

October 24, 2025

VIA ELECTRONIC FILING

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**RE: Reply to Exceptions:
Pamela Zelaya v. The York Water Company
Complaint Docket No. F-2025-3053457**

Dear Secretary Homsher:

Enclosed is Complainant Pamela J. Zelaya's Reply to Respondent The York Water Company's Exceptions filed in the above-captioned docket. A certificate of service is attached, showing service of the Reply to Exceptions upon Respondent. This Reply to Exceptions is filed electronically and is deemed filed today.

Very truly yours,


Pamela J. Zelaya

pjz

Enclosures

cc: Certificate of Service
Office of Special Assistance: ra-OSA@pa.gov

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PAMELA ZELAYA *
Complainant

v.

Complaint Docket No.: F-2025-3053457

THE YORK WATER COMPANY *
Respondent

* * * * *

COMPLAINANT’S REPLY TO RESPONDENT’S EXCEPTIONS

Pamela Zelaya (hereinafter “Complainant”) provides a Reply to the Exceptions filed by The York Water Company (“Respondent”) to the Initial Decision of Special Agent Michael J. Mroczka. Complainant’s Reply to Exceptions is submitted pursuant to Section 5.535 of the Commission’s regulations, 52 Pa. Code § 5.535, relating to Replies to Exceptions.

I. Background

On February 6, 2025, Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (the “Commission”) against The York Water Company alleging incorrect charges on her water bill from June 18, 2024 – July 24, 2024, July 24, 2024 – August 26, 2024, and August 26, 2024 – September 23, 2024. On March 3, 2025, Respondent filed a request for an extension of time to file an Answer to the Complaint, which was granted. On March 17, 2025, Respondent filed an Answer, which admitted in part and denied in part various material allegations of the Complaint.

On June 3, 2025, a telephonic hearing was held before Special Agent Michael J. Mroczka. Complainant appeared *pro se* and testified on her own behalf. Complainant presented the four exhibits, where were admitted into the record.¹ Alexandra C. Chiaruttini, Esq., appeared on behalf of Respondent. Respondent presented the testimony of one witness, Savannah Harlacher, a Customer Services Manager with York Water. Respondent also presented three exhibits, which were admitted into the record.²

On September 23, 2025, an Order was issued by the Commission at Docket No. F-2025-3053457. By a 22-page Initial Decision dated September 23, 2025 2025, Initial Decision of Special Agent Michael J. Mroczka found that Respondent violated 52 Pa. Code § 56.12 and provided unreasonable service to Complainant, ordering Respondent to recalculate Complainant's bills for the billing periods of June 18, 2024 – July 24, 2024, July 24, 2024 – August 26, 2024, and August 26, 2024 – September 23, 2024, using Complainant's average usage after September 24, 2024, and provide a refund to Complainant for any additional amount already paid by Complainant. Respondent filed Exceptions to the Decision on October 14, 2025, serving the Exceptions upon Complainant and providing service to the Commission.

II. Argument

¹ Complainant presented four exhibits: (A) Complainant's bills; (B) Documentation from builder about plumbing issues; (C) Invoice from moving company; and (D) Information about builder's final water bill.

² Respondent filed three exhibits: (A) Application for Water Service; (B) Start service work order, June 18, 2024; and (C) Account summary.

In its Exceptions, Respondent argues: 1) “the ID errs in finding that York Water overbilled Complainant for water service;” and 2) “[t]he ID incorrectly concludes that York Water failed to comply with the requirements for estimated bills under 52 PA. Code 56.12.” Exceptions, p. 1. In reply to the Exceptions, Complainant states that Respondent raises no valid issues concerning the Initial Decision. The Initial Decision is supported by substantial evidence and presents a cogent basis in law for upholding the Complaint.

Pursuant to 66 Pa.C.S. § 332(a), a Complainant before the Pennsylvania Public Utility Commission bears the burden of proof. For a Complainant to prevail, the Complainant must show by a preponderance of the evidence that the utility is responsible for the alleged issue as a matter of law. *See Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (Opinion and Order entered Feb. 8, 1990). A Complainant meets her burden of proof if she presents evidence more convincing, even the smallest amount, than the evidence presented by Respondent. *See Se-Ling Hoisery v. Margulies*, 70 A.2d 854 (Pa. 1950). The utility’s offense must involve a violation of the Public Utility Code, a Commission regulation, order, or approved tariff. 66 Pa.C.S. § 701.

