

Decision No. C24-0175

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23F-0170EG

PAUL HILTON,

COMPLAINANT,

V.

BLACK HILLS ENERGY,

RESPONDENT.

**COMMISSION DECISION DENYING APPLICATION FOR
REHEARING, REARGUMENT, OR RECONSIDERATION**

Mailed Date: March 19, 2024
Adopted Date: February 21, 2024

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for an Application for Rehearing, Reargument, or Reconsideration (RRR) of Commission Decision No. C24-0034.

2. As discussed below, the Commission, upon considering the RRR filed by *pro se* Complainant, Mr. Paul Hilton (Complainant or Mr. Hilton), offers no new argument to re-examine our decision which denied his arguments on exceptions. We therefore deny the Complainant's RRR.

B. Background

3. On April 7, 2023, Mr. Hilton filed a formal Complaint against Black Hills Energy (Black Hills). The Complaint generally makes several allegations as follows:

- (1) no gas has been used at the house located at 901 Maple Ave, Rocky Ford, CO 81067 since it was purchased by Complainant on November 22, 2021.
- (2) Complainant's bill balance is inaccurate.
- (3) Complainant never authorized the splitting of his Black Hill utility account into separate electric and gas accounts.
- (4) Complainant used \$1,631.00-worth of electricity, but paid over \$2,500.00 for the same.
- (5) On July 21, 2022, Complainant paid \$530.06, which was transferred to an account not owned by Complainant.
- (6) June 10, 2022, a balance of \$417.07 was improperly transferred to Complainant's account from an account not owned by Complainant.
- (7) on September 21, 2022, a balance of \$1,074.90 was improperly transferred to Complainant's account from an account not owned by Complainant.
- (8) On Mach 20, 2023, Complainant's electrical service was disconnected.
- (9) Complainant had never been late on his Black Hills utility bills.
- (10) and Complainant never authorized his participation in a budget billing plan and was charged a budget billing termination fee of \$906.
- (11) Complainant never applied for the Low-income Energy Assistance Program (LEAP).

4. In Recommended Decision R23-0722, issued on October 24, 2023, the Administrative Law Judge (ALJ) found that Complainant failed to meet his burden of proof regarding the allegations made in the Complaint. Therefore, the ALJ dismissed the Complaint.

5. The ALJ found and concluded as follows. Complainant failed to meet his burden of proof with respect to each of the actionable allegations advanced by Complainant in this Proceeding. Specifically, the record in this Proceeding reflects that: gas had been regularly consumed at Complainant's home; no gas leaks were detected at Complainant's home. On March 20, 2023, Complainant's electrical service was disconnected due to Complainant's non-payment. Black Hills' accounting, transfers, and charges applied to Complainant's gas and electric utility accounts are accurate and consistent with Black Hills' tariff on file with the

Commission. Complainant authorized the splitting of his Black Hill account into separate electric and gas utility accounts. Black Hills fully refunded Complainant's utility account \$417.07 for the balance transfer that Complainant alleged was improperly applied to Complainant's utility account. Complainant authorized his participation in Black Hills Energy Assistance Program (BHEAP) and Black Hills' Budget Billing Plan, and Complainant's participation in LEAP is not administered, or otherwise controlled by Black Hills. Due to Complainant's non-payment of his Black Hills' utility bills, his service was disconnected on March 20, 2023. Because Complainant failed to meet his burden of proof by a preponderance of the evidence, the ALJ consequently dismissed the Complaint.

6. On November 1, 2023, Complainant filed exceptions to the Recommended Decision generally asserting the same allegations made in his Complaint.

7. In considering Complainant's exceptions, we first noted Complainant did not file a transcript of the evidentiary hearing with his exceptions. Pursuant to § 40-6-113(4), C.R.S., if a transcript is not filed with exceptions, "it shall be conclusively presumed that the basic findings of fact, as distinguished from the conclusions and reasons [for the ALJ's findings and orders] are complete and accurate." Consequently, since no transcripts were filed with Complainant's exceptions, we were required to accept the findings of fact contained in Recommended Decision No. R23-0722 as complete and accurate. Because Complainant did not assert any new arguments, we denied the exceptions and upheld the ALJ's findings and conclusions in their entirety.

1. Application for RRR

8. In Complainant's RRR, he cites to Commission Rule 4 CCR 723-3-3408, arguing that Black Hills treats customers any way they see fit regardless of written regulations. Complainant continues to argue that Black Hills discontinued his utility service inappropriately

and without cause. He raises the argument that he was forced to pay his bill, totaling \$458.00, twice in the month of March 2023. In addition, Complainant ostensibly refers to Commission Rule 4 CCR 723-5-5401 regarding billing for metered services. However, these rules refer to water utility customers and are not relevant to gas or electric customers. These are the only two issues Complainant raises in his RRR.

9. Complainant continues that “there are a number of unexplained transfers on my account for [sic].” He argues that Black Hills transferred \$417.07 from his account unknowingly. However, Black Hills explained at the hearing on the Complaint and in its response to Complainant’s exceptions that Complainant was billed for non-payment of utility services at a home he resided in with his ex-wife, although the utilities were in her name. However, the Company refunded the \$417.07 to Complainant voluntarily. Complainant continues to fail to acknowledge this.

C. Findings and Conclusions

10. Complainant continues to make arguments he previously made at hearing, in exceptions, and now in RRR, that are without merit or that have been resolved. These allegations have been thoroughly addressed in Recommended Decision No. R23-0722 and in our decision on exceptions, Commission Decision No. C24-0034.

11. In addition to the hearing exhibits offered by Black Hills at hearing, Complainant’s own Hearing Exhibit No. 104 (a March 2023 bill from Black Hills to Complainant) shows he owed \$1,578.38 and was in danger of disconnection. Despite Black Hills attempt to assist Complainant, he continued to be in arrears in his bills and was therefore removed from budget billing. Other than his statement that he was forced to pay a bill twice totaling \$458.00, Complainant offers no evidence of this allegation.

12. Regarding the \$417.07 Complainant argues he was not liable for, but nonetheless was required to pay, Complainant's own Hearing Exhibit No. 107 (in addition to hearing exhibits entered into evidence by Black Hills) indicates the reason for the billing in the first place, as discussed above. Notably, that hearing exhibit also indicates that Black Hills voluntarily waived the amount Complainant was billed.

13. As a result, we find nothing of merit to the arguments raised, and deny Complainant's RRR. Nothing he provides is sufficient to overturn our decision on exceptions.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration filed by Mr. Paul Hilton on February 6, 2024, is denied, consistent with the discussion above.

2. The 20-day time period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 21, 2024.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners