BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

John Aldridge :

:

v. : F-2013-2359932

:

Philadelphia Gas Works :

# INITIAL DECISION

## Before

Cynthia Williams Fordham

Administrative Law Judge

The Complainant alleged that there were incorrect charges on his bills. He objected when the Respondent rebilled him $4,718.32 for unbilled gas service from December 2008 through November2012. Based on the evidence regarding the Complainant’s appliances, there was gas usage each month at the service address. The Complainant failed to show that there were incorrect charges on his bills. Consequently, the complaint is dismissed.

# HISTORY OF THE PROCEEDING

On April 26**,** 2013, John Aldridge (“Aldridge” or “Complainant”) filed a complaint with the Pennsylvania Public Utility Commission (“Commission”) against the Philadelphia Gas Works (“PGW” or “Respondent”) alleging that there were incorrect charges on his bills. He stated that he received a bill dated March 21, 2013 with a reading of 6371 although his meter read 6112 on April 8, 2013.

On May 16, 2013, the Respondent filed an answer. In its answer, the Respondent denied that there are incorrect charges on the Complainant’s bills. The Respondent admitted that it issued a bill dated March 21, 2013 with a meter reading of 6371. The Respondent denied that the Complainant’s meter showed a reading of 6112 on April 8, 2013. The Respondent averred that it completed a meter exchange at the service address on May 14, 2012. The Respondent stated that it billed the Complainant for previously unbilled usage in the amount of $4,718.32. The Respondent referred to a March 4, 2013 Bureau of Consumer Services decision which held the Complainant responsible for the bill.

By hearing notice dated May 23, 2013, the hearing in this matter was scheduled for August 6, 2013, at 1:30 p.m. and the case was assigned to Administrative Law Judge

Angela T. Jones.

A Prehearing Order was sent to the parties on May 28, 2013.

By hearing change notice dated July 22, 2013, the hearing in this matter was rescheduled for August 6, 2013, at 2:00 p.m. and the case was reassigned to the undersigned.

A hearing was held in this matter on August 6, 2013, in the Philadelphia Regional Office at 801 Market Street before Administrative Law Judge Cynthia Williams Fordham. The Complainant, John Aldridge, appeared *pro se* and testified in support of the complaint. Laureto A. Farinas, Esquire, represented the Philadelphia Gas Works. The Respondent presented two witnesses, Ann Marie Cromley, a senior customer review officer for the Respondent, and Timothy Sullivan, the superintendent of revenue protection for the Respondent, who sponsored ten exhibits:

PGW Exhibit 1 - Statement of Account for the Complainant from March 2006 through July 2013;

PGW Exhibit 2 - Contacts for the Complainant’s Account;

PGW Exhibit 3 - PGW’s Letter to the Complainant dated December 14, 2012, Gas Usage Analysis from 1998 to 2012;

PGW Exhibit 4 - Field information, 10 day shut off notice dated May 2, 2012;

PGW Exhibit 5 - Meter test – August 7, 2012;

PGW Exhibit 6 - Meter test – July 2, 2013;

PGW Exhibit 7 - Respondent’s letters to the Complainant from October 2007 through July 21, 2008;

PGW Exhibit 8 - Bureau of Consumer Services Decision (#3053470) dated March 4, 2013;

PGW Exhibit 9 - Field Service Order; and

PGW Exhibit 10 - Order Generator.

During the hearing, the Respondent’s attorney stated that the Respondent was sending a technician to the Complainant’s property that afternoon, August 7, 2013, to conduct a field investigation.

By Order #2, dated August 7, 2013, the undersigned noted that the parties agreed that the Complainant was not required to pay the $214.00 a month payment arrangement since the amount in dispute had not been determined. The undersigned instructed the Respondent to submit a late filed exhibit concerning the field investigation at the Complainant’s property. The Complainant was directed to send any written objection to the late filed exhibit to the undersigned and the Respondent’s attorney, Mr. Farinas, within 10 days of receiving the exhibit.

By correspondence dated August 8, 2013, the Respondent submitted late filed exhibit PGW Exhibit 11. This is the field report of the August 7, 2013 visit. Since the Complainant did not send any objections, PGW Exhibit 11 is admitted into the record.

The record in this case consists of a 66-page transcript and eleven exhibits. The record closed on September 5, 2013, when the transcript was received.

