

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bret Pfaff	:	
	:	
v.	:	C-2025-3053638
	:	
Community Utilities of Pennsylvania Inc.	:	

**INITIAL DECISION**

Before  
Eranda Vero  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision denies the Formal Complaint of Bret Pfaff against Community Utilities of Pennsylvania, Inc. because he failed to carry his burden of proving that Respondent’s current Tariff is unreasonable.

**HISTORY OF THE PROCEEDING**

On February 26, 2025, Bret Pfaff (Complainant or Mr. Pfaff) filed a Formal Complaint (Complaint) against Community Utilities of Pennsylvania Inc. (CUPA, Respondent or Company) with the Pennsylvania Public Utility Commission (Commission) alleging that there are incorrect charges on his wastewater bill. More specifically, Mr. Pfaff avers that CUPA’s current wastewater rate increase is not in line with the Commission-approved settlement and that the Company is charging wastewater rates for water that is not processed through its facilities.

As relief, the Complainant requests that the Commission investigate CUPA's newly implemented rate increase as well as the Company's new methods of billing wastewater customers based on "water-in" usage. The Complainant seeks a payment arrangement as well as a refund of any overcharges.

On March 19, 2025, the Respondent filed an Answer and New Matter, along with a Notice to Plead. In its Answer, CUPA denies the material allegations of the Complaint; whereas, in its New Matter, Respondent avers that Mr. Pfaff's Complaint fails as a matter of law, because even if all allegations within the Complaint are true, CUPA has not violated a Commission Order, regulation, or the Public Utility Code. New Matter ¶ 14, citing *West Penn Power Co. v. Pa. Pub. Util. Comm'n*, 478 A.2d 947, 949 (Pa. Cmwlth. 1984). CUPA further argues that its rate design, resultant rates, and average increases were fully set forth in the Commission-approved Settlement between CUPA, Bureau of Investigation and Enforcement, Office of Consumer Advocate, and Office of Small Business Advocate in CUPA's 2023 Base Rate Case. *Pa. Pub. Util. Comm'n v. Cmty. Utils. of Pa. Inc.*, Docket No. R-2023-3042804 at 15-16 (Opinion and Order entered Aug. 1, 2024) (2023 Base Rate Case), Joint Petition for Settlement of 2023 Base Rate Case at Appendices E, F. In particular, Appendix F contained the percentage of the rate increase for all levels of wastewater usage from the flat rate to metered rates. In view of this, CUPA reasons that the Commission approved that customers using higher volumes would face significant rate increases because the Commission expressly approved these rates as just and reasonable. New Matter ¶ 20.

Next, CUPA maintains that pursuant to 66 Pa.C.S. § 1303, it must adhere to its Commission-approved tariff and can only charge the Commission-approved rates on the terms therein. New Matter ¶ 23. Its Tariff does not contain a provision that would allow it to utilize deduct meters. New Matter ¶ 24. CUPA would need Commission approval through a separate proceeding to implement deduct metering, likely a rate proceeding. *Id.*

Also on March 19, 2025, the Respondent filed a Preliminary Objection seeking to dismiss the Complaint as legally insufficient. In its Preliminary Objection, CUPA argues that the actions complained about in Mr. Pfaff's Complaint are in adherence to Commission orders and CUPA's Commission-approved tariff and thus do not violate any Commission order, regulation, or the Public Utility Code.

On March 28, 2025, Mr. Pfaff filed an Answer to CUPA's Preliminary Objection in which he reiterates the claims and relief sought in his Complaint. Mr. Pfaff stated that pursuant to 66 Pa.C.S. § 315(a) the burden of proving that the rate involved is just and reasonable is on the public utility. He further argued that CUPA's newly implemented rates and methodology go against Cost-of-Service Principles and are unreasonable and unjustifiable.

By Motion Judge Assignment Notice dated April 3, 2025, CUPA's Preliminary Objection was assigned to me for disposition.

