

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Abdoun Elfaki	:	
	:	
v.	:	F-2024-3052321
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial Decision denies the Complainant’s Formal Complaint because the Complainant has not met his burden of proving that there were past charges incorrectly transferred to his account.

HISTORY OF THE PROCEEDING

On November 14, 2024, Abdoun Elfaki (Complainant or Mr. Elfaki) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent or Company) with the Pennsylvania Public Utility Commission (Commission).¹ In the

¹ The Complaint is a timely appeal from the determination of the Complainant’s informal complaint by the Commission’s Bureau of Consumer Services (BCS) at BCS No. 4025641. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

Complaint, the Complainant contends that there were incorrect charges on the bills. Specifically, the Complainant contends that the Company transferred a balance to his account that does not belong to him.

On December 18, 2024,² the Respondent filed an Answer denying the material allegations of the Complaint.

By Telephonic Hearing Notice dated January 6, 2025, an initial hearing was scheduled for March 4, 2025, at 10:00 a.m., and the matter was assigned to me.

On January 13, 2025, I issued a Prehearing Order which addressed procedural matters and hearing procedures.

The hearing proceeded as scheduled on March 4, 2025. The Complainant participated *pro se* and testified. The Respondent appeared and was represented by Graciela Christlieb, Esquire, who presented the testimony of Patricia Bernard, a Customer Review Officer. The Respondent offered seven exhibits, which were all entered into the record.

At the time of the hearing, I requested two late filed exhibits from PGW.³ I directed PGW to provide the late filed exhibits by March 11, 2025. I directed the Complainant to submit any written objections to the late filed exhibits no later than March 25, 2025. Both parties complied with my directions.⁴

² The Formal Complaint was served on the Respondent by the Secretary's Bureau on November 27, 2024.

³ I requested that PGW provide the metering information for the Service Address (PGW Late-Filed Exhibit 8) and the Rental License for the Service Address (PGW Late-Filed Exhibit 9).

⁴ The Complainant's objections to the late filed exhibits had to do with the substance of the documents and were not legal objections to their admissibility. As such,

The record closed on April 11, 2025, when I received the transcript of the hearing.

FINDINGS OF FACT

1. The Complainant in this case is Abdoun Elfaki, who resides at 6625 Rutland Street, Second Floor, Philadelphia, Pennsylvania 19149 (Service Address). Tr. 9.

2. The Respondent is Philadelphia Gas Works.

3. The Service Address is a rental property with two units, one on the first floor and the other on the second floor. Tr. 12.

4. Each unit has its own meter for gas usage. Tr. 22; PGW Late Filed Exh. 8.

5. The Complainant has been associated with the Service Address since September 2022. Tr. 27; PGW Exh. 5.

6. On June 10, 2024, a PGW technician visited the Service Address and turned off the gas service at the residence due to nonpayment. Tr. 25; PGW Exh. 1.

7. After the gas service was shut off, PGW registered gas usage at the Service Address. Tr. 25; PGW Exh. 1.

the objections are overruled, the late filed exhibits will be entered into the record through this Decision.

8. On September 30, 2024, a PGW technician was sent to the Service Address for an unbilled usage investigation. Tr. 26; PGW Exh. 1.

9. The technician found the gas service on and turned it off and installed an expander at the curb. Tr. 26; PGW Exh. 1.

10. On October 2, 2024, the Complainant called PGW to request service in his name at the Service Address. Tr. 27; PGW Exh. 1.

11. On October 3, 2024, a PGW technician went to the Service Address for another unbilled usage investigation. Tr. 28; PGW Exh. 1.

12. The technician found the gas service off at the residence, no evidence of tampering with the meter and determined that it was a self-turn on when the gas service was found on at the September 30, 2024 visit to the Service Address. Tr. 28; PGW Exh. 1.

13. On October 23, 2024, PGW contacted the Complainant with restoration terms, which included \$65.16 in unauthorized usage, plus half of a security deposit in the amount of \$162.00 and a reconnection fee of \$123.23, for a total of \$350.39. Tr. 29-30; PGW Exh. 1.

14. On the same date, the Complainant made a payment of \$350.39. Tr. 31; PGW Exh. 2.

15. On October 25, 2024, a PGW technician visited the Service Address and restored gas service. Tr. 32; PGW Exh. 3.

16. On October 30, 2024, PGW transferred balances to the Complainant's account for the gas usage at the Service Address for the time period that the Complainant was associated with the address starting in September 2022. Tr. 35; PGW Exh. 6.

