

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bailee Zelis	:	
	:	
v.	:	F-2025-3056337
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Barbara Shadie Nause  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the Formal Complaint of a gas customer. Complainant failed to sustain her burden of proof establishing that Philadelphia Gas Works violated the Public Utility Code, or any Commission order or regulation concerning charges on her bill.

**HISTORY OF THE PROCEEDING**

On June 16, 2025, Bailee Zelis (Complainant or Ms. Zelis) filed a Formal Complaint against Philadelphia Gas Works (Respondent or PGW) with the Pennsylvania Public Utility Commission (Commission).<sup>1</sup> Ms. Zelis checked the boxes on the

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<sup>1</sup> The Complaint is a timely appeal of the informal determination of the Commission's Bureau of Consumer Services (BCS), at BCS 4048475, which is subject to a de novo review. 52 Pa. Code § 56.173(a).

Complaint form averring that there are incorrect charges on her bill and under “other” averring that the bills on January 23, 2025, and February 20, 2025, are incorrect and significantly higher than reasonable and possible. Complaint ¶ 4. Under relief requested, Ms. Zelis asked for the incorrect charges to be voided. Complaint ¶ 5.

The Complaint was served on PGW on July 17, 2025.

On August 6, 2025, PGW filed its Answer to the Complaint which admitted in part and denied in part the various material allegations of the Complaint. Specifically, PGW denied that there were incorrect charges on Complainant’s bill.

By Hearing Notice dated August 12, 2025, an Initial Call-In Telephonic Hearing was scheduled for October 1, 2025, and the matter was assigned to me.

A Prehearing Order was issued and served on August 13, 2025, advising the parties of the date and time of the scheduled hearing, and informing them of the hearing procedures.

On October 1, 2025, the hearing was convened as scheduled. Ms. Zelis appeared *pro se* and did not offer any exhibits. Tracy Tripp, Esquire, appeared on behalf of PGW and presented the testimony of one witness, Jessica Antonetti, Senior Customer Review Officer. PGW offered two exhibits, PGW Exhibits 1 and 2, which were admitted into the record, without objection.

The record in this matter consists of a 42-page transcript and two exhibits. The record closed on October 21, 2025, upon the filing of the transcript with the Commission.

## FINDINGS OF FACT

1. Complainant is Bailee Zelis, who resides at 1912 S. Adler Street, Philadelphia, PA 19148 (Service Address). Tr. 7.

2. Respondent is Philadelphia Gas Works, a jurisdictional gas distribution company providing residential and commercial gas services in the Commonwealth of Pennsylvania.

3. Complainant resides at the Service Address with a roommate. Tr. 8.

4. Complainant established gas service at the Service Address on February 14, 2024. Tr. 17; PGW Exhibit 1.

5. As of the date of the Formal Complaint, Complainant had not resided at the Service Address for a full winter. Tr. 18.

6. The Service Address is a two-story row home and consists of three bedrooms. Tr. 9, 10.

7. Complainant has a gas stove, a gas house heater and a gas water heater at the Service Address. Tr. 10.

8. Complainant works from the Service Address. Tr. 18.

9. On August 1, 2025, PGW exchanged and removed the gas meter at the Service Address for testing. Tr. 11, 30, 35; PGW Exhibit 2.

10. On August 27, 2025, PGW tested the meter for accuracy. Tr. 30; PGW Exhibit 2.

11. After testing, the meter was found to be running 0.2% fast. Tr. 31; PGW Exhibit 2.

### 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). 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 (Opinion and Order entered Feb. 8, 1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (Opinion and Order entered Oct. 6, 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 (Pa. Cmwlth. 1990). A complainant can meet that burden if she presents evidence more convincing, by even the smallest amount, than that evidence presented by Respondent. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). The offense must be a violation of the Public Utility Code (Code), a Commission Regulation or Order, or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701.

The decision of the Commission must be supported by substantial evidence. 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); *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. Cmwlth. 1984).

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 the complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001) (*Milkie*); *see also, Burlison v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

### High Bill Dispute

In cases of alleged high billing, the Commission applies the *Waldron* rule, which provides that to establish a *prima facie* case of overbilling, a complainant must show: (1) that the number of occupants in the household has not changed, (2) that the potential for energy utilization was low, and (3) that the complainant's billing history shows no prior abnormalities. Once the complainant makes out a *prima facie* case, the burden of proof then shifts to the utility; however, the ultimate burden of persuasion always remains with the Complainant. *Waldron v. Phila. Elec. Co.*, 54 Pa.P.U.C. 98 (1980); *Repogle v. Pa. Elec. Co.*, 54 Pa.P.U.C. 528 (1980).

In *Milkie*, the Commonwealth Court of Pennsylvania further refined the *Waldron* rule by holding:

While the [*Waldron*] rule is often explained by stating that the ratepayer must establish certain specific elements in order to make out a *prima facie* case of overbilling by a utility company, we believe this view is too restrictive. Rather, the controlling principle is that even where the utility can present evidence that it has tested the customer's meter and found it to be accurate, the customer may,

nonetheless, prove his case by circumstantial evidence which would support a finding that the metered usage exceeded the actual usage. Thus, as our Supreme Court has explained, the rule operates as a device by which the complainant is protected from dismissal because of his inability to marshal *direct* proof that his meter had malfunctioned.

