

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Consuelo Suarez

v.

Philadelphia Gas Works

:
:
:
:
:

C-2025-3054512

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial Decision denies the Complainant’s Formal Complaint because the Complainant has not met her burden of proving that there were incorrect charges on her account.

HISTORY OF THE PROCEEDING

On April 3, 2025, Consuelo Suarez (Complainant or Ms. Suarez) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW, Respondent, or Company) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant contends that there were incorrect charges on her bills. Specifically, the Complainant contends that the Company gave her a final bill for her previous address that included charges due to alleged theft. The Complainant denied that she committed theft of service.

On April 29, 2025,¹ the Respondent filed an Answer denying the material allegations of the Complaint.

By Telephonic Hearing Notice dated May 1, 2025, an initial hearing was scheduled for June 16, 2025, at 10:00 a.m., and the matter was assigned to me.

On May 1, 2025, I issued a Prehearing Order which indicated procedural matters and hearing procedures.

On May 28, 2025, PGW filed a Motion for Continuance due to its need to complete an investigation into the Formal Complaint. The Complainant did not object to the request which I granted via email.

On June 13, 2025, a Hearing Cancellation Notice was issued for the June 16, 2025, hearing date.

On August 7, 2025, a Telephonic Hearing Notice was issued which rescheduled the initial telephonic hearing for September 15, 2025, at 10:00 a.m.

The hearing convened as scheduled on September 15, 2025. The Complainant participated *pro se* and testified. The Respondent appeared and was represented by Graciela Christlieb, Esquire, who presented the testimony of: Jason Holder, a Field Service Technician; Albert Teti, a Superintendent of Revenue Protection and Meter Programs; and Jessica Antonetti, a Senior Customer Review Officer. The Respondent offered nine exhibits, which were all entered into the record.

¹ The Formal Complaint was served on the Respondent by the Secretary's Bureau on April 10, 2025.

The record closed on September 30, 2025, when I received the transcript of the hearing.

FINDINGS OF FACT

1. The Complainant in this case is Consuelo Suarez.
2. The Respondent is Philadelphia Gas Works.
3. The Complainant owned 1431 Devereaux Avenue, Philadelphia, Pennsylvania 19149 until October 4, 2024. Tr. 9.
4. The Complainant owned the Devereaux Avenue address for 26 years prior to October 4, 2024. Tr. 10.
5. On March 25, 2021, PGW visited the Devereaux Avenue address for an Inside Leak Investigation. Tr. 25; PGW Exh. 1.
6. At that time, the meter was exchanged and replaced with a new meter. Tr. 25-26; PGW Exh. 1.
7. On October 11, 2024, a PGW technician visited the Devereaux Avenue address to verify the meter and reading and to perform a field inspection. Tr. 16; PGW Exh. 3.
8. During the field inspection, the technician found that the red caps were missing from the meter. Tr. 17; PGW Exh. 3.

9. The red caps are an anti-theft device used by PGW, which cover the screws that attach the ERT² to the meter. Tr. 17, 28; PGW Exh. 3.

10. If the red caps are removed, then the screws can be accessed and the ERT can be disengaged from the meter. Tr. 28.

11. Once the ERT is disengaged, the meter is no longer able to count the consumption of gas through the meter. Tr. 29.

12. When the ERT is tampered with, the manual index and automatic index readings would be out of synch, which was the case with the Complainant's meter that was removed in October 2024. Tr. 35.

13. The technician initiated an unbilled usage investigation. Tr. 17; PGW Exh. 4.

14. The technician found a bypass and removed the meter from the residence and replaced it with a new meter. Tr. 18-19; PGW Exh. 4.

15. The technician took note of the gas appliances at the residence, which included the following: a house heater with 105,000 BTUs; a range with 76,000 BTUs; and a water heater with 40,000 BTUs. Tr. 19; PGW Exh. 4.

16. The technician found a flex connector running to the jacket of the house heater. Tr. 20; PGW Exh. 4.

² The ERT is the electronic transmitter that transmits meter readings to the PGW meter reading vehicle.

17. PGW reviewed the Complainant's account history and found that, starting with the bill issued on May 22, 2021, there was a significant decrease in usage at the Devereaux Avenue address. Tr. 32; PGW Exh. 9.

18. PGW calculated the unbilled usage between March 26, 2021 to October 4, 2024. Tr. 38-39; PGW Exh. 6.

19. The total amount of the bill between this time period was \$5,240.15. Tr. 41; PGW Exh. 6.

20. The Complainant during this time period was billed for \$2,261.30 by PGW for gas usage. Tr. 41; PGW Exh. 6.

21. The Company completed a gas usage analysis for the Devereaux Avenue address based on historical usage from August 2017 to August 2020. Tr. 43; PGW Exh. 8.

22. The overall charges for the Complainant's final bill totaled \$2,978.85. Tr. 41; 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 Tele. 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 and Western Ry. 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 Center*, 480 A.2d 382 (Pa. Cmwlth. 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. Cmwlth. 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. Cmwlth. 2001).