# FINDINGS OF FACT

1. The Complainant is John Aldridge, who resides at 4631 Shelbourne Street, Philadelphia, PA 19124. (Service Address)
2. The Respondent in this proceeding is the Philadelphia Gas Works.
3. The Complainant established a gas account with the Respondent at the Service Address prior to 1998 (PGW Ex. 3).
4. The Complainant lives at the Service Address alone (Tr. 13).
5. In July 2007, the Complainant’s meter registered zero usage. The Complainant was charged $12.00 for the customer charge (Tr. 37; PGW Exs. 1, 2).
6. With each of the bills issued between October 2007 and July 2008, the Respondent sent the Complainant a letter indicating that there was no usage on the Complainant’s meter and requesting that the Complainant make an appointment to have the meter read so that he could receive an accurate bill (Tr. 42; PGW Exs. 2, 7).
7. The Complainant did not respond to the Respondent’s letters (Tr. 42, 43; PGW Exs. 2, 7).
8. From July 2007 through May 14, 2012, the Complainant’s meter failed to register a reading and the Complainant was charged a $12.00 monthly customer charge from July 2007 through March 2012 (Tr. 35; PGW Exs. 1, 3).
9. The Respondent issued an estimated bill for $115.33 on April 20, 2012 (PGW Ex. 1).
10. The Complainant made payments during this period. He had a credit prior to the April 2012 bill (PGW Ex. 1).
11. On May 2, 2012, the Respondent’s technician left a ten-day defective automatic meter reader (“AMR”) shut off notice at the service address (Tr. 44; PGW Exs. 2, 4).
12. On May 14, 2012, the Complainant’s meter, meter #1813090, was removed from the service address (PGW Exs. 1, 2).
13. The Complainant has the following gas appliances: a 65,000 BTU gas range, a 32,000 BTU gas hot water heater and an 80,000 BTU gas house heater (Tr. 8, 9, 15, 48, 55; PGW Exs. 2, 9).
14. All appliances were operational between 2006 and the date of the hearing (Tr. 8, 9, 15, 48, 55; PGW Exs. 2, 9).
15. The Respondent’s representative installed meter #1704889 at the service address on May 14, 2012 (PGW Ex. 2).
16. From May 2012 to November 2012, the Complainant did not receive a bill (PGW Ex. 1).
17. On December 5, 2012, the Respondent cancelled the Complainant’s bills from December 2008 through April 2012. (Tr. 38; PGW Exs. 1, 3).
18. Between May 1998 and May 2007, the Complainant’s yearly ccf usage was a high of 871 ccfs in 2003-2004 and a low of 382 ccf in 2001-2002 (PGW Exs. 1, 3).
19. A degree day is an index of energy consumption for heating. It indicates the number of degrees the average temperature drops below 65 degrees Fahrenheit (PGW Ex. 3).
20. On December 5**,** 2012, the Complainant was rebilled $4,718.32 for previously unbilled service. When the Complainant’s payments were deducted, he owed $4,134.95 (Tr. 26, 37, 38, 47, 49; PECO Exs. 1, 3).
21. The Respondent sent the Complainant a letter dated December 14, 2012, with the bill calculation attached, explaining that it rebilled the Complainant for usage from December 18, 2008 through November 19, 2012 (PGW Ex. 3).
22. The Respondent attached the bill calculation to the December 14, 2012 letter. Since the meter “ceased to record”, the bill was calculated on the Complainant’s historical usage (Tr. 49; PGW Ex. 3).
23. The Complainant filed a dispute with the Respondent regarding bill on December 6, 2012. The Respondent closed the dispute on December 14, 2012 (PGW Ex. 2 at 5).
24. On December 17, 2012, the Respondent adjusted the Complainants’ bill by $67.66 based on a change in the gas rates during the “rebill period” and offered the Complainant a payment arrangement for the same number of months that he was under billed (Tr. 39; PGW Exs. 1, 2).
25. The Complainant filed an informal complaint (#3053470) with the Commission’s Bureau of Consumer Services (“BCS”) on December 26, 2012 (PGW Ex. 2).
26. The BCS decision (#3053470), dated March 4, 2013 dismissed the informal complaint. (PGW Ex. 2 at 3).
27. The Respondent billed the Complainant based on actual meter readings after the December 5, 2012 rebill (PGW Ex. 1).
28. The Complainant filed an informal complaint (#3087322) with BCS on April 22, 2013 (PGW Ex. 2 at 3).
29. The Complainant filed a formal complaint with the Commission at Docket No. F-2013-2359932 on April 26, 2013 (PGW Ex. 2 at 3).
30. On May 3, 2013, BCS closed the informal complaint (#3087322) because the Complainant filed a formal complaint (PGW Ex. 2 at 6).
31. On July 2, 2013, the Respondent removed meter #1704889 from the Service Address and installed meter #1624306 (Tr. 40; PGW Exs 1, 2 at 1).
32. The Respondent can record two indexes. The automatic meter reading index is done by radio signal and the manual index is based on reading the actual meter (Tr. 57.)
33. The tamper count is a series of switches that are installed in the AMR. When someone tries to physically move the meter and the meter tilts more than 60 degrees, the meter will register a tamper count (Tr. 57, 59).
34. Meter #1704889 had a tamper count of thirteen and a magnetic count of eight (Tr. 46, 47, 59; PGW Exs. 2, 6).
35. The Respondent could not determine the source of the magnetic interference during its investigation (Tr. 46, 47, 59; PGW Exs. 2, 6).
36. When meter #1704889 was removed, the manual meter read was 6145 and the AMR reading was 6417.12 (Tr. 59; PGW Ex. 6).
37. The AMR counts the rotations of the meter. (Tr. 59).
38. If the actual meter is physically turned around, then the gears in the meter will run the index in reverse (Tr. 59).
39. The Respondent went to the service address after the hearing to see the meter to determine why the manual read and the AMR read were different (Tr. 59, 60; PGW Ex. 11).
40. At the time of the hearing, the Complainant’s balance was $4,581.12