By Interim Order dated May 19, 2025, I denied CUPA's Preliminary Objection and set the case for a hearing.

An Initial Call-in Telephonic Hearing Notice dated May 20, 2025, notified the parties that an initial call-in telephone hearing was scheduled on July 22, 2025, at 10:00 a.m.

On May 22, 2025, I issued a Prehearing Order. The Prehearing Order directed the parties to comply with various procedural requirements, reminded them of the time and date of the hearing and provided instructions for calling in to the hearing.

The hearing was convened as scheduled on July 22, 2025. Mr. Pfaff appeared *pro se* and testified on behalf of the Complainant. Whitney E. Snyder, Esq., appeared on behalf of the Respondent and presented the testimony of David Clark, who is a Financial Planning and Analysis Manager for CUPA. The Respondent sponsored six exhibits which were admitted into the record.

During the hearing, I asked counsel for CUPA to submit a portion of Respondent's current Tariff as a late-filed exhibit. Counsel for CUPA submitted CUPA late-filed Exhibit 7 immediately after the hearing. Complainant was provided with an additional three days to file any written objections to CUPA's late-filed Exhibit 7. Tr. 41-42.

Mr. Pfaff did not object to CUPA's late-filed Exhibit 7. Consequently, CUPA's late-filed Exhibit 7 is admitted into the record in this matter in accordance with the ordering paragraphs below.

The record in this matter closed on August 6, 2025, when I received my copy of the 61-page transcript.

#### FINDINGS OF FACT

1. The Complainant is Bret Pfaff who resides at 1605 Parker Drive, Downingtown, Pennsylvania, 19335. Tr. 10.
2. The Respondent is Community Utilities of Pennsylvania, Inc., a wastewater public utility in Pennsylvania.
3. CUPA's billing method complies with its current Commission-approved Tariff, which became effective on August 9, 2024, pursuant

to the Commission’s Opinion and Order entered August 1, 2024, in *Pennsylvania Public Utility Commission v. Community Utilities of Pennsylvania, Inc.*, Docket No. R-2023-3042804 (Opinion and Order entered Aug. 1, 2024). Tr. 47; CUPA Exs. 1, 2, 7.

4. There have been no changes to the facts and circumstances leading to the creation of the Commission’s approval of CUPA’s current Tariff. Tr. 18.

## DISCUSSION

### Burden of Proof

As the proponent of a rule or order, Mr. Pfaff bears the burden of proof pursuant to Section 332(a) of the Public Utility Code (Code), 66 Pa.C.S. § 332(a). To satisfy this burden, he must demonstrate that the Respondent was responsible for the problems alleged in the Complaint through a violation of the Code or a regulation or order of the Commission. This must be shown by a preponderance of the evidence. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990). Preponderance of the evidence means that the party with the burden of proof has presented evidence that is more convincing than that presented by the other party. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n*, 578 A.2d 600 (Pa. Cmwlth. 1990). In addition, 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. A mere “trace of evidence or a suspicion of the existence of a fact” is insufficient. 2 Pa.C.S. § 704; *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm’n*, 413 A.2d 1037 (Pa. 1980).

### Legal Standard

Tariff provisions previously approved by the Commission are *prima facie* reasonable. *Zucker v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981). A complainant seeking to evade the effect of an existing tariff provision carries a very heavy burden of proving that the facts and circumstances leading to the creation of the tariff provision have changed so drastically as to render the application of the tariff provision unreasonable. *Shenano Twp. Bd. of Supervisors v. Pa. Pub. Util. Comm'n*, 686 A.2d 910 (Pa. Cmwlth. 1996).

The Interim Order issued on May 19, 2025, explained that Mr. Pfaff's challenge to CUPA's billing method carries a heavy burden of proof. In order for him to prevail on this claim, Mr. Pfaff has to prove by a preponderance of the evidence that the facts and circumstances leading to the creation of the Commission's approval of CUPA's current billing method for wastewater service have changed so drastically as to render the application of the tariff provision unreasonable. Interim Order at 4-5 (*citing Shenano Twp. Bd. of Supervisors v. Pa. Pub. Util. Comm'n*, 686 A.2d 910 (Pa. Cmwlth. 1996)).

At the hearing, Mr. Pfaff testified that he paid a flat rate of \$75 monthly for wastewater services to CUPA until August 18, 2024. Tr. 12-13. Afterwards his wastewater bill reflected CUPA's moving from flat rate to metered billing. Tr. 13. Mr. Pfaff testified that he did not receive a wastewater bill in September of 2024; however, in October of 2024, he received two bills from CUPA within a period of ten days. Tr. 13. Mr. Pfaff explained that on October 14, 2024, he received what should have been the September bill in the amount of \$344. Then, on October 22, 2024, he received the wastewater bill for the month of October in the amount of \$336. He testified that he was "blindsided" by the amounts of these two bills particularly since he had spent the summer watering the grass and the privacy plants on his property to prevent their demise due to a prolonged draught. Tr. 13. Mr. Pfaff added that his wastewater bill decreased to

approximately \$169 per month in the colder months when he no longer watered his outdoor plants. Tr. 13-14.

Mr. Pfaff challenged the reasonableness of CUPA's wastewater charges because the water that he used outdoors did not go through CUPA's sewage system, nor was it treated in CUPA's facilities. Tr. 12, 14. According to Mr. Pfaff, he was charged for services not rendered. Tr. 14. He did not provide any additional testimony with regard to his incorrect billing claim or payment arrangement request.

In response, CUPA's witness explained briefly how CUPA's billing method complies with its Commission-approved Tariff, which became effective on August 9, 2024, pursuant to the Commission's Opinion and Order entered August 1, 2024, in *Pennsylvania Public Utility Commission v. Community Utilities of Pennsylvania, Inc.*, Docket No. R-2023-3042804 (Opinion and Order entered Aug. 1, 2024). Tr. 47; CUPA Exs. 1, 2, 7.

Neither in his Formal Complaint nor during the hearing did Mr. Pfaff dispute CUPA's compliance with its current Commission-approved Tariff. Importantly, when asked whether there have been any changes to the facts and circumstances leading to the creation of the Commission's approval of CUPA's current billing method for wastewater service, Mr. Pfaff was only able to argue that the increase from \$75 monthly flat rate to the \$344 charged for wastewater service for the month of September was "drastic." Tr. 18. However, the size of the rate increase is not the standard of review in cases that challenge the reasonableness of a utility's existing tariff.

I find that the Complainant has failed to make a *prima facie* case against the Complainant's Tariff in this matter. Mr. Pfaff did not present any facts or circumstances to warrant a finding that the tariff provisions have become unreasonable since the Commission approved CUPA's current Tariff on August 1, 2024. Complainant simply

asks the Commission to investigate CUPA's newly implemented rate increase as well as the Company's new methods of billing wastewater customers based on "water-in" usage. Without more, Mr. Pfaff's request for relief is essentially a personal request. Without any supporting evidence that CUPA's current Tariff is unreasonable, Mr. Pfaff's Complaint cannot be granted. Therefore, the Complaint must be dismissed for Complainant's failure to establish that Respondent violated any applicable law, regulation or order of the Commission.

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S. § 701.
  
2. The burden of proof in this proceeding is on the Complainant. 66 Pa.C.S. § 332(a).
  
3. Tariff provisions previously approved by the Commission are *prima facie* reasonable. *Zucker v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981).
  
4. A complainant seeking to evade the effect of an existing tariff provision carries a very heavy burden of proving that the facts and circumstances leading to the creation of the tariff provision have changed so drastically as to render the application of the tariff provision unreasonable. *Shenano Twp. Bd. of Supervisors v. Pa. Pub. Util. Comm'n*, 686 A.2d 910 (Pa. Cmwlth. 1996).