The Commission’s decision must be supported by substantial evidence, meaning evidence a reasonable person would find adequate and not mere suspicion. 2 Pa.C.S. 704; *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); *Murphy v. Pa. Dep’t of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlt. 1984).

If the Complainant presents a *prima facie* case, the burden of production shifts to the utility. *See Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (PA. Cmwlth. 2001). If the utility rebuts the evidence, the burden shifts back, though the ultimate burden of proof always remains with the Complainant. *See id.* A party may meet the burden of production yet still lose if they fail to meet the burden of persuasion. *See Moore v. Nat'l Fuel Gas Distrib.*, Docket. No. C-2014- 2458555 (Final Order entered Aug. 25, 2015). The factfinder may assess credibility and accept or reject testimony in whole or in part. *See id.*

A. COMPLAINANT ESTABLISHED A PRIMA FACIE CASE OF OVERBILLING.

To establish a *prima facie* case of overbilling, a complainant must show that: (1) the number of occupants in the household has not changed; (2) the potential for energy utilization was low; and (3) that the complainant's billing history shows no prior abnormalities. *See Waldron v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980); *Repogle v. Pa. Elec. Co.*, 54 Pa.P.U.C. 528 (1980).

Respondent argues that the "Commission should reverse the ID's conclusion that Complainant established a prima facia case and met her burden to prove that York Water overbilled her for water usage," as "[t]he evidentiary record supports the finding that York Water's meter was recording water usage accurately." Exceptions, p. 4-5. Here, however, the Special Agent correctly found that 1) Complainant lives alone at the service address, which has two bathrooms, though she uses only one; 2) she owns no sprinklers, pool, or hot tub; 3) she opened her water account on June 18, 2024, but did not move in until June 26 and initially had limited water use due to plumbing

issues; and 4) her first three York Water bills were abnormally high compared to later usage. Therefore, Complainant established a prima facie case of overbilling for the periods June 18-July 24, July 24-August 26, and August 26-September 24, 2024. Respondent failed to rebut this showing.

Additional evidence is as follows: Complainant's first bill was estimated at 2,500 gallons; the second, based on an actual read, showed 69,600 gallons of usage. Before the account was transferred, the builder (who watered new sod) held the account for less than three weeks. On June 18, the day of closing, the sprinklers were running, though Complainant had not yet moved in, suggesting possible builder usage while the account was in her name. However, this does not explain the high August-September bill of 5,800 gallons, which was still well above Complainant's normal consumption.

York Water's estimated initial bill obscured whether the excessive usage was due to third-party use or inaccurate billing. Comparison with the builder's and Complainant's later bills supports a finding of overbilling, which the Special Agent accurately found. The Special Agent further correctly found that Respondent violated Commission regulations by issuing an estimated bill without valid cause. Accordingly, Complainant has not only established a *prima facie* case for overbilling, but she has more than "met her burden of proving that The York Water Company violated the Public Utility Code, a Commission regulation, a Commission Order, or a company tariff and improperly billed Complainant." ID, p. 21.

B. THE INITIAL DECISION APPROPRIATELY FOUND THAT YORK WATER FAILED TO COMPLY WITH THE REQUIREMENTS FOR ESTIMATED BILLS PURSUANT TO 52 PA. § 56.12.

A public utility must furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and must make such repairs, changes, alterations, substitutions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience and safety of its patrons and the public. 66 Pa.C.S. §1501. As such, a Commission may not sustain a Complaint pursuant to 66 Pa.C.S. § 1501 unless it finds that a utility has violated a duty to render reasonable and reliable service. *See West Penn Power Co. v. Pa. Pub. Util. Comm'n*, 478 A.2d 947 (Pa. Cmwlth. 1984). The test to determine the adequacy of a utility's service and facilities is that of reasonableness. *Thurby v. West Penn Power*, Docket No. C-2011-2254048 (Order entered Apr. 4, 2013).

Pursuant to 52 Pa. Code § 56.12(2)-(4), (7), (9), Meter reading; estimated billing; customer readings, the pertinent regulation applied when estimated billing is at issue,

Except as provided in this section, a public utility shall render bills based on actual meter readings by public utility company personnel

.....

