

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tasha Alisa Underwood Estate	:	
	:	
v.	:	F-2024-3051673
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
John M. Coogan
Administrative Law Judge

INTRODUCTION

This Initial Decision denies Tasha Alisa Underwood’s Formal Complaint because she failed to sustain her burden of proving that Philadelphia Gas Works wrongfully terminated her service for theft of service.

HISTORY OF THE PROCEEDING

On October 7, 2024, Tasha Alisa Underwood (Ms. Underwood or Complainant)¹ filed a Formal Complaint against Philadelphia Gas Works (PGW).² The

¹ Although Ms. Underwood indicated in her Formal Complaint that the Complainant was “Tasha Alisa Underwood Estate” (Complaint ¶ 1), at the evidentiary hearing Ms. Underwood clarified that she resides at the service address at issue and is complaining on her own behalf, and not on behalf of an estate. Tr. 13-15.

² The Complaint is a timely appeal from the determination of the Commission’s Bureau of Consumer Services (BCS), at BCS No. 4017529, which

Formal Complaint was served on PGW on October 17, 2024. In the Complaint, Complainant asserts that PGW is threatening to shut off service or has already shut off service. The Formal Complaint also states, in part:

According to workers Thursday 3 October 2024 4948 was abandoned. Due to the vital nature of services, the impact it will have due to weather changing it is imperative that the service is restored within 7 days, with all payments redeemable in Lawful Money of The United States of America

Complaint ¶ 5.

On November 7, 2024, PGW filed preliminary objections to the Formal Complaint. PGW's preliminary objections included a notice to plead. PGW requested that the Formal Complaint be dismissed for insufficient specificity pursuant to 52 Pa. Code § 5.101(a)(3) and because it is legally insufficient pursuant to 52 Pa. Code § 5.101(a)(4). PGW asserted that the Complaint does not contain information specific enough to allow PGW to understand the allegations against it in order to conduct a meaningful investigation of the allegations and to prepare a coherent response or defense. PGW also asserted that the Complaint fails to set forth any facts that could be construed as a violation of a Commission regulation, statute, or order by PGW. No response to PGW's preliminary objections was filed.

On December 10, 2024, a motion judge assignment notice was issued, assigning me as the presiding officer.

On January 7, 2025, I issued an order denying PGW's preliminary objections.

dismissed Complainant's informal complaint. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

On January 8, 2025, the Commission issued a telephonic hearing notice setting a call-in telephonic hearing for this matter for March 26, 2025, at 10:00 a.m. In anticipation of the hearing, I issued a prehearing order on January 8, 2025 setting forth various rules that would govern the March 26, 2025, hearing conference.

The evidentiary hearing convened as scheduled on March 26, 2025. Complainant appeared on her own behalf. Complainant did not offer any exhibits into the record. Graciela Christlieb, Esq., appeared at the hearing on behalf of PGW, along with three witnesses for PGW: Albert Teti, General Supervisor of Revenue Production; Gregory Fisher, Service Person A; and Patricia Bernard, Customer Review Officer.

The following twelve exhibits were admitted into the record on behalf of PGW:

1. PGW Exhibit 1– Google Maps Street View of 4946 and 4948 West Stiles Street, Philadelphia, PA 19131
2. PGW Exhibit 2 – Deed of Consolidation for 4946-48 West Stiles Street, Philadelphia, PA 19131
3. PGW Exhibit 3– Google Maps Street View of 4946-48 West Stiles Street, Philadelphia, PA 19131
4. PGW Exhibit 4 – Deed from Habitat for Humanity Philadelphia, Inc., to Tasha Underwood for 4946-48 West Stiles Street, Philadelphia, PA 19131
5. PGW Exhibit 5 – PGW Customer Service Record
6. PGW Exhibit 6 – PGW Work Order
7. PGW Exhibit 7 – PGW Non-payment Shut-off Order
8. PGW Exhibit 8 – PGW Service Order (5/14/24)

9. PGW Exhibit 9 – PGW Service Order (9/3/24)
10. PGW Exhibit 10 – PGW Theft Reporting Sheet and picture of PGW meter
11. PGW Exhibit 11 – PGW Unbilled Usage Work Order
12. PGW Exhibit 12 – PGW Theft of Service Billing Calculation

The record in this case consists of the above-referenced exhibits and a transcript of 90 pages. The record closed when the transcript was filed on April 16, 2025. For the reasons discussed below, the Formal Complaint will be denied.

