

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jameeah Cherry	:	
	:	
v.	:	C-2016-2565271
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Rebecca Waldemar
Special Agent

INTRODUCTION

The Complainant filed a formal Complaint requesting an affordable payment arrangement. This decision grants the request and sets a payment arrangement requiring the balance to be repaid over a period of sixty months.

HISTORY OF THE PROCEEDING

On September 6, 2016, Jameeah Cherry (Complainant) filed a formal Complaint with the Pennsylvania Public Utility Commission against Philadelphia Gas Works (PGW or Respondent) alleging that PGW had threatened to terminate her service and requesting a payment arrangement. She further requested that termination of her service be stopped and stated that she had been told she does not qualify for Respondent’s Customer Assistance Program (CAP). On September 26, 2016, PGW filed an Answer to the Complaint. In its Answer, PGW admitted the allegations in the Complaint but averred that the Complainant had defaulted on a payment arrangement set by the Commission’s Bureau of Consumer Services

(BCS) in November 2015. PGW also stated that Ms. Cherry was not placed in CAP because it was not advantageous for her.

A Telephone Hearing Notice dated October 13, 2016, advised the parties that an initial telephonic hearing was scheduled for Wednesday November 16, 2016, at 10:00 a.m. The case was assigned to me, pursuant to 52 Pa. Code § 56.174. A Prehearing Order dated October 21, 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 Ms. Cherry appeared *pro se* and testified on her own behalf. Laureto Farninas, Esq., counsel for Respondent, presented the testimony of one witness, Adrian Crawford, a customer review officer for PGW, who sponsored four exhibits. All exhibits were admitted into the record. The record closed on November 16, 2016 at the conclusion of the hearing.

FINDINGS OF FACT

1. The Complainant is Jameeah Cherry, who receives natural gas utility service from the Respondent at 960 S. 4th Street, Philadelphia, Pennsylvania.
2. The Respondent is Philadelphia Gas Works.
3. The Complainant's household consists of herself and three minor children.
4. The Complainant receives \$216 per month from child support and \$557 in food stamps per month.
5. The monthly household income is \$773.
6. As of the date of the hearing, the Complainant's past due account balance was \$3104.81.

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

7. The Complainant was issued a payment arrangement by BCS on August 20, 2015.
8. The Complainant defaulted on that payment arrangement.
9. Ms. Cherry has experienced a decrease in her household income since the August 2015 payment arrangement was set.

DISCUSSION

In her formal Complaint and at the hearing, Ms. Cherry requested 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. Public Utility Comm.*, 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. Public Utility Comm.*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Public Utility Comm.*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa. C.S.A. § 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. Public Utility Comm.*, 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 agreements. This law authorizes the Commission to establish payment arrangements between a public utility and its customers within prescribed limits that the Commission must follow. 66 Pa.C.S. § 1405(a). Absent a change in income, the Commission cannot establish a subsequent payment arrangement if a customer has defaulted on a prior payment arrangement. 66 Pa. C.S. § 1405(d). A change of income is defined as a decrease in household income of 20% or more if the customer's household income level exceeds 200% of the federal poverty level or a decrease in household income of 10% or more if the customer's household income level is 200% or less of the Federal poverty level. 66 Pa. C.S. § 1403.

During the hearing, Respondent submitted testimony and account records establishing that the Commission had previously established a payment arrangement on the Complainant's behalf in August 2015 and she defaulted on that payment arrangement.² PGW also explained that its CAP was not beneficial for the Complainant. In turn, the Complainant presented evidence that her household income has decreased since the date of the BCS decision. The Complainant testified that she lives at the service address with her three minor children and her income consists of \$216 per month from child support and \$557 in food stamps for a total income of \$773 per month. This income places Ms. Cherry's household income far below 200% of the federal poverty level.³ Ms. Cherry's income at the time BCS set the payment arrangement was \$1545.92 per month.⁴ She has experienced a 50% reduction in her income and the Commission is authorized to establish a subsequent payment arrangement on her behalf.

While respondent presented evidence to show that Ms. Cherry had a poor payment history, see PGW Exh. 2, the provisions in Chapter 14 are there to assist customers who are payment troubled due to difficult financial circumstances; such as the Complainant's drastic drop in income. I will therefore establish a payment arrangement.

² BCS Case # 3343819.

³ For a household of four, 200% of the federal poverty level is \$4050 per month. See <https://aspe.hhs.gov/poverty-guidelines>.

⁴ I take judicial notice of the Commission's records.

The maximum length of time to resolve an unpaid balance that the Commission is authorized to allow depends upon the Complainant's gross monthly household income as follows: (1) Five years for customers with an income not exceeding 150% of the federal poverty level; (2) three years for customers with an income exceeding 150% of the federal poverty level but not by more than 250%; (3) one year for customers with an income exceeding 250% of the federal poverty level but not by more than 300%; and (4) six months for customers with an income exceeding 300% of the federal poverty level. 66 Pa.C.S. § 1405(b).

Ms. Cherry is a level one customer consistent with Chapter 14 and I will set a payment arrangement accordingly. The Complainant testified that her household consists of herself and three minor children. Her monthly gross household income is \$773 per month. For a household of four, her monthly household income falls below 100% of the federal poverty level which makes her a level one income customer under Chapter 14. Consequently, she will be given a payment arrangement allowing sixty months to reconcile her past due balance. 66 Pa.C.S. § 1405(b)(1).

I note that it is possible that the Complainant's income dropped or other circumstances may have changed after she applied for CAP. PGW is encouraged to reexamine if CAP would now be beneficial for her.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa. C.S.A. § 701.
2. The Complainant had the burden of proof. 66 Pa. C.S.A. § 332(a).
3. The Responsible Utility Customer Protection Act, 66 Pa. C.S.A. §§ 1401, *et seq.*, applies to this proceeding.
4. The Commission is authorized to establish a payment arrangement between a public utility and a customer. 66 Pa. C.S. § 1405(a).

5. The Complainant has met her burden of proving that the Commission may grant her a payment arrangement allowing her sixty months to pay her past due balance.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Jameeah Cherry against Philadelphia Gas Works at Docket No. C-2016-2565271 is sustained.

2. That Jameeah Cherry's request for a payment arrangement is granted.

3. That Jameeah Cherry shall make monthly payments consisting of her current charges plus one 1/60th of the balance accrued on her account, beginning with the first billing due date following the entry of a final Commission Order in this case.

4. That as long as Jameeah Cherry keeps the payment schedule stated in this Order, Philadelphia Gas Works shall not suspend or terminate her utility service except for valid safety or emergency reasons or assess late payments or finance charges against her account.

5. That if Jameeah Cherry does not keep the payment schedule stated in this Order, Philadelphia Gas Works is authorized to suspend or terminate her utility service in accordance with the Commission's statute and regulations.

6. That the Secretary mark this docket closed.

Date: December 7, 2016

/s/
Rebecca Waldemar
Special Agent