*Milkie*, 768 A.2d at 1219-1220 (emphasis in original, footnote omitted) (citing *Burleson v. Pa. Pub. Util. Comm'n*, 461 A.2d 1234, 1235 (Pa. 1983)). In *Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Opinion and Order entered Nov. 15, 2011) (*Thomas*), the Commission explained:

[T]he *Waldron* Rule allows a complainant to establish a *prima facie* case in a “high bill” complaint by showing that the disputed bill is abnormally high when compared to prior usage patterns and his or her pattern of usage has not changed *or by providing other relevant evidence showing that the disputed bill is unreasonably high*. In evaluating a “high bill” complaint, the Commission may consider such evidence as “the billing history of the account, any change in usage patterns (such as a change in the number of occupants residing in the household or potential energy utilization), *and any other relevant facts or circumstances that come to light during the proceeding*.”

*Thomas* at 5 (emphasis in original) (citation omitted).

Complainant argued that there are incorrect charges on her bill. Specifically, Complainant alleged that the gas bills issued on January 23, 2025, and February 20, 2025, are incorrect and significantly higher than reasonable and possible. Complaint ¶ 4.

Complainant established gas service at the service address on February 14, 2024. PGW Exhibit 1; Tr. 17. The following chart compares the billing for the disputed months:

<b>Billing Date</b>	<b>Total CCF Usage</b>	<b>Total Costs</b>
December 2024	63	\$106.12
January 2025	139	\$207.86
February 2025	112	\$177.75
March 2025	61	\$117.39

*See* PGW Exhibit 1.

Complainant, who has resided at the Service Address since February 2024, resides at the service address with a roommate. Tr. 8, 18. The Service Address is a two-story row home and includes three bedrooms. Tr. 9, 10. According to Complainant, she has a gas stove, a gas house heater and a gas water heater and she works from the Service Address. Tr. 10, 18.

Here, there is no evidence to support that the disputed bill is abnormally high. Specifically, Complainant established the gas service February 14, 2024. Complainant disputed the increase in charges from December 2024 to January 2025 and February 2025. Since there is no billing history to consider, there is no evidence that can be analyzed to determine whether there was a change in usage patterns, and there were no other relevant facts to consider presented at the hearing.

A review of Complainant's gas usage, as a whole from December 2024 through March 2025, indicates a reasonable increase and subsequent decrease in gas usage. Specifically, Complainant's bills were higher in the colder temperatures and Complainant's bills decreased as the temperature increased. *See* PGW Exhibit 1.

Accordingly, Complainant has not shown a change in usage patterns or provided any other evidence showing that she was incorrectly billed and therefore has failed to present a *prima facie* case of overbilling.

In addition, PGW's witness testified that in August 2025, the meter was exchanged and removed for testing. Tr. 11, 30, 35; PGW Exhibit 2. Further, after testing, the meter was found to be running 0.2% fast. Tr. 31; PGW Exhibit 2.

Regarding the accuracy of a customer's meter, the "tolerance standard" established by the Commission's Regulations at 52 Pa. Code § 59.22(a) states, in relevant part, that:

**§ 59.22. Adjustment of bills for meter error.**

(a) *Fast meters.* If, upon test of a meter, it is found to have an average error of more than 2.0% fast, the public utility shall refund to or credit the customer for the overcharge, based upon what the meter would have registered had it not been fast or slow for a period equal to 1/2 the time elapsed since the last previous test, but not to exceed 12 months or 1/2 the period of occupancy of the premises by the customer, whichever is less....

52 Pa. Code § 59.22(a).

In the instant case, the meter tested accurately, within the two percent threshold allowed under 52 Pa. Code § 59.22. *See Diaz-Willis v. Phila. Gas Works*, Docket No. F-2023-3045048 (Order and Opinion entered Feb. 20, 2025) (holding that a refund or credit was not warranted where the customer's meter tested 0.8% fast, which is within the 2% threshold set forth in the regulation above).

Thus, Complainant has not shown a change in usage patterns or provided any other evidence demonstrating that she was incorrectly billed. Therefore, Complainant has failed to present a *prima facie* case of overbilling and the gas bills are correct as rendered. Accordingly, I conclude that Complainant has not proven the allegation of overbilling by a preponderance of the evidence.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties in this case. 66 Pa.C.S. § 701.
  
2. The Complainant has the burden of proof in this proceeding. 66 Pa.C.S. § 332(a).
  
3. A complainant must show, by a preponderance of the evidence, 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 (Opinion and Order entered Feb. 8, 1990); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (Opinion and Order entered Oct. 6, 1976).
  
4. The decision of the Commission must be supported by substantial evidence or 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. 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. Cmwlth. 1984).

5. In a high bill proceeding, the Commission will consider the following factors: the billing history of the complainant; any change in the number of occupants residing at the household; the potential for energy utilization; and any other relevant facts or circumstances that are brought to light during the complaint proceeding. *Waldron v. Phila. Elec. Co.*, 54 Pa. P.U.C. 98 (1980); *Thomas v. PECO Energy Co.*, Docket No. C-2010-2187197 (Opinion and Order entered Nov. 15, 2011).

6. If, upon test of a meter, it is found to have an average error of more than 2.0% fast, the public utility shall refund to or credit the customer for the overcharge, based upon what the meter would have registered had it not been fast or slow for a period equal to 1/2 the time elapsed since the last previous test, but not to exceed 12 months or 1/2 the period of occupancy of the premises by the customer, whichever is less. 52 Pa. Code § 59.22(a).

7. The Complainant has failed to carry her burden of proving that she was overbilled for her gas usage. 66 Pa.C.S. § 332(a).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That Bailee Zelis's Formal Complaint filed in the matter of Bailee Zelis v. Philadelphia Gas Works, Docket No. F-2025-3056337, is dismissed.