FINDINGS OF FACT

1. Complainant is Tasha Alisa Underwood, who resides at 4946-48 West Stiles Street, Philadelphia, PA 19131 (service address).
2. The service address was formerly two separate properties, 4946 and 4948 West Stiles Street, Philadelphia, PA 19131, that were combined into one property, 4946-48 West Stiles Street, Philadelphia, PA 19131. Tr. 18; PGW Exhibit 2.
3. Respondent is Philadelphia Gas Works, a jurisdictional public utility, which formerly provided gas service to the Complainant at the service address.
4. Ms. Underwood established PGW gas service at the service address on August 22, 2013. PGW Exhibit 5.
5. Ms. Underwood has been the only customer of record at the service address since August 22, 2013. Tr. 42.

6. Before the service address was combined into one property, PGW served 4946 and 4948 West Stiles Street separately. Tr. 40-41.

7. PGW gas service to 4946 West Stiles Street was removed on December 19, 2013. Tr. 43-45; PGW Exhibit 6.

8. After December 19, 2013, the service address was receiving PGW gas service via 4948 West Stiles Street. Tr. 45.

9. PGW shut off gas service to the service address on October 28, 2019, for non-payment. PGW Exhibit 7.

10. Ms. Underwood owed PGW \$3,856.52 when gas service to the service address was shut off on October 28, 2019. Tr. 75.

11. On May 14, 2024, PGW found gas service to the service address was on. PGW Exhibit 8.

12. After finding the gas service on, on May 14, 2024, PGW turned the gas service to the service address off with an expander. PGW Exhibit 8.

13. On August 22, 2024, Ms. Underwood paid PGW \$3,856.52. Tr. 75-76.

14. The \$3,856.52 was the balance Ms. Underwood owed PGW as of October 28, 2019. Tr. 75-76.

15. On September 3, 2024, gas service to the service address was disconnected by PGW. PGW Exhibit 9.

16. On September 3, 2024, Ms. Underwood allowed a PGW field service technician to access her property to inspect the PGW meter. Tr. 50-51, 58-59; PGW Exhibit 10.

17. The PGW field service technician found that the encoder receiver transmitter (ERT) was removed from the PGW meter at the service address, making all gas running through the meter unmetered. Tr. 50-51, 59-60; PGW Exhibit 10.

18. An individual has to tamper with the ERT to remove it. Tr. 60-61.

19. The PGW field service technician removed the meter and installed locking devices after finding that the ERT was removed. Tr. 51, 62; PGW Exhibit 10.

20. The PGW field service technician found natural gas appliances at the service address, including a water heater, house heater, gas range, and dryer . Tr. 63; PGW Exhibit 11.

21. The PGW field service technician ascertained the BTUs of each appliance in the service address and determined the appliances were operational. Tr. 63; PGW Exhibit 11.

22. PGW billed Ms. Underwood \$7,714.94 for unauthorized gas service usage from October 28, 2019 to May 14, 2024. Tr. 75-80; PGW Exhibit 12.

DISCUSSION

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). “Burden of proof” means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990). The offense must be a violation of the Public Utility Code, the Commission’s regulations, or an outstanding order of the Commission. 66 Pa.C.S. §§ 332(a), 701.

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. *Milkie v. Pa. Pub. Util. Comm’n*, 768 A.2d 1217 (Pa. Cmwlth. 2001) (*Milkie*); *see also*, *Burleson v. Pa. Pub. Util. Comm’n*, 443 A.2d 1373 (Pa. Cmwlth. 1982). Moreover, the Commission’s decision must be supported by “substantial evidence,” which consists of evidence that a reasonable mind might accept as adequate to support a conclusion. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm’n*, 413 A.2d 1037 (Pa. 1980). A mere trace of evidence or a suspicion of the existence of a fact is insufficient. *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1960).

A utility tariff has the force and effect of law in Pennsylvania, and is legally binding upon the utility, its customers and the public. 66 Pa.C.S. § 1303; *DiSanto v. Dauphin Consol. Water Supply Co.*, 436 A.2d 197 (Pa. Super. 1981); *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981). Pursuant to the PGW Gas Service Tariff PA. P.U.C. No. 2 at §§ 6.1, 6.1.B. and 6.1.D., gas service may be terminated by PGW without prior notice for, *inter alia*, unauthorized use and equipment tampering. Supplement No. 21, PGW Gas Service Tariff – Pa. P.U.C. No. 2, First Revised Page No. 38, Effective October 19, 2007 (PGW Tariff §§ 6.1, 6.1.B. and 6.1.D.).

Additionally, pursuant to the PGW Gas Service Tariff PA. P.U.C. No. 2 at § 8.3:

In the event of the Company's meters or other property being tampered or interfered with, the Customer being supplied through such equipment shall pay the amount which the Company may estimate is due for service used even if such usage is not registered on the Company's meter, and for any repairs or replacements required, as well as for costs of inspections, investigations, damages and protective equipment and installations prior to reconnection.

Supplement No. 21, PGW Gas Service Tariff – Pa. P.U.C. No. 2, First Revised Page No. 44, Effective October 19, 2007 (PGW Tariff § 8.3).

Ms. Underwood's Formal Complaint alleges PGW is either threatening to shut off service or has already shut off service, and requests restoration of service. Formal Complaint, ¶¶ 4-5. PGW argues that it established that Ms. Underwood's service was properly terminated for theft of service and that she is being billed for the period of time she had the gas on without authorization. Tr. 84-85. I agree with PGW that, pursuant to its tariff, Ms. Underwood's gas service was properly terminated upon discovery that Ms. Underwood was receiving unauthorized service and had tampered

with her meter. PGW clearly established that Ms. Underwood tampered with PGW's gas meter and was receiving unauthorized service. Specifically, gas service was shut off at Ms. Underwood's service address on October 28, 2019, for non-payment totaling \$3,856.52, and then, on May 14, 2024, PGW found gas service to the address was on. Tr. 75; PGW Exhibits 7 and 8. Additionally, on September 3, 2024, a PGW field service technician visited the service address and discovered that the gas meter at the service address had been tampered with, making all gas running through the meter unmetered. Tr. 50-51, 59-61; PGW Exhibit 10. Ms. Underwood did not dispute that she had tampered with the meter or that she had been receiving unauthorized gas service. Although Ms. Underwood's testimony is unclear, to the extent she contends that she was unaware of the unauthorized gas service, a property owner having dominion and control over a service address is responsible to have known, or should have known, of tampering and theft of service occurring at the property. *Simmons v. UGI Utils., Inc.*, Docket No. C-2017-2605783 (Opinion and Order entered July 12, 2018).

Also, I find there is no merit to Ms. Underwood's request for restoration of service. As cited above, PGW's tariff permits it to bill customers for usage incurred through tampered meters or other property prior to reconnection. PGW established that Ms. Underwood owes \$7,714.94 for unauthorized gas service usage. Although Ms. Underwood paid \$3,856.52 to PGW on August 22, 2024, this payment was applied to her PGW balance that accrued prior to October 28, 2019, and not to the balance she accrued for unauthorized gas service usage from October 28, 2019 to May 14, 2024. Ms. Underwood made no credible assertion that she has paid her balance due for unauthorized gas service usage. Accordingly, Ms. Underwood's Formal Complaint is denied.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter within its regulations and the parties to this proceeding. 66 Pa.C.S. § 701.
2. The party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).
3. A complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990).
4. The offense must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701.
5. "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).
6. If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa.

Cmwlth. 2001); *see also*, *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

7. The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

8. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. 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. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1961).

9. A utility tariff has the force and effect of law in Pennsylvania, and is legally binding upon the utility, its customers and the public. 66 Pa.C.S. § 1303; *DiSanto v. Dauphin Consol. Water Supply Co.*, 436 A.2d 197 (Pa. Super. 1981); *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981).

10. Gas service may be terminated by PGW without prior notice for unauthorized use and equipment tampering. Supplement No. 21, PGW Gas Service Tariff – Pa. P.U.C. No. 2, First Revised Page No. 38, Effective October 19, 2007.

11. PGW may bill a customer for usage obtained through meters or other property being tampered or interfered with. Supplement No. 21, PGW Gas Service Tariff – Pa. P.U.C. No. 2, First Revised Page No. 44, Effective October 19, 2007.

12. A property owner having dominion and control over a service address is responsible to have known, or should have known, of tampering and theft of service occurring at the property. *Simmons v. UGI Utils., Inc.*, Docket No. C-2017-2605783 (Opinion and Order entered July 12, 2018).

