

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

**David Walker** :  
-vs- :  
**Peoples Gas Light and Coke Company** : **04-0394**  
: :  
**Complaint as to billing and charges in** :  
**Chicago, Illinois.** :

**PROPOSED ORDER ON REOPENING**

I. Procedural History

By the Commission:

On May 12, 2004, David Walker (“Complainant” or “Mr. Walker”) filed a verified Complaint pursuant to Section 10-108 of the Public Utilities Act (the “Act”) (220 ILCS 5/10-108), against Peoples Gas Light and Coke Company (“Peoples Gas” or “Respondent”). Complainant alleged that in May 2002, his gas bills began to increase and his account number was changed without any apparent explanation.

Pursuant to notice given in accordance with the rules and regulations of the Commission, this matter was set for Status before a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois on June 16, 2004. Thereafter, this matter was continued to July 7 and September 7, 2004, for status. It came on for hearing on November 9, 2004. Complainant appeared Pro se. Respondent was represented by counsel and presented the testimony of William Medellin, Billing Specialist. At the conclusion of the Hearing on November 9, the record was marked “Heard and Taken.”

On February 10, 2005, the Administrative Law Judge issued a Proposed Order in this matter. Neither Complainant nor Respondent filed Exceptions. An Order was submitted to the Commission for disposition on April 6, 2005. The Commission expressed its concern that Complainant’s meter and/or pipes may have been the subject of tampering and that an unsafe condition may have existed or may still exist. It reopened the Docket for further hearings. Pursuant to notice given in accordance with the rules and regulations of the Commission, this matter came on for hearing on June 15, 2005. Complainant again appeared Pro se. Respondent was represented by counsel and presented the testimony of Brian Schmoltdt, Special Services Representative. At the conclusion of the Hearing on June 15, the record was marked “Heard and Taken”.

II. Complainant's Position

Complainant testified that he has occupied the front portion of the first floor of the dwelling at 5701 South Wolcott Street, Chicago, Illinois continuously during the period in question, November 2001 to October 2004. He testified that his apartment is gas heated and has a gas stove, but has no other gas appliances. Complainant said that he is the sole occupant of his living quarters, which are in a good state of repair. He testified that his windows are insulated and none of them are broken or cracked. He added that he sets his thermostat to about 70 degrees during the winter and will occasionally increase it to 75 degrees, but will then reset it to 70 as his living space becomes warmer. Complainant said that the rear portion of the first floor, over which he has no control, is separately heated and controlled with a separate thermostat.

Complainant sponsored Complainant's Exhibit 1, bills he received from People's Gas from January 3, 2002 to October 26, 2004. He testified that the bills he received from Respondent from January 3, 2002 through June 3, 2002 displayed account number 9 5000 1801 1401 and were in his name, David J. Walker at 5701 South Wolcott FL 1 front. He testified that the payments he made caused the bills to steadily decrease, from \$703.15 on January 3 to \$334.38 on June 3, 2002. Complainant testified that for reasons unknown to him, he received successive bills dated May 1, 2002 and June 3, 2002, bearing a different account number, #9 5000 2860 3361, addressed to "Occupant" at 5701 South Wolcott, for \$796.98 and \$875.81, respectively. He had written "account change without notice" at the top of each bill and testified that these sums reflect significant increases from his April bill, which was \$483.79. Complainant asserted that the amounts on the two bills for account #9 5000 2860 3361 reflected overcharges. He did not know why the account number had been changed. He testified that he contacted Peoples Gas in June 2002 to determine why he received these two bills, but he did not understand the explanation given.

Complainant testified that bills he received for service from July 29, 2002 through October 26, 2004, were addressed to him at 5701 South Wolcott, and show a third account number, #9 5000 2958 6293, as well as significantly increased amounts due. He said that Peoples Gas explained to him that the new account number was the result of a system change, but it never explained to him why his bills had increased. He asserted that the bills continued to reflect overcharges and that all of the bills in question are based upon estimates. Complainant added that he never asked Respondent for a meter reading specifically as a result of the overcharges.