(Tr. 40; PGW Ex. 1).

1. On August 7, 2013 the Respondent’s technician found a manual meter read of 8144 and an AMR reading of 8145 at the service address. The magnetic count was zero and there were no physical signs of meter tampering (PGW Ex. 11).

# DISCUSSION

Pursuant to Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), the burden of proof is on the proponent of a rule or order. In this proceeding, the Complainant is the proponent of a rule or order. Therefore, the Complainant bears the burden of proving by a preponderance of the evidence that the Respondent has violated the Public Utility Code or a regulation or order of the Commission. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). The Complainant must show that the utility is responsible or accountable for the problem described in the complaint. *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. P.U.C. 300 (1976).

The record in this proceeding must be reviewed to determine whether the Complainant has satisfied his burden of proof. If the burden of proof has been satisfied, then it must be determined whether the Respondent has submitted evidence of “co-equal” value or weight to refute the Complainant’s evidence. If this has occurred, the burden of proof has not been satisfied, unless the Complainant presented additional evidence. *Morrissey v. Pa. Dept. of* *Highways*, 424 Pa. 87, 225 A.2d 895 (1967).

The Commission’s decision must be supported by substantial evidence. 2 Pa.C.S. § 704. The term “substantial evidence” has been defined by various Pennsylvania courts as such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Substantial evidence is more than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa*. *PUC,* 489 Pa.109, 413 A. 2d 1037 (1980); *Murphy v. Dept. of Public Welfare*, 85 Pa. Cmwlth. 23, 480 A.2d 382 (1984).

The Complainant alleged that his bills were incorrect. He objected to the Respondent rebilling him $4,718.32 for gas service from December 2008 through November2012. He testified that he was rarely at the property because he was taking care of his mother. The evidence in the record shows that the Complainant’s meter registered zero usage from July 2007 to May 2014. The Complainant stated that he turned his house heater to the lowest setting and the hot water heater was on. Although he said that he did not cook on the gas range, the gas range had a pilot. Consequently, there was gas usage each month at the service address.

The Respondent sent the Complainant letters with his bills when it noticed that there was no usage on the meter. The Complainant did not respond. After the Respondent sent a shut off notice, the Complainant called to arrange an appointment. The Respondent removed meter #1813090.

The Respondent billed the Complainant pursuant to the Commission’s regulation at 52 Pa. Code Section56.12. That section reads in pertinent part:

**§ 56.12. Meter reading; estimated billing; customer readings.**

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

…

(5) *Remote reading devices for water, gas and electric public utilities.* A public utility may render a bill on the basis of readings from a remote reading device under the following conditions:

(i) When a gas, electric or water public utility uses readings from a remote reading device to render bills, the public utility shall obtain an actual meter reading at least once every 5 years to verify the accuracy of the remote reading device. If the customer of record at the dwelling changes during the 5-year period between actual meter readings, the public utility shall make a bona fide attempt to schedule an appointment with the departing customer and, if necessary, the new occupant, to secure an actual meter reading.

