

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Ellis Mapp	:	
	:	
v.	:	F-2016-2561179
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Darlene R. Davis Heep
Administrative Law Judge

After filing a Complaint with the Public Utility Commission’s Bureau of Consumer Services (BCS), BCS No. 3454324, Mr. Mapp was given a payment arrangement requiring a monthly payment of \$124 budget billing plus \$58 towards his outstanding balance for a total of \$182 per month. In the instant Complaint, which is an appeal of the BCS decision, Case No. 3454324, Mr. Mapp is not seeking a new payment arrangement calculation. He avers that he cannot pay the \$182 per month and instead would like a total payment of \$100 per month, including budget billing. A payment of \$100 per month is unavailable to the Complainant and therefore this decision denies and dismisses the Complaint.

HISTORY OF THE PROCEEDINGS

On August 8, 2016, Complainant, Mr. Ellis Mapp, filed a Complaint against Philadelphia Gas Works (PGW). In the Complaint, he avers that the \$182 per month payment to PGW required under the BCS-issued payment arrangement is too high and that he would like to pay \$100 per month to PGW.

PGW filed an Answer on August 31, 2016. PGW does not dispute that the BCS-issued payment arrangement requires that Mr. Mapp pay \$182 per month, but PGW requested that the Commission deny Mr. Mapp's request for relief.

On November 28, 2016, a hearing convened before Administrative Law Judge Cynthia Fordham as scheduled. Mr. Mapp appeared *pro se*. PGW was represented by Laureto A. Farinas, Esq. The parties reached a tentative settlement pending Mr. Mapp seeking public assistance for his outstanding bill, and the hearing was continued.

On January 17, 2017, Administrative Law Judge Fordham was informed that the settlement efforts were unsuccessful. A further hearing was set for February 28, 2017. The matter was transferred to the undersigned on February 16, 2017.

On the morning of the hearing, Mr. Mapp contacted the Office of the Administrative Law Judge in Philadelphia and stated that he could not attend the hearing. He agreed to participate by telephone. PGW appeared in person and was represented by Attorney Farinas, who presented four exhibits and the testimony of Patricia Bernard, PGW Customer Review Officer.

The parties were directed to send to one another copies of exhibits presented at the hearing. The parties were given ten days to file any responsive documents or statements. No responses were submitted.

All of PGW's exhibits were admitted. The record closed on March 15, 2017, upon receipt of the transcript.

FINDINGS OF FACT

1. Complainant is Ellis Mapp, a PGW residential gas customer at 5355 Webster Street, Philadelphia, Pennsylvania (service address).

2. Respondent is Philadelphia Gas Works, a gas utility under the jurisdiction of the Pennsylvania Public Utility Commission.

3. At the time of the hearing, PGW had not shut off Complainant's gas service. (Tr. 16-17).

4. Under a Budget Billing plan