(2) Estimates for bills rendered on a monthly basis. If a public utility bills on a monthly basis, it may estimate usage of service every other billing month, so long as the public utility provides a customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills must be based on the information provided, except for an account when it is apparent that the information is erroneous.

.....

(3) Estimates permitted under exigent circumstances. A public utility may estimate the bill of a customer if extreme weather conditions, emergencies,

equipment failure, work stoppages or other circumstances prevent actual meter reading.

(4) Estimates when public utility personnel are unable to gain access. A public utility may estimate the bill of a customer if public utility personnel are unable to gain access to obtain an actual meter reading, as long as the following apply:

(i) The public utility has undertaken reasonable alternative measures to obtain a meter reading, including, but not limited to, the provision of preaddressed postcards upon which the customer may report the reading or the telephone reporting of the reading.

(ii) The public utility, at least every 6 months, or every four billing periods for public utilities permitted to bill for periods in excess of 1 month, obtains an actual meter reading or customer supplied reading to verify the accuracy of the estimated readings.

(iii) The public utility, at least once every 12 months, obtains an actual meter reading to verify the accuracy of the readings, either estimated or customer read

.....

(7) Limitation of liability. If a water public utility has estimated bills and if the customer or occupant during that period has consumed an amount of water in excess of normal seasonal usage because of a verified leak that could not reasonably have been detected or other unknown loss of water, the customer is not liable for more than 150% of the average amount of water consumed for the corresponding period during the previous year. This section does not apply when the water public utility was unable to gain access and has complied with paragraph (4).

(9) *Notice.* The public utility shall inform existing customers of their rights under this section and 66 Pa.C.S. § 1509 (relating to billing procedures).

Respondent contends that the Special Agent erred in the Initial Decision by finding York Water violated 52 Pa. Code § 56.12 because 1) Complainant never raised the issue, thereby waiving it; 2) the record lacks evidence of any failure by York Water to permit meter reading and reporting;

and 3) the Special Agent's reliance on an absence of evidence, rather than substantial evidence, without prior notice to York Water, amounts to a denial of due process.

A. WAIVER

Complainant first addresses Respondent's waiver argument regarding 52 Pa. Code § 56.12. Respondent argues that Complainant's argument regarding 52 Pa. Code § 56.12 is waived because this regulation was not explicitly asserted in the initial Complaint. Respondent's argument, however, runs contrary to Pennsylvania law, as "[t]he PUC, like any other agency, cannot ignore or fail to apply its own regulations, and those persons subject to the agency's regulations are also bound." *Popowsky v. Pennsylvania Pub. Util. Comm'n*, 853 A.2d 1097 (Pa. Commw. Ct. 2004), *aff'd*, 589 Pa. 605, 910 A.2d 38 (2006); *see Teledyne Columbia–Summerill Carnegie v. Unemployment Compensation Board of Review*, 634 A.2d 665 (Pa. Commw. Ct. 1993). Moreover, the Superior Court of Pennsylvania has held that "[w]hen a utility's failure to maintain reasonable and adequate service is alleged, regardless of form of pleading in which allegations are couched, it is for the Public Utility Commission initially to determine whether the service provided by the utility has fallen short of the statutory standard required of it." *Kerslake v. Sunoco Pipeline, L.P.*, 299 A.3d 190, at *1 (Pa. Commw. Ct. 2023) (quoting *DiSanto v. Dauphin Consolidated Water Supply Co.*, 291 Pa. Super. 440, 445 (1981)).

Here, Respondent's argument that Complainant's claim is waived because she failed to specifically cite 52 Pa. Code § 56.12. in her initial Complaint fails profusely, as York Water is a

Public Utility, and therefore, is bound by the regulations of the Public Utility Commission. York Water cannot skirt its responsibility to be bound by a Public Utility regulation, including 52 Pa. Code § 56.12, and the Special Agent was correct in applying the agency's own regulation in the Initial Decision. *See Popowsky*, 854 A.2d. 1097. York Water overcharging a water bill with no basis impacts the rights of residential customers, whom York Water is statutorily obligated to protect. It is unfathomable how Respondent would not expect the Special Agent to rely on 52 Pa. Code § 56.12 in its decision, as it serves as part of the foundation on which York Water exists.