Dispute of Tampering Allegation

The Complainant disputes that she tampered with the meter at the Devereaux Avenue address.

However, Complainant's testimony consisted solely of her opinion that there was no tampering at the address. Regardless of how earnestly Complainant believes the Complaint allegations to be true, personal opinions or perceptions do not constitute substantial evidence sufficient to permit her to sustain her burden of proof. *Kirby v. PPL Elec. Utils. Corp.*, Docket No. C-20066297 (Final Order entered Nov. 16, 2006), *citing, Pa. Bureau of Corrs. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

Under the Commission's regulations, a public utility may render a make-up bill for previously unbilled usage at a property. 52 Pa. Code § 56.14.

Prior to the Complainant selling 1431 Devereaux Avenue, Philadelphia, Pennsylvania on October 4, 2024, PGW visited the Devereaux Avenue on March 25, 2021, for an Inside Leak Investigation. Tr. 25; PGW Exh. 1. At that time, the meter was exchanged and replaced with a new meter. Tr. 25-26; PGW Exh. 1.

On October 11, 2024, PGW's witness, Mr. Holder, visited the Devereaux Avenue address to verify the meter and reading and to perform a field inspection. Tr. 16; PGW Exh. 3. During the field inspection, the technician found that the red caps were missing from the meter. Tr. 17; PGW Exh. 3.

As explained by PGW's witness, Mr. Teti, the red caps are an anti-theft device used by PGW, which cover the screws that attach the ERT to the meter. Tr. 17, 28; PGW Exh. 3. If the red caps are removed, then the screws can be accessed and the ERT can be disengaged from the meter. Tr. 28. Once the ERT is disengaged, the meter

is no longer able to count the consumption of gas through the meter. Tr. 29. When the ERT is tampered with, the manual index and automatic index readings would be out of synch, which was the case with the Complainant's meter that was removed in October 2024. Tr. 35.

Upon discovering that the red caps had been removed, Mr. Holder testified that he initiated an unbilled usage investigation. Tr. 17; PGW Exh. 4. He found a bypass and removed the meter from the residence and replaced it with a new meter. Tr. 18-19; PGW Exh. 4. He also took note of the gas appliances at the residence: a house heater with 105,000 BTUs, a range with 76,000 BTUs, and a water heater with 40,000 BTUs. Tr. 19; PGW Exh. 4. He found a flex connector running to the jacket of the house heater. Tr. 20; PGW Exh. 4.

Lastly, Ms. Antonetti, PGW's witness, testified that PGW calculated the unbilled usage between March 26, 2021, to October 4, 2024. Tr. 38-39; PGW Exh. 6. The total amount of the bill between this time period was \$5,240.15. Tr. 41; PGW Exh. 6. The Complainant during this time period was billed for \$2,261.30 by PGW for gas usage. Tr. 41; PGW Exh. 6. The Company completed a gas usage analysis for the Devereaux Avenue Address based on historical usage from August 2017 to August 2020. Tr. 43; PGW Exh. 8. The overall charges for the Complainant's final bill was \$2,978.85. Tr. 41; PGW Exh. 6. Mr. Teti noted that starting with the bill issued on May 22, 2021, there was a significant decrease in usage at the Devereaux Avenue address. Tr. 32; PGW Exh. 9.

Based on the above, the Complainant has not met her burden of proof in this case. PGW has presented credible testimony that there was evidence of tampering at the property when a technician visited on October 11, 2024. The red caps were missing and the ERT had been disengaged from the meter. As such, the meter did not properly register gas usage at the property. This was reflected in the significant decrease in usage

at the property, even during the winter months. There is no contention that PGW improperly calculated the make-up bill rendered related to the unbilled usage. The Company is entitled to render a make-up bill under the Commission's regulations. Thus, the Complainant has not met her burden of demonstrating that there were incorrect charges on the final bill, 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. Pursuant to Section 332 of the Public Utility Code, 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 Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa.Cmwlth. 1993); 2 Pa.C.S. § 704.

4. Regardless of how earnestly Complainant believes the Complaint allegations to be true, personal opinions or perceptions do not constitute substantial evidence sufficient to permit her to sustain her burden of proof. *Kirby v. PPL Elec. Utils. Corp.*, Docket No. C-20066297 (Final Order entered Nov. 16, 2006), *citing*, *Pa. Bureau of Corrs. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

5. A public utility may render a make-up bill for previously unbilled usage at a property. 52 Pa. Code § 56.14.

6. The Complainant did not meet her burden of proving that there was not any meter tampering at her former address. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Consuelo Suarez against the Philadelphia Gas Works at Consuelo Suarez v. Philadelphia Gas Works at Docket No. C-2025-3054512 is denied; and
2. That Docket No. C-2025-3054512 be marked closed.

Date: December 19, 2025

_____/s/
Marta Guhl
Administrative Law Judge