(ii) **When the actual meter reading establishes that the customer was underbilled due to an error in the registration of the remote reading device, the public utility may render a bill for the uncollected amount. If the rebilling exceeds the otherwise normal estimated bill for the billing period during which the bill is issued by at least 50% or at least $50, the public utility shall comply with § 56.14 (relating to previously unbilled public utility service).** Emphasis added.

Ann Marie Cromley, a customer review officer for the Respondent, testified that the Respondent used historical usage from 1998 to 2006 to rebill the Complainant $4,718.32 for previously unbilled service. After his payments were applied, he owed $4,134.95 (Tr. 26, 37, 38, 47-49; PECO Exs. 1, 4).

The Complainant has not demonstrated that the Respondent erred by sending him a bill in December 2012 for unbilled usage between June 2007 and May 2012. The Complainant did not present evidence to show that the Respondent’s calculation was incorrect. The Respondent’s method for calculating the unbilled usage is reasonable and based on the Complainant’s historical usage.

The Complainant complained that the Respondent was billing him incorrectly based on the second meter, which was installed on May 14, 2012, because the reading on his bill differed from the reading on his physical meter. The Respondent acknowledged that when it removed the meter in July 2013, the AMR reading was higher than the physical meter reading.

Timothy Sullivan, the Respondent’s superintendent of revenue protection and field operations, testified that the AMR counts the rotations of the meter. He said that the manual meter reading could be lower than the AMR reading if the meter is physically turned around. When this happens, the gears in the meter will run the index in reverse (Tr. 59). He noted that meter #1704889 had a magnetic count of eight. This indicates magnetic interference with the AMR device. The Respondent could not determine the source of the magnetic interference during its investigation (PGW Exs. 2, 6).

The Respondent went to the service address after the hearing to see the meter to determine why the manual read and the AMR read were different (Tr. 59, 60). Based on the report, there was no evidence of magnetic interference or tampering (PGW Ex. 11).

The record shows that the Respondent billed the Complainant on the readings from the AMR. A review of the record will show that the Complainant was billed based on meter readings in line with the historical readings at the property. The chart below shows the meter reading each month and the number of ccfs used each month.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Month | 2006 | 2007 | 2012 | 2013 |
| January |  | 7810  121 ccfs | **0 ccfs** | 6074  60 ccfs |
| February |  | 7982  172 ccfs | **0 ccfs** | 6242  168 ccfs |
| March |  | 8090  108 ccfs | **0 ccfs** | 6371  129 ccfs |
| April | 7408  48 ccfs | 8158  68 ccfs | **0 ccfs** | 6384  13 ccfs |
| May | 7436  28 ccfs | 8186  28 ccfs | 5792 5/14  5795 5/18  3 ccfs | 6407  23 ccfs |
| June | 7457  21 ccfs | 8199  13 ccfs | 5815  20 ccfs | 6409  2 ccfs |
| July | 7474  17 | **8199**  **0 ccfs** | 5823  8 ccfs | 6415  11 ccfs |
| August | 7491  17 | **0 ccfs** | 5832  9 ccfs |  |
| September | 7507  16 | **0 ccfs** | 5843  11 ccfs |  |
| October | 7521  14 ccfs | **0 ccfs** | 5855  12 ccfs |  |
| November | 7584  63 ccfs | **0 ccfs** | 5921  66 ccfs |  |
| December | 7689  105 ccfs | **0 ccfs** | 6014  93 ccfs |  |

(Zero usage reading are in bold.)

The usage in 2012 and 2013 was in line with or less than the earlier usage. Based on the evidence in the record, the Complainant was billed properly for his gas usage at the service address. Consequently, the Complainant is responsible for paying the outstanding bill.

The Complainant has failed to present evidence to show that the charges on his bill are incorrect. Accordingly, the complaint is dismissed.

CONCLUSIONS OF LAW

# 1. The Commission has jurisdiction over the parties and subject matter in this proceeding. 66 Pa.C.S. § 701.

2. The Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S. § 332(a).

3. That the Complainant failed to sustain his burden of proof.

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the complaint filed by John Aldridge against the Philadelphia Gas Works at Docket No. F-2012-2359932 is dismissed in its entirety.

2. That the record in this case is marked closed.

Date: June 23, 2015 /s/

Cynthia Williams Fordham

Administrative Law Judge