Nevertheless, Complainant was not required to cite this code specifically in her Complaint for the Special Agent to find that Respondent was violating one of its own codes, as “it is for the Public Utility Commission initially to determine whether the service provided by the utility has fallen short of the statutory standard required of it” “regardless of [the] form of pleading in which allegations are couched.” *Kerslake*, 299 A.3d at *1 (quoting *DiSanto*, 291 Pa. Super. at 445). Unlike the 2007 case Respondent cited in a footnote in its Exceptions, *Pa. PUC v. City of Lancaster – Sewer Fund*, 2007 Pa. PUC LEXIS 783, where there were new arguments raised in Respondent's Exceptions, the issue of whether Respondent complied with its own regulations in Complainant's case is not at all “an entirely new issue,” but the fundamental basis for not only Complainant's original Complaint, but Respondent's inherent functions. In her original Complaint, Complainant explicitly laid out her overall contention, *i.e.*, that she was being incorrectly charged for her water bill, stating:

I received an estimate first bill (which I thought was high considering the fact that I was not living in the home until the 26th and was unable to use the water until after July 3rd. My initial bill was an estimated bill totaling \$119.00 (covering a period of 6/18 - 7/24) which I paid as a good faith payment. On September 10th, I received a letter from York Water advising that they noticed my water bill was higher than usual. I did not receive that bill until September 14th, which is also attached hereto, totaling [\$]1,698.91 covering period of 07/24/2024 through 08/26/24. I immediately contacted York Water and spoke with Ana. Ana was dismissive and just kept reiterating that it was billed based on the water meter. It is stated in the informal complaint's decision that I advised Ana that I had watered plants and used a sprinkler system. This is NOT true. Ana asked me if I was watering my grass, attempting to blame the bill on the same. I told her that I occasionally watered my shrubs with the hose. I do not have a sprinkler system and did not water my grass. I called and spoke with the project manager, Stewart and he advised that several days before my settlement date, his landscaping crew laid the sod and that they were watering the sod nonstop throughout the day and night for days to make sure the sod stuck. The project manager is willing to testify on my behalf as he believes this bill is extremely high and may be the responsibility of the builder. I was not in that house long enough with the use of running water to utilize the stated volume of water and/or sewage. I could not flush the toilets, shower, etc.

See Complaint. As displayed above, Complainant clearly preserved her argument in her Complaint, as well as during the June 3, 2025 hearing (*see* Hearing transcript pages 47-52), under 52 Pa. Code § 56.12, as her entire claim centered around the inaccuracy of her water bill related to the meter reading and York Water's estimated billing. As such, the Special Agent, as the hearing officer overhearing a Public Utilities Complaint, had every right to apply the Public Utilities code to its Initial Decision. Accordingly, the Special Agent was correct in applying § 56.12.

B. COMPLAINANT MET HER BURDEN IN PLEADING RESPONDENT'S FAILURE TO PERMIT METER READING AND REPORTING.

According to 52 Pa. Code § 56.12(2), if a public utility bills on a monthly basis, it may estimate usage of service every other billing month, *so long as the public utility provides a customer with the opportunity to read the meter and report the quantity of usage in lieu of the*

estimated bill. The resulting bills must be based on the information provided, except for an account when it is apparent that the information is erroneous. 52 Pa. Code § 56.12(2). A public utility may further estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages, or other circumstances prevent actual meter reading, and may estimate the bill of a customer if public utility personnel are unable to gain access to obtain an actual meter reading. 52 Pa. Code § 56.12(3) – (4).

Here, Complainant called York Water to dispute the water bill on September 10, 2024, arguing – in fact – that the bill was inaccurate. During the call, a York Water representative stated that they would have someone look at the meter. Without Complainant’s knowledge, it is assumed that York Water sent someone to her house to read the meter. Following this, subsequent bills became accurate and consistent thereafter. It is still unclear whether the meter was in fact read accurately, or if the York Representative fixed the bill internally.

Metering errors and malfunctions can contribute to bills which do not accurately reflect a customer’s usage, resulting in charges in excess of a customer’s actual responsibility for water service. For these reasons, customers are able to pursue administrative review at the PUC to ensure York Water meets the standard of adequate, efficient, safe, and reasonable service, which apply to all York Water practices, including billing and collections. *See* 66 Pa. C.S. § 1501; 52 Pa. Code § 56.2. Because of the reasons stated above, Respondent violated 52 Pa. Code § 56.12 by failing to justify its estimated bill, resulting in unreasonable service. This violation has caused significant problems, as the estimated bill prevented determining when the high usage occurred, including whether this was during Complainant’s absence, when she couldn’t use water, or afterward. Because Respondent’s meters lack daily usage data, it is impossible for Complainant to prove if

the usage occurred while she was away, depriving her of the opportunity to seek reimbursement from the builder. Accordingly, Complainant met her burden in pleading Respondent's failure to permit meter reading and reporting, which the Special Agent accurately determined in his Initial Decision.