17. On December 4, 2024, PGW reversed a transfer to the Complainant's account in the amount of \$1,696.67 because this amount accrued prior to the Complainant being associated with the Service Address. Tr. 33, 35; PGW Exh. 4, 6.

18. The Complainant's account balance as of the hearing date was \$4,500.52. Tr. 36-37; PGW Exh. 6.

DISCUSSION

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

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). That is, by presenting 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. *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. Co. 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).

Dispute of Outstanding Balance

The Complainant disputes the amount that he owes at the Service Address. Specifically, the Complainant asserts that there was only one meter at the residence, and he paid his gas bill to the landlord. However, PGW indicated that the residence has had two meters for the entire time that the Complainant lived there. Further, the Complainant did request for service to be put into his name in October 2024.

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 in 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).

On June 10, 2024, a PGW technician visited the Service Address and turned off the gas service at the residence due to nonpayment for a prior account holder at the property. Tr. 25; PGW Exh. 1. After the gas service was shut off, PGW registered gas usage at the Service Address. Tr. 25; PGW Exh. 1. On September 30, 2024, a PGW technician was sent to the Service Address for an unbilled usage investigation. Tr. 26; PGW Exh. 1. The technician found the gas service on, and turned it off and installed an expander at the curb. Tr. 26; PGW Exh. 1.

On October 2, 2024, the Complainant called PGW to request service in his name at the Service Address. Tr. 27; PGW Exh. 1. The Complainant was establishing service in his name and as such he was considered an applicant for service. An “applicant” is a person who is not currently receiving service who applies for service from a public utility. *See* 66 Pa.C.S. § 1403.

On October 3, 2024, a PGW technician went to the Service Address for another unbilled usage investigation. Tr. 28; PGW Exh. 1. The technician found the gas service off at the residence, no evidence of tampering with the meter and determined that it was a self-turn on at the Service Address when the gas service was found on at the September 30, 2024 visit to the residence. Tr. 28; PGW Exh. 1. On October 23, 2024, PGW contacted the Complainant with service terms, which included \$65.16 in unauthorized usage, plus half of a security deposit in the amount of \$162.00 and a reconnection fee of \$123.23, for a total of \$350.39. Tr. 29-30; PGW Exh. 1.

On October 23, 2024, the Complainant made a payment of \$350.39. Tr. 31; PGW Exh. 2. On October 25, 2024, a PGW technician visited the Service Address and turned on gas service. Tr. 32; PGW Exh. 3. On October 30, 2024, PGW transferred balances to the Complainant’s account for the gas usage at the Service Address for the time period that the Complainant was associated with the address, starting in September 2022. Tr. 35; PGW Exh. 6. On December 4, 2024, PGW reversed a transfer to the Complainant’s account in the amount of \$1,696.67 because this amount accrued prior to the Complainant being associated with the Service Address. Tr. 33, 35; PGW Exh. 4, 6. The Complainant’s account balance as of the hearing date was \$4,500.52. Tr. 36-37; PGW Exh. 6.

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 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. 52 Pa. Code § 56.35(b)(2).

Based on the Complainant's testimony and the records presented by PGW, it is clear that the Complainant's balance on his account includes amounts that accrued during a period when he was associated with the Service Address. A credit report established that the Complainant has been associated with the Service Address since September 2022, and the Complainant acknowledged that he was at the Service Address since then. *See* PGW Exh. 5 and Tr. 16. As such, PGW may require the Complainant to pay for any usage that accrued during the time that he was associated with the Service Address.

I would note that the Company did reverse one transfer because it was for usage that occurred before the Complainant was associated with the Service Address, which corrected the error. Therefore, the remaining charges on the Complainant's account are for usage that occurred when he was residing at the Service Address. Thus, the Complainant has not met his burden of demonstrating that there were incorrect charges included on the outstanding balance, and the Complaint must be denied.

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 in 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. 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.

7. An “applicant” is a person who is not currently receiving service who applies for service from a public utility. *See* 66 Pa.C.S. § 1403.

8. The Complainant did not meet his burden of proving that there were incorrect charges on the outstanding balance. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That Philadelphia Gas Works' Late-Filed Exhibits Nos. 8 and 9 are entered into the record.

2. That the Complaint of Abdoun Elfaki against the Philadelphia Gas Works in *Abdoun Elfaki v. Philadelphia Gas Works* at Docket No. F-2024-3052321 is denied.

3. That Docket No. F-2024-3052321 be marked closed.

Date: July 8, 2025

/s/
Marta Guhl
Administrative Law Judge