall maintain normal operating pressures of not less than 25 p.s.i.g.^[10] nor more than 125 p.s.i.g. at the main, except that during periods of peak seasonal loads the pressures at the time of hourly maximum demand may be not less than 20 p.s.i.g. nor more than 150 p.s.i.g. and that during periods of hourly minimum demand the pressure may be not more than 150 p.s.i.g. A utility may undertake to furnish a service which does not comply with the foregoing specifications where compliance with such specifications would prevent it from furnishing adequate service to any customer or where called for by good engineering practices. The authority of the Commission to require service improvements incorporating standards other than those set forth in this subsection when, after investigation, it determines that such improvements are necessary is not hereby restricted.^[11]

Disposition

Mr. Matzel and Ms. Asay are the party seeking affirmative relief, pursuant to Section 332(a) of the Public Utility Code (Code), 66 Pa.C.S. § 332(a). Accordingly, Mr. Matzel and Ms. Asay must establish sufficient facts that show, by a preponderance of the evidence, that PAWC is responsible for the water pressure problem Mr. Matzel and

⁹ 66 Pa.C.S. § 102.

¹⁰ Pounds per Square Inch Gauge.

¹¹ 52 Pa. Code § 65.6(a).

Ms. Asay describe in the Complaint.¹² Specifically, Mr. Matzel and Ms. Asay must show here that PAWC failed to provide reasonable and adequate service when it provided high water pressure at the service address, resulting in a leak on the service line and requiring the replacement of the service line.

The evidence provided by both parties includes credible testimony from Complainant Asay and the utility's witness. The evidence presented proved there is high water pressure that affects the service address disproportionately with neighboring residences because the service address is located at the lowest point in the distribution system and PAWC uses higher water pressure to ensure sufficient pressure is provided to customers located at the highest point in the distribution system. Respondent contends it has no choice but to allow the pressure to be higher because it must provide service to other customers. Complainants contend the water pressure damaged their property, requiring the replacement of the service line and installation of a water filtration system and pressure-reducing valve.

However, the crux of the dispute is whether Respondent failed to provide reasonable and adequate customer service, resulting in damage to the service line at the service address. Complainants met the burden of proving the water pressure provided by Respondent was excessive at times and that the service address is affected disproportionately due to its location at the lowest point in the distribution system. Complainants did not meet the burden of proving the leak on the service line was caused by the higher than normal pressure coming from the main pipe into the service line. The service address was built in 1984 and there is no evidence the service line was upgraded since construction. Without evidence to the contrary, there is no substantial evidence to show that the leak occurred due to the high water pressure or due to the age of the pipes.

¹² *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (1950); *Feinstein v. Phila Suburban Water Co*, 50 Pa.P.U.C. 300 (1976).

Complainants are correct that the water pressure at times was recorded as being excessive. The regulation, at 52 Pa. Code § 65.6(a), requires that the water pressure should be between 25 p.s.i.g. and 125 p.s.i.g. at the main except that the pressure may be as high as 150 p.s.i.g. during periods of peak seasonal loads. The regulation also specifies the water pressure readings may not comply with the specifications if compliance would prevent the utility from furnishing adequate service to any customer or where required for good engineering practices. That proviso is the circumstance referenced by PAWC for why Complainants periodically have recorded water pressure readings that appear to be out of compliance.

However, it should be noted PAWC is incorrect to assert that it cannot do anything about a gravity system that exerts a significantly higher level of pressure on pipes at the lowest point in the distribution system simply because it needs sufficient water pressure to provide water service to the customers at the highest point. Complainants' rights - to receive reasonable and adequate customer service - should not have to acquiesce, or take a back seat, to the rights of other customers. PAWC must provide reasonable and adequate service to Complainants and to the other customers. While Complainants here did not prove the damage to the service line resulted from PAWC's actions or inactions, Complainants did prove a problem exists with high water pressure readings that PAWC should address proactively.

Accordingly, the Complaint will be denied in the Ordering Paragraphs below.

CONCLUSIONS OF LAW

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

2. Complainants have the burden to prove Respondent did not provide reasonable and adequate service by failing to provide water pressure in compliance with the Public Utility Code. 66 Pa.C.S. §§ 332(a); 1501.

3. Water utilities shall maintain normal operating pressures of not less than 25 p.s.i.g. nor more than 125 p.s.i.g. at the main, except that during periods of peak seasonal loads the pressures at the time of hourly maximum demand may be not less than 20 p.s.i.g. nor more than 150 p.s.i.g. 52 Pa. Code § 65.6(a).

4. Respondent's tariff requires a customer to install and maintain a pressure regulator or valve installed on the inlet side of the meter, if the static pressure is 100 pounds or more. PAWC Tariff, Supplement No. 40 to Tariff Water- PA P.U.C. No. 5, Page 47, Rule 4.7.

5. Complainants did not prove Respondent failed to provide reasonable and adequate service by failing to provide water pressure in compliance with the Public Utility Code. 66 Pa.C.S. §§ 332(a); 1501.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Louis Matzel and Jodi Asay in Louis Matzel and Jodi Asay v. Pennsylvania-American Water Company at Docket No. C-2023-3045163 is denied.