C. THE SPECIAL AGENT'S INITIAL DECISION IS SUPPORTED BY SUBSTANTIAL EVIDENCE.

As stated above, the Commission's decision must be supported by substantial evidence, meaning evidence a reasonable person would find adequate—not mere suspicion. 2 Pa.C.S. 704; *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980). Pennsylvania law states that “‘substantial evidence’ to support agency decision is defined as relevant evidence upon which a reasonable mind could base a conclusion.” 2 Pa. Cons. Stat. Ann. § 704; *Indiana Univ. of Pennsylvania, State Sys. of Higher Educ. v. Unemployment Comp. Bd. of Rev.*, 202 A.3d 195 (Pa. Commw. Ct. 2019). If the Complainant presents a *prima facie* case, the burden of production shifts to the utility, and if the utility rebuts the evidence, the burden shifts back, though the ultimate burden of proof always remains with the Complainant. *See Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Commw. 2001).

Here, after Complainant established her *prima facie* case, the burden of production shifted to Respondent. In the Initial Decision, the Special Agent correctly found that Respondent failed to meet its burden of production, thereby violating Commission regulations and providing unreasonable service. This decision is supported by more than substantial evidence. The record shows that Respondent issued an estimated first bill to Complainant without justification and failed

to prove that any valid reason—such as meter inaccessibility, equipment failure, or emergency—prevented an actual read. Hearing Tr. 47. Respondent further admitted it simply could not obtain a remote reading and offered no evidence of compliance with 52 Pa. Code § 56.12, which requires estimated bills to be used only under specific, limited circumstances.

Respondent's failure was not trivial. The unsupported estimated bill rendered it impossible to determine when the excessive usage occurred, whether during the eight days before Complainant moved in or afterward. Hearing Tr. 48-49, 51-52. Because Respondent's meters record no daily consumption data, its actions effectively deprived the Complainant of the ability to prove that the builder, not she, was responsible for the excessive water use. Not to mention Respondent also demanded she pay \$100 monthly toward the disputed bill merely to maintain service, despite ongoing litigation—a practice inconsistent with its own stated customer protections.

Respondent therefore presented no evidence verifying the meter's accuracy or that it followed a lawful billing procedure. Its witness conceded only that “there could be a number of reasons” for the estimated bill, which is insufficient proof of compliance. Tr. 47. Therefore, the totality of the evidence, including Respondent's unjustified estimation, lack of transparency, failure to document meter accuracy, and disregard for procedural safeguards, constitutes substantial evidence of regulatory violations and unreasonable service under the Public Utility

Code and 52 Pa. Code § 56.12. Accordingly, the Special Agent's Initial Decision is supported by substantial evidence.

III. CONCLUSION

Respondent's Exceptions are not meritorious and should be denied. Complainant respectfully submits that the Initial Decision fully, fairly, and adequately explained why Complainant was entitled to refund of payment from Respondent for unlawful water charges.

WHEREFORE, Complainant requests that the Pennsylvania Public Utility Commission adopt the Initial Decision of Special Agent Michael J. Mroczka, deny the Exceptions filed by Respondent, and mark the cases closed.

Respectfully submitted,

Dated: October 24, 2025

By: *Pamela J. Zelaya*

Pamela J. Zelaya
501 Benjamin Road
Hanover, PA 17331
(443) 519-9314
pzelaya@me.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PAMELA ZELAYA *
Complainant *

v.

Complaint Docket No.: F-2025-3053457

THE YORK WATER COMPANY *
Respondent *

* * * * *

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing *Reply to Exceptions* upon Respondent via email to the email addresses listed on the Exceptions, dryan@postschell.com, mrulli@postschell.com, and alexc@yorkwater.com.

Respectfully submitted,

Dated: October 24, 2025

By: *Pamela J. Zelaya*
Pamela J. Zelaya
501 Benjamin Road
Hanover, PA 17331
(443) 519-9314
pzelaya@me.com