Complainant acknowledged when cross-examined that his service had been disconnected in November 2001, but Respondent sent an employee to his residence to restore service after he qualified for a grant from the Low Income Housing Energy Assistance Program ("LIHEAP"). Complainant did not recall on what date his service was restored.

III. Respondent's Position

Testimony of William Medellin

Mr. Medellin sponsored Respondent's Exhibit 1, a Service Order bearing Complainant's name, address, and account #9 5000 1801 4101. He testified that Exhibit 1 shows that Complainant's service was disconnected on November 19, 2001 for non-payment. He explained that Complainant previously had been on a budget plan, where Respondent calculates the average monthly cost of gas based upon a forecast for the next 12 months. Whatever amount Complainant was required to pay initially could increase if the cost of gas increases. Complainant began paying approximately \$80.00 per month under the plan, but the cost of gas rose and he was unable to keep up. Mr. Medellin sponsored Respondent's Exhibit 2, a Service Order notating that Complainant's service was shut off from a "B Box" outside of the structure because Respondent could not gain access to the meter inside. Mr. Medellin described the "B Box" as a device located outside the structure about six feet underground, attached to the inside meter and fitted with a lock that can be turned to disconnect service. He testified that a final meter reading taken from Respondent's truck on November 19 by use of an electric reading transmitter registered 2511.

Mr. Medellin testified that after termination of Complainant's service, Respondent determined from monthly drive-by electronic readings that gas usage was still occurring in the first floor front unit. Because Respondent could not confirm at that time that it was Complainant who was still living there, it prepared bills addressed to "Occupant", and issued them under account #9 5000 2860 3361. Mr. Medellin sponsored Respondent's Exhibit 3, a Service Order, showing that Complainant contacted Frank Munoz at Peoples Gas in June 2002. Mr. Medellin testified that Complainant had acknowledged to Mr. Munoz that he had been the occupant at 5701 South Wolcott, FL 1 front after service termination. As a result, Respondent on July 3, 2002 updated Complainant's account to reflect that he was responsible for gas usage going back to December 1, 2001 and issued new account 9 5000 2958 6293. Mr. Medellin sponsored Respondent's Exhibit 5, which he described as a balloon bill addressed to Complainant for the period December 4, 2001 to July 29, 2002, totaling \$1,033.69 in usage not previously charged to the Complainant.

Mr. Medellin also sponsored Respondent's Exhibit 6, a Transcript History for Complainant's account. He testified that the next bill sent to Complainant after July 29, 2002 was dated August 28, 2002, and was based on an actual meter reading, as were all subsequent bills. He explained that any time a customer does not pay a balance in full, a 1.5% late fee is assessed each month on the total amount owed. Complainant's usage for July 29 to August 28, \$48.84, was added to the prior balance. Once late payment charges and credits were factored in, the total balance was \$1,197.06. Mr. Medellin testified that from August 7, 2002 to October 26, 2004, the most Peoples Gas had received from Complainant in any single month was \$85.00. Respondent's Exhibit 6 shows that as of October 26, 2004, the combination of gas usage, interest, and late

charges offset by payments, increased Complainant's outstanding balance to \$3,102.47.

Mr. Medellin testified that a LIHEAP grant for \$349.00 issued in Complainant's favor on November 21, 2001 covered only part of the balance and was insufficient to restore his service. A balance of \$733.07 remained unsatisfied. Mr. Medellin said that he did not know how the gas again began flowing to Complainant's unit after termination, but restoration of service would not have been proper under any circumstances unless Respondent had authorized it. He asserted that Respondent has no record of restoring Complainant's service.

#### IV. Reopening

##### A. Complainant's Position

Complainant reiterated that his service was disconnected in November 2001 for nonpayment, but he insisted that Respondent had restarted it using the "B" box outside of his dwelling after a LIHEAP grant had been applied to his account. Complainant did not recall when service was restored, but it was shut off only for one or two days at most and he had heat all winter in 2001-2002. Complainant acknowledged that Respondent's Exhibit 7, line 13, shows that he owed \$693.51 in November 2001. It also shows that he made only partial payments of \$75.00 or \$80.00 on his account from January 2001 through May 2005, even when his account balance exceeded \$3,000. He testified that he was not certain whether he was on an authorized budget plan with Respondent at any time during that period. He conceded that even with two LIHEAP payments applied to his account, he still had a significantly high balance.

##### B. Respondent's Position

Mr. Schmoldt testified that on November 3, 2001, Respondent attempted to disconnect Complainant's gas service at the "B" box outside the premises for nonpayment. Respondent did not enter the premises, however, to confirm that the shut-off was effective and that is why gas usage continued to register. He testified that because Respondent's vans contain a remote reading device, Respondent confirmed on December 4, 2001 that gas was still being used at Complainant's dwelling after the attempted shut-off. Because the winter heating season had begun, Respondent decided not to make another shut-off attempt. Mr. Schmoldt sponsored Respondent's Exhibit 7, a Billing Transcript, which he prepared from Respondent's business records. He testified that it shows a reading of 2672 on December 4, 2001, whereas it read 2367 on November 1, 2001, just prior to the attempted shut-off. A reading taken on June 28, 2002 was 4110, indicating that approximately 2000 cubic feet of gas had been used after the attempted shut-off.

Mr. Schmoldt testified that Respondent had no evidence of any tampering with either Complainant's meter or with the "B" box, there were no broken locks, no pipes had been cut, and there was no indication of any hazardous condition. He testified that

Respondent merely failed in its' attempt to shut off Complainant's gas on November 3 and that was the sole reason why gas continued to flow to Complainant's residence. Respondent's position, after it had attempted to shut off Complainant's service, was that Complainant may not have continued to reside on the premises because it had no gas service. After it learned of the continued usage, Respondent created a second account, 9 5000 2860 3361, for Complainant's address and addressed bills to "Occupant" in May and June 2002. Complainant's contact with Respondent in July 2002 was sufficient verification to Respondent that Complainant had continued to reside at 5701 South Wolcott, first floor, after November 2001. Respondent then established a third account, 9 5000 2958 6293, in Complainant's name.

Mr. Schmoldt testified that readings were taken by ERT in August 2002 and for each subsequent month, and bills were sent to the Complainant reflecting the total balance on this account. Respondent's account balance as of May 27, 2005 was \$3,691.22.

V. Commission Analysis and Conclusions on Reopening

Our review of this record compelled us to reopen it, because we had serious concerns that a hazardous condition may have existed as a result of what initially appeared to be unauthorized gas usage by Respondent. Mr. Medellin testified that Complainant's gas was shut off for non-payment on November 19, 2001, but Complainant testified that it had been turned back on by Respondent one or two days later. Since Respondent had no record of restarting Complainant's service, we considered it the prudent course to determine whether Respondent's records were in error or whether Complainant, or someone on his behalf, had restarted the gas flow by tampering with the meter or altering a pipe. Mr. Schmoldt testified that Respondent had simply failed in its attempt to shut off Complainant's service in November 2001. (6/15/05 Tr. at 60). Whatever mechanical procedure is to be observed to shut gas off at a "B" box was apparently not followed through to its conclusion, and gas continued flowing to Complainant's residence. Consequently, Complainant's meter still registered gas usage in December 2001 and thereafter. What is most significant to us, however, is that Respondent found no evidence of tampering with Complainant's meter or pipes and no indication that any hazardous condition existed. (Id. at 63, 66). This allays our principal concern. Based upon the testimony of Mr. Schmoldt, we believe it safe to conclude that there was no alteration of Complainant's meter or gas pipes and no danger that an unsafe condition existed.

Mr. Walker alleges that unexplained bill increases on his account were the result of overcharges. After a thorough review of the evidence offered by both parties in this matter, we conclude that Mr. Walker is responsible for all sums for which he has been billed. His allegation that he was simply overcharged for his monthly gas service is unsupported by any record evidence and was refuted by Mr. Medellin's testimony. Complainant produced approximately three years of bills from Peoples Gas to show the increased amounts due, but he offered no other evidence or support to show that the increases were somehow the result of a miscalculation on the part of Respondent.

Respondent's evidence establishes that Complainant's gas service was terminated on November 3, 2001 for non-payment, and the bills Complainant received for approximately six months thereafter were attempts by Respondent to collect what Complainant owed on the account prior to termination.<sup>1</sup> Respondent then determined by a meter reading that gas service had been somehow restored to Complainant's apartment as of December 1, 2001, and it recalculated the sums due based on that usage. Subsequent bills reflected the unauthorized usage and all additional usage charged to Complainant, once Respondent established that he was at all times the sole resident of the first floor front apartment.

Also incorrect is Complainant's assertion that the bills he received were based upon estimated readings. Mr. Medellin testified that Respondent performed actual readings of Complainant's meter to obtain the precise volume of gas usage. Complainant's Exhibit 1 corroborates this testimony. A review of the bills received by Complainant addressed either to him or to "Occupant" from May 1, 2002 to October 26, 2004, all contain the word "Actual" for the readings of meter P2589712. Respondent also adequately explained the use of the multiple account numbers, thereby refuting Complainant's testimony that some sort of system change was involved.

We agree with Respondent's accounting that Complainant owes \$3,691.22 as of May 25, 2005.

#### VII. Findings and Orderings Paragraphs

The Commission, having reviewed the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) Complainant, David Walker, filed a complaint against The Peoples Gas Light and Coke Company on May 12, 2004, alleging increased bills without explanation in Chicago, Illinois;
- (2) Respondent, The Peoples Gas Light and Coke Company, is an Illinois corporation engaged in furnishing natural gas service in Illinois and, as such, is a public utility within the meaning of the Illinois Public Utilities Act;
- (3) the Commission has jurisdiction over the parties and the subject matter herein;
- (4) the findings of fact set forth in the prefatory portion of this Order conform to the evidence of record and are hereby adopted as findings of fact herein;

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<sup>1</sup> Respondent's witnesses contradict each other regarding the date of attempted shut-off (Medellin - 11/19/01; Schmoltdt - 11/3/01). A review of the corroborating documentation for each discloses that 11/19/01 was actually a final billing date. The attempted shut-off occurred on 11/3/01.

- (5) Complainant's evidence failed to establish that he was overcharged for gas service at 5701 South Wolcott, FL 1 front, in Chicago, Illinois;
- (6) Respondent's evidence established that Complainant's gas service was disconnected for nonpayment on November 19, 2001 and gas resumed flowing to Complainant's apartment without Respondent's knowledge or permission on December 1, 2001;
- (7) Complainant's service was restored by tampering;
- (8) Respondent's evidence established that Complainant was at all times properly charged for gas service at 5701 South Wolcott, FL 1 front, Chicago, Illinois;
- (9) Complainant owes Respondent a total of \$3,102.47 for gas service through October 26, 2004.

IT IS THEREFORE ORDERED that the Complaint filed by David Walker is denied.

IT IS FURTHER ORDERED that Complainant is to pay Respondent the sum of \$3,102.47 for gas service through October 26, 2004.

IT IS FURTHER ORDERED that any petitions, objections, or motions which remain unresolved should be considered resolved in a manner consistent with the ultimate conclusions contained in this Order.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

DATED:  
BRIEFS TO EXCEPTIONS DUE:  
REPLIES TO EXCEPTIONS DUE:

September 28, 2005  
October 12, 2005  
October 19, 2005

John T. Riley,  
Administrative Law Judge