

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Stephanie Maxwell	:	
	:	
v.	:	C-2016-2549369
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Rebecca Waldemar
Special Agent

INTRODUCTION

This decision denies a customer’s request for a payment arrangement as her entire balance accrued under customer assistance program rates and cannot be the subject of a payment arrangement approved by the Commission, pursuant to 66 Pa.C.S. § 1405(c).

HISTORY OF THE PROCEEDING

On June 2, 2016, Stephanie Maxwell (Complainant) filed a formal Complaint with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO, Company or Respondent) which alleged that the Respondent was threatening to shut off her service. As relief, Ms. Maxwell requested a payment arrangement.

On June 27, 2016, PECO filed an Answer and New Matter endorsed with a Notice to Plead. In its Answer and New Matter, PECO asserted that the Complainant is enrolled in the Company’s Customer Assistance Program (CAP) and her past due balance is comprised entirely

of CAP arrears. PECO requested dismissal of the Complaint. Ms. Maxwell did not file a reply to the New Matter.

A Telephone Hearing Notice dated July 28, 2016, advised the parties that an initial telephonic hearing was scheduled for Wednesday, September 7, 2016, at 10:00 a.m. The case was assigned to me, pursuant to 52 Pa.Code § 56.174. A Prehearing Order dated August 15, 2016, advised the parties of the date and time of the scheduled hearing and informed them of the procedures applicable to this proceeding.

The initial telephonic hearing convened as scheduled.¹ The Complainant appeared *pro se* and testified on her own behalf. Shawane Lee, Esq., counsel for Respondent, presented the testimony of one witness, Renee Tarpley, a Senior Regulatory Assessor for Respondent who sponsored seven exhibits, which were admitted into the record. The Exhibits are as follows:

Exhibit 1 – Account transaction activity

Exhibit 2 – CAP rate history

Exhibit 3 – Collection history

Exhibit 4 – Complaint history

Exhibit 5 – Payment agreement history

Exhibit 8 – Case details report for BCS case # 3439268

Exhibit 9 – BCS decision report for BCS case # 3439268

The record closed on September 7, 2016 at the conclusion of the hearing.

FINDINGS OF FACT

1. The Complainant is Stephanie Maxwell, who receives residential electric service from the Respondent at 2845 South 65th Street, Philadelphia, PA.

¹ A tape recording of the hearing was made, no court reporter being present.

2. The Respondent is PECO Energy Company.

3. The Complainant first enrolled in PECO's customer assistance program on January 2, 1996. PECO Exh. 2.

4. The Complainant has been enrolled in PECO's CAP continuously since 1996 and is currently an active CAP customer.

5. As of the date of the hearing, the Complainant's account balance was \$1,460.32. PECO Exh. 1.

6. As of the date of the hearing, the Complainant's entire account balance consisted of CAP arrearages.

7. The Complainant has filed eleven previous informal complaints with the Commission; each time termination has been delayed. PECO Exh. 4.

DISCUSSION

In her formal Complaint, Ms. Maxwell alleged that the utility was threatening to shut off her service and requested that the Commission order a payment arrangement.

As the party seeking affirmative relief from the Commission, the Complainant bears the burden of proving by substantial evidence that she is entitled to the requested relief. 66 Pa.C.S. § 332(a). To satisfy this burden, the Complainant must show that the named utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Telephone Co. of Pa.*, 72 Pa. PUC 196 (1990); *Feinstein v. Philadelphia Suburban Water Co.*, 50 Pa. PUC 300 (1976). This must be shown by a preponderance of the evidence, that is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa.

Cmwlth. 1990), *alloc. den.*, 602 A.2d 863 (Pa. 1992); *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 Transportation 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. Unemployment Compensation Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Dep't. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

The Responsible Utility Customer Protection Act, 66 Pa. C.S. § 1401, *et seq.* (Chapter 14) applies to complaints alleging inability to pay and requests for Commission-issued payment arrangements. This law provides strict guidelines that the Commission must follow in handling customer complaints.

The Commission has no authority to establish payment arrangements on amounts subject to customer assistance program rates. Chapter 14 provides as follows:

- (c) Customer Assistance Programs. – Customer assistance program rates shall be timely paid and shall not be the subject of payment arrangements negotiated or approved by the commission.

66 Pa.C.S. § 1405(c).

The Complainant first enrolled in PECO's Customer Assistance Program (CAP) in 1996 and has been continuously enrolled since that time. PECO Exh. 2. The Complainant is currently an active CAP customer and has received and continues to receive a monthly discount on her utility charges. PECO Exh. 2.

As of the date of the hearing, the Complainant's account balance was \$1,460.32. PECO Exh. 1. As of the date of the hearing, the Complainant's entire account balance consisted

of CAP arrearages. The Commission cannot order a payment arrangement on this balance; it must be timely paid, pursuant to 66 Pa.C.S. § 1405(c).

However she manages her household budget, the Complainant will have to pay the Respondent for the electric service she consumes. By law a public utility is entitled to receive payment for the service it provides. *Scaccia v. West Penn Power Co.*, 55 Pa. PUC 637 (1982); 66 Pa.C.S. § 1303. Otherwise, customers' unpaid bills are included in the utility's uncollectible expense and ultimately paid by the remaining ratepayers. Cf., *Bolt v. Duquesne Light Co.*, 66 Pa. PUC 463 (1988); *Thomas P. O'Toole v. Bell Telephone Co. of Pa.*, Docket Number C-00923964, (Final Order entered August 20, 1992).

I note that although this is the first formal Complaint filed by Ms. Maxwell requesting a payment arrangement, she has filed eleven previous informal complaints with the Commission. She has also used six medical certificates to prevent termination of her service. PECO Exh. 3. Each time she filed a complaint or presented a medical certificate, termination of her service was delayed. Ms. Maxwell is cautioned that the Commission will prohibit a complainant from filing further complaints with the Commission if the Commission's administrative processes are used repeatedly to delay termination of service. *Robert Vaughan v. Metropolitan Edison Company*, Docket No. C-2013-2381582 (Final Order entered May 28, 2014).

For the reasons set forth above, the Complaint is dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S. § 701.
2. The Complainant has the burden of proof. 66 Pa.C.S. § 332(a).

3. The Responsible Utility Customer Protection Act, 66 Pa.C.S. § 1401, *et seq.*, applies to this proceeding.

4. Customer assistance program rates shall be timely paid and shall not be the subject of payment arrangements negotiated or approved by the commission. 66 Pa.C.S. § 1405(c).

5. The Complainant has not sustained her burden of proof that a payment arrangement may be established by Commission order on her behalf.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Stephanie Maxwell against PECO Energy Company at Docket No. C-2016-2549369 is dismissed.

2. That the Secretary mark this docket closed.

Date: September 14, 2016

_____/s/
Rebecca Waldemar
Special Agent