

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Sean Petty	:	
	:	
v.	:	C-2024-3052590
	:	
Community Utilities of Pennsylvania Inc.	:	

INITIAL DECISION ON REMAND

Before
Alphonso Arnold III
Administrative Law Judge

INTRODUCTION

This Initial Decision on Remand dismisses the Formal Complaint filed by a wastewater customer against his wastewater utility, for the failure of the customer to meet his burden of proving that the utility’s Commission-approved wastewater tariff provisions as applied to him are unreasonable.

HISTORY OF THE PROCEEDING

On December 18, 2024, Sean Petty (“Mr. Petty”) filed a Formal Complaint against Community Utilities of Pennsylvania Inc. (“CUPA”) with the Pennsylvania Public Utility Commission (“Commission”). Mr. Petty checked the box stating “other” on the Formal Complaint form and explained the following:

Following the approval of a new tariff, R-2023-3042804, which went into effect August 2024, Community Utilities of Pennsylvania began billing for wastewater services using water usage data from Aqua PA. I have no objection to the new rate of the tariff. My issue is that the new tariff did not contemplate homeowners (or others) with in-ground irrigation systems. My monthly bill went from about \$75 per month to more than \$800 during August, September, and November when the irrigation system was being used. CUPA offered no alternative metering or other resolution despite numerous attempts.

Complaint, ¶ 4.

For relief, Mr. Petty stated the following:

I would request that the PUC modify the tariff or find that an alternative metering system should be available for irrigation systems. This should either be a “deduct” meter or a way to have Aqua PA meter the irrigation differently and prevent that from being reported to CUPA. I have no objection to paying an additional fee for the installation of an alternate meter.

Complaint, ¶ 5.

Attached to the Complaint were three CUPA wastewater bills, with due dates of April 8, 2024, October 15, 2024, and December 11, 2024.

On January 7, 2025, CUPA filed an Answer with New Matter to the Complaint. In its Answer, CUPA admitted or denied the allegations of the Complaint, specifically admitting that it utilizes Mr. Petty’s water bill volumes from Aqua Pennsylvania Inc. (“Aqua”) to calculate his wastewater charges. CUPA asserted that there is no legal basis for CUPA to provide an adjustment to Mr. Petty’s bill.

In its New Matter, CUPA asserted that in its 2023 base rate case¹ the Commission approved CUPA's proposal to transition unmetered, flat rate wastewater customers to metered rates based on the customer's actual water usage data from Aqua, the water provider. Thus, CUPA asserted that it is adhering to its Commission-approved tariff regarding wastewater metered charges. CUPA further asserted that its tariff does not contain a provision that would allow it to utilize deduct meters.² CUPA concluded its Answer with New Matter by requesting dismissal of the Complaint.

The Answer with New Matter contained a Notice to Plead for Mr. Petty to file a Reply to CUPA's New Matter within 20 days of its service. Mr. Petty did not file a Reply to CUPA's New Matter.

Also on January 7, 2025, CUPA filed Preliminary Objections to the Complaint. CUPA in its Preliminary Objections argued that the Complaint is legally insufficient, pursuant to 52 Pa. Code § 5.101(a)(4). CUPA explained that in its 2021 base rate case³, it agreed to propose metered rates for flat rate wastewater customers. As a result, in its 2023 base rate case, CUPA proposed metered rates for previously unmetered, flat rate wastewater customers based on customer's actual water usage per the data obtained from Aqua. The 2023 base rate case resulted in a Commission-approved Settlement. CUPA therefore argued that the actions complained of in the 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. CUPA further

¹ See *Pa. Pub. Util. Comm'n et al. v. Cmty. Utils. of Pa. Inc.*, Docket Nos. R-2023-3042804 (water) and R-2023-3042805 (wastewater) ("2023 base rate case").

² Deduct metering is a mechanism which allows individual customers, using a significant amount of outside water, such as for an irrigation system, to have a separate irrigation water meter installed. This second meter, known as a deduct meter, measures the flow of water that does not enter the wastewater system and is used to calculate a reduction in wastewater charges.

³ See *Pa. Pub. Util. Comm'n et al. v. Cmty. Utils. of Pa. Inc.*, Docket Nos. R-2021-3025206 (water) and R-2021-3025207 (wastewater) ("2021 base rate case").

argued that its tariff does not contain a provision that would allow it to utilize deduct meters.

The Preliminary Objections contained a Notice to Plead for Mr. Petty to file an Answer to CUPA's Preliminary Objections within 10 days of its service. Mr. Petty did not file an Answer to CUPA's Preliminary Objections.

On February 26, 2025, the Commission issued a Motion Judge Assignment Notice, assigning this matter to me as the Administrative Law Judge ("ALJ") to preside over this matter.

On March 26, 2025, the Commission issued my Initial Decision, wherein I granted the Preliminary Objections and dismissed the Complaint.

On June 6, 2025, the Commission issued an Opinion and Order at this docket, wherein the Commission reversed my Initial Decision and remanded this matter to the Office of Administrative Law Judge for further hearings consistent with its decision. The Commission held that Mr. Petty should be allowed "the opportunity to demonstrate that CUPA's Commission-approved tariff, as applied to him, is unreasonable." (Commission Opinion and Order entered June 6, 2025, at 11).

On June 12, 2025, the Commission issued an Initial Telephonic Hearing Notice, scheduling an evidentiary hearing in this matter for August 19, 2025.

Also on June 12, 2025, the Commission issued a Prehearing Order which provided the parties with the procedural rules that would govern the hearing.

On August 12, 2025, Mr. Petty filed a Letter with the Commission titled "Complainant's Statement Regarding Settlement Outreach and Status Update" wherein

Mr. Petty explained that he reached out to counsel for CUPA to propose settlement of this matter on two occasions.

On August 19, 2025, the evidentiary hearing was held as scheduled. Mr. Petty appeared for the hearing and presented evidence in support of his Complaint. Mr. Petty sponsored eight exhibits, Complainant Exhibits A-H, that were admitted into the evidentiary record. Attorney Whitney E. Snyder appeared on behalf of CUPA and presented the testimony of David Clark, a financial planning and analysis manager employed by CUPA. Tr. 25. Mr. Clark sponsored two exhibits, CUPA Exhibits 1 and 2, that were admitted into the evidentiary record.

On September 2, 2025, the Commission received the 58-page electronic transcript of the August 19, 2025, evidentiary hearing. The record was closed on this date.

On October 20, 2025, CUPA filed a Motion to Lodge Public Utility Commission Order (“Motion”), wherein it asked the undersigned to take notice of the Commission’s decision in *Showers v. Community Utilities of Pennsylvania, Inc.*, Docket No. F-2025-3052795 (Final Order entered Oct. 9, 2025) (“*Showers*”). CUPA attached as “Appendix A” the Initial Decision of ALJ Eranda Vero dated August 18, 2025, and the Commission’s Final Order entered October 9, 2025, adopting ALJ Vero’s decision.

On October 31, 2025, the Commission issued my Order Regarding Motion to Lodge Public Utility Commission’s Order, wherein I provided Mr. Petty until November 7, 2025, to answer or object to CUPA’s Motion. Mr. Petty did not provide an answer or objection to the Motion. As there was no answer or objection to the Motion, CUPA’s Motion will be granted in the Ordering paragraphs below.

This matter is ready for disposition. For the reasons explained below, the Complaint will be dismissed.

