

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Vidya Lerio

v.

UGI Utilities, Inc.

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C-2016-2557167

INITIAL DECISION

Before
Dennis J. Buckley
Administrative Law Judge
Sitting as Special Agent

This Initial Decision dismisses the Complaint filed by Vidya Lerio (Complainant) against UGI Utilities, Inc. (UGI) which requested a payment arrangement on Customer Assistance Program (CAP) arrearages and non-termination of natural gas service. Pursuant to the provisions of the Public Utility Code, 66 Pa. C.S. § 1405(c), CAP arrears may not be the subject of payment arrangements negotiated or approved by the Commission.

HISTORY OF PROCEEDING

On July 19, 2016, Complainant filed a formal Complaint against UGI asking that the Commission order a payment arrangement and that UGI be directed not to terminate Complainant's natural gas service.

On August 5, 2016, UGI filed an Answer to the Complaint contending that as the arrearage at issue is composed of CAP arrearages, the account may not be the subject of payment arrangements negotiated or approved by the Commission. 66 Pa. C.S. § 1405(c)

On September 6, 2016, Special Agent Tiffany L. Tran issued a standard form Prehearing Order in which it was specifically stated that the parties were to serve proposed exhibits upon one another and the presiding officer within five days of the hearing.

On August 31, 2016, a Hearing Notice was issued by the Office of Administrative Law Judge (OALJ) scheduling staff setting September 28, 2016 as the date for a telephonic hearing in this case. Counsel for UGI served proposed exhibits on September 19, 2016. Complainant did not serve any proposed exhibits.

On September 27, 2016, Special Agent Tran was ill, and this case was re-assigned to me to hear as a Special Agent.

On September 28, 2016, Complainant called the OALJ approximately 30 minutes before the time of the hearing to request a continuance due to a scheduling conflict between this case and a case to be heard before a District Magistrate's court. Counsel for UGI objected to the requested continuance as untimely. I granted a continuance until 2:00 p.m. on September 28, 2016.

A telephonic hearing in this case convened at 2:00 p.m. on September 28, 2016, originating from the office of the Commission in Harrisburg, Pennsylvania.¹ Complainant was present and offered testimony and five exhibits: Exhibit C-1, A shut-off notice from UGI dated June 15, 2016; Exhibit C-2, a shut-off notice from UGI dated July 6, 2016; Exhibit C-3, a memorandum from Coordinated Health dated June 6, 2016, stating that Complainant's son has known asthma and allergies and is being treated; Exhibit C-4, a Low Income Heating Assistance Program (LIHEAP) grant letter dated January 30, 2016 from the Pennsylvania Department of Human Services; and Exhibit C-5, a screen shot of a payment to UGI in the amount of \$50.00 dated June 20, 2016. Counsel for UGI presented the testimony of Amy Wynn, a Compliance Specialist employed by UGI, and three exhibits: Exhibit R-1, a UGI Statement of Account; Exhibit R-2, a CAP Summary; and, Exhibit R-3, a screen shot of the determination of the Commission's Bureau of Consumer Services (BCS) at Case No. 3455895. Respondent's

¹ A tape recording of this hearing was made. No court reporter was present.

exhibits were entered into the record. Complainant's Exhibits C-1, C-2 were not admitted into the record as UGI's witness testified to the facts asserted therein. Complainant's Exhibits C- 4 and C-5 were not admitted into the record as they were not relevant to the issue in the case. Complainant's Exhibit C-3 is a document that Complainant testified at length with respect to, and while counsel for UGI objected to the admission of the exhibit as proof of the existence of a medical certification, there was no objection to Complainant's underlying testimony; therefore, the document was admitted into the record.

The record closed upon receipt of the Complainant's proposed exhibits by the Presiding Officer at 3:40 p.m. on the day of the hearing.

This matter is now ready for decision.

FINDINGS OF FACT

1. Vidya Lerio is the Complainant in this case, residing at 852 Egge Street, Allentown, Pennsylvania, the service address referenced in the Complaint.
2. UGI Utilities, Inc., is a Commission jurisdictional natural gas supplier that provides natural gas service to the Complainant.
3. Complainant is enrolled in UGI's Customer Assistance Program (CAP).
4. The arrearages at issue in this case are composed of CAP arrearages.
5. Complainant has not provided UGI with an appropriate medical certification that requires the continuation of utility services.

DISCUSSION

In this case, Complainant filed a Complaint with the Commission seeking a revised payment arrangement and non-termination of her natural gas service. At the evidentiary hearing, Complainant raised for the first time the issue of a purported medical certification dated June 6, 2016, relative to her son, whom she stated suffers from allergies and asthma.² UGI conceded that they had been made aware of the issue when, on July 6, 2016, a technician sent to disconnect service was told of the claimed medical issue by Complainant. UGI thereupon gave Complainant three days in which to file a medical certification.

According to the credible testimony of UGI's Compliance Specialist, Ms. Wynn, no such certification was ever received.

Even if the purported certification was received, it does not comply with the Commission's regulatory requirements:

§ 56.353. Medical certifications.

Certifications initially may be written or oral, subject to the right of the utility to verify the certification by calling the physician or nurse practitioner or to require written verification within 7 days. Certifications, whether written or oral, must include the following:

- (1) The name and address of the customer or applicant in whose name the account is registered.
- (2) The name and address of the afflicted person and the relationship to the customer or applicant.
- (3) The nature and anticipated length of the affliction.
- (4) The specific reason for which the service is required.
- (5) The name, office address and telephone number of the certifying physician or nurse practitioner.

² I note that Complainant did not serve counsel for UGI nor the presiding officer with a copy of this document before the hearing as required by the Prehearing Order. Complainant did, however, provide copies by e-mail to counsel during the hearing and to the presiding officer immediately thereafter.

In reviewing the purported certification (Exhibit C-3), I note that the sole sentence in that document states that her son has known asthma and allergies and is being actively treated. Even if UGI had received this document, which it has not according to the credible testimony of UGI's witness, Ms. Wynn, the document makes no connection whatsoever between the necessity of continued natural gas service and the condition of Complainant's son. Indeed, the document states only the existence of the conditions without indicating their severity.

Complainant has requested what UGI characterized as a "payment arrangement on a payment arrangement," asking that the utility accept Complainant's proposed payment plan which would modify the terms of the UGI CAP. UGI has declined to accept that modification. UGI contends that as the money owed in this case consists entirely of CAP arrearages, the Commission is prohibited by law from ordering or approving a payment arrangement. UGI is correct:

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.C. § 1405(c).

As the Complainant has not established that UGI violated any provisions of the Public Utility Code or the regulations of the Commission, and as the Commission is precluded by statute from ordering or approving a payment plan in this case, the Complaint must be dismissed, and the request for "non-termination," is denied.

CONCLUSIONS OF LAW

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

2. Pursuant to 66 Pa. C.S. § 332(a), the burden of proof in this proceeding is on the Complainant.