FINDINGS OF FACT

1. Complainant in this case is Sean Petty.
2. Respondent in this case is Community Utilities of Pennsylvania Inc.
3. Mr. Petty is the owner of an in-ground irrigation system. Tr. 9.
4. Prior to August 2024, Mr. Petty's CUPA wastewater bills ranged between \$70 to \$75 per month. Tr. 9-10.
5. Mr. Petty's August and September 2024 wastewater bills were \$655.50 and \$592.50, respectively. Tr. 10.
6. Mr. Petty turned off his irrigation system in October 2024. Tr. 12.
7. Mr. Petty's wastewater bills from October 2024 to June 2025 ranged between \$101.10 and \$196.50. Complainant Exhibit E.
8. On November 9, 2023, CUPA's 2023 base rate case was initiated, wherein CUPA filed a wastewater tariff supplement with the Commission seeking to increase its total annual operating revenues for wastewater service. CUPA Exhibit 2, p. 6.
9. On April 26, 2024, CUPA, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Commission's Bureau of Investigation and

Enforcement reached a Joint Petition for Full Settlement of Rate Proceedings in the 2023 base rate case proceeding (“2023 base rate case Settlement”). CUPA Exhibit 1.

10. Attached as Appendix C to the 2023 base rate case settlement was a tariff supplement for wastewater service, designed to produce an increase to CUPA’s annual operating revenues for wastewater service consistent with the terms of the settlement. CUPA Exhibit 1, pp. 60-69.

11. The 2023 base rate case settlement was approved by Commission in its Opinion and Order entered August 1, 2024 (“2023 base rate case Order”). CUPA Exhibit 2.

12. CUPA’s current wastewater tariff became effective on August 9, 2024. CUPA Exhibit 2, p. 35.

13. Pursuant to its Commission-approved wastewater tariff, CUPA transitioned from billing its customers based on a flat rate to a metered volumetric (usage) based rate, based on the customer’s actual water usage data from Aqua. Tr. 28; CUPA Exhibit 1, p. 79.

14. CUPA’s Commission-approved wastewater tariff does not contain a provision that would allow it to use deduct meters. Tr. 17.

15. CUPA’s current wastewater rates were derived from the revenue requirement agreed upon by the settling parties in the 2023 base rate case Settlement. Tr. 26-30; CUPA Exhibit 1 and 2.

16. When developing its rates to meet its revenue requirement CUPA considered the historic usage of all Aqua water customers, including water used for irrigation and pool-filling purposes, to develop predictive usage. Tr. 28.

17. CUPA would not be able to recover its revenue requirement if it began to reduce its customers' wastewater volumes for water used for irrigation and pool-filing purposes. Tr. 28-29.

18. The goal behind transitioning wastewater customers from flat rate billing to volumetric based billing was to encourage water conservation. Tr. 42; CUPA Exhibit 1, p. 93.

DISCUSSION

Legal Standards

Burden of proof

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Code, 66 Pa.C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the Complainant, as the party seeking relief, must show that CUPA is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Tele. Co. of Pa.*, 72 Pa. P.U.C. 196 (1990). 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 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992). That is, the Complainant's evidence must be more convincing, by even the smallest amount, than that presented by CUPA. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

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 Company. If the evidence presented by CUPA

is of co-equal weight, the Complainant has not satisfied his burden of proof. The Complainant now has to provide some additional evidence to rebut that of the Company. *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983). 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. Cmwlth. 2001).

The Commission's decision must be supported by substantial evidence in the record. 2 Pa.C.S. § 704. "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); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

Tariff provisions

Tariff provisions previously approved by the Commission are *prima facie* reasonable. *Zucker v. Pa. Pub. Util. Comm'n*, 401 A.2d 1377 (Pa. Cmwlth. 1979). A complainant seeking to evade the effect of an existing tariff provision carries a very heavy burden to prove that the facts and circumstances have changed so drastically as to render the application of the tariff provision unreasonable. *Id.*; *see also Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981).

Analysis

Mr. Petty is the owner of an in-ground irrigation system. Tr. 9. In this matter, Mr. Petty argued that he is being billed for water that he uses to irrigate his yard, which is not treated by CUPA's wastewater system. Tr. 9-16. Mr. Petty testified that prior to August 2024 his CUPA wastewater bills ranged between \$70 to \$75 per month.

Tr. 9-10. Following the implementation of CUPA's new wastewater tariff in August 2024, Mr. Petty's wastewater bills increased to \$655.50 and \$592.50 for August and September 2024, respectively. Tr. 10. Due to the large increase in his bills in August and September 2024, Mr. Petty turned off his irrigation system in October 2024. Tr. 12. Following him turning off his irrigation system, Mr. Petty's wastewater bills dropped. Specifically, Mr. Petty's wastewater bills from October 2024 to June 2025 ranged between \$101.10 and \$196.50. Complainant Exhibit E. Mr. Petty argued that he should not be billed for water that is not being treated by CUPA's wastewater system and requested that the Commission authorize CUPA "to implement an approved deduct irrigation meter program" and to direct CUPA "to file a compliance tariff supplement within 60 to 90 days that establishes that option for similarly situated customers." Tr. 15.

CUPA presented the testimony of David Clark, a financial planning and analysis manager employed by CUPA. Tr. 25. Mr. Clark sponsored the 2023 base rate case Settlement and the 2023 base rate case Order as exhibits that were admitted into the record as CUPA Exhibits 1 and 2 respectively. The 2023 base rate case Order authorized CUPA to transition unmetered, flat rate wastewater customers to metered rates based on the customer's actual water usage data from Aqua, based on the Commission's approval of a settlement achieved between CUPA and the parties to that proceeding. CUPA Exhibits 1 and 2. CUPA's Commission-approved wastewater tariff does not contain a provision that would allow it to use deduct meters. Tr. 17. CUPA explained that the goal behind transitioning wastewater customers from flat rate billing to volumetric based billing was to encourage water conservation. Tr. 42; CUPA Exhibit 1, p. 93.

Regarding CUPA's wastewater rates that were approved by the Commission, Mr. Clark testified that CUPA's current wastewater rates were derived from the revenue requirement agreed upon by the settling parties in the 2023 base rate case Settlement. Tr. 26-30; CUPA Exhibit 1 and 2. Mr. Clark testified that when developing its rates to meet its revenue requirement, CUPA considered the historic usage of all Aqua water

customers, including water used for irrigation and pool-filling purposes, to develop predictive usage. Tr. 28. Mr. Clark stated that CUPA would not be able to recover its revenue requirement if it began to reduce its customers' wastewater volumes for water used for irrigation and pool-filing purposes. Tr. 28-29.

As cited, the burden is on Mr. Petty to prove that the facts and circumstances have changed so drastically since the implementation of CUPA's wastewater tariff provisions as to render the application of the tariff provisions to him unreasonable. After review of the evidentiary record, I find that Mr. Petty has not met this heavy evidentiary burden.

Without question, Mr. Petty experienced a large increase in his bills following the transition of him being billed for wastewater service based on a flat rate to a volumetric based rate in August 2024. As explained by CUPA, the intent behind volumetric based billing for its wastewater customers was to encourage its customers to conserve water. When Mr. Petty stopped using his irrigation system, his wastewater bills dropped from \$655.50 and \$592.50 in the months of August and September 2024, to bills ranging from \$101.10 to \$196.50 for the months of October 2024 to June 2025. While it would not be reasonable to expect Mr. Petty to never use his irrigation system, it is clear that volumetric based billing will encourage customers like Mr. Petty who have irrigation systems to be more conservative in how they use water going forward, as was intended by the tariff, in order to have manageable wastewater bills. I find that CUPA's method of billing, as it applies to Mr. Petty, reasonable as Mr. Petty now has a high level of control over the size of his wastewater bills. Under CUPA's previous method of billing, Mr. Petty had no control over the size of his wastewater bills because he was billed a flat rate for wastewater service no matter how much water he used. Therefore, Mr. Petty previously had no incentive to conserve water.

Concerning Mr. Petty's argument that he should not be billed for water that is not being treated by CUPA's wastewater system, CUPA explained that its wastewater tariff does not allow for consideration of deduct meters to account for such usage. Regarding whether the prohibition on deduct metering is reasonable as applied to Mr. Petty, who is the owner of an in-ground irrigation system, CUPA explained that its wastewater rates were derived from the revenue requirement agreed upon by the settling parties to the 2023 base rate case Settlement and that the rates considered the historical usage of Aqua water customers, including water used for irrigation and pool-filling purposes, to develop predictive usage. CUPA's billing for wastewater service is consistent with its Commission-approved tariff and permits CUPA to earn its Commission-approved revenue requirement. As water used for irrigation and pool-filling purposes was considered when developing CUPA's current wastewater tariff, no facts and circumstances have changed following implementation of CUPA's wastewater tariff to support a finding that the tariff is unreasonable as applied to Mr. Petty.

My conclusion that the prohibition on deduct metering, as applied to Mr. Petty, is reasonable is supported by the Commission's recent determination in *Showers*. Complainant Showers, like Mr. Petty, was being billed for a large amount of water that was never treated by the wastewater system operated by CUPA and Complainant Showers argued that CUPA should make available a deduct metering program. In her Initial Decision, ALJ Vero found that Complainant Showers failed to meet his burden of proof by failing to present any facts or circumstances to warrant a finding that CUPA's wastewater tariff provisions have become unreasonable since the Commission approved the tariff. As Complainant Showers failed to meet his burden of proof, ALJ Vero concluded that his request for CUPA to make available a deduct metering program amounted to solely a personal request and dismissed the Complaint. ALJ Vero's Initial Decision became final as a matter of law on October 9, 2025.

In conclusion, I find that Mr. Petty has not presented evidence sufficient to find that the provisions of CUPA's Commission-approved wastewater tariff are unreasonable as applied to him. Mr. Petty's request for CUPA to make available a deduct metering program amounts to a personal request. As Mr. Petty failed to meet his burden of proof, Mr. Petty's request for relief will not be granted. Mr. Petty's Complaint will be dismissed in the Ordering paragraphs below.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this dispute. 66 Pa.C.S. § 701.

2. As the proponent of a rule or order, Complainant bears the burden of proof. 66 Pa.C.S. § 332(a).

3. To establish a sufficient case and satisfy the burden of proof, Complainant must show that Respondent is responsible or accountable for the problem described in the Complaint by a preponderance of the evidence. *Patterson v. The Bell Tele. Co. of Pa.*, 72 Pa. P.U.C. 196 (1990); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992).

4. A preponderance of the evidence is evidence that is more convincing, by even the smallest amount, than that presented by the opposing party. *Se Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

5. The Commission's decision must be supported by substantial evidence in the record. 2 Pa.C.S. § 704.

6. Tariff provisions previously approved by the Commission are *prima facie* reasonable. *Zucker v. Pa. Pub. Util. Comm'n*, 401 A.2d 1377 (Pa. Cmwlth. 1979).

7. A complainant seeking to evade the effect of an existing tariff provision carries a very heavy burden to prove that the facts and circumstances have changed so drastically as to render the application of the tariff provision unreasonable. *Zucker v. Pa. Pub. Util. Comm'n*, 401 A.2d 1377 (Pa. Cmwlth. 1979); *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981).

8. Complainant failed to meet his burden of proving that the provisions of Respondent's Commission-approved wastewater tariff, as applied to him, are unreasonable.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Community Utilities of Pennsylvania Inc.'s Motion to Lodge Public Utility Commission Order, filed on October 20, 2025, is granted.

2. That the Formal Complaint filed by Sean Petty in Sean Petty v. Community Utilities of Pennsylvania Inc., Docket No. C-2024-3052590, is dismissed.

3. That the Secretary's Bureau shall mark Docket No. C-2024-3052590 as closed.

Date: November 24, 2025

/s/
Alphonso Arnold III
Administrative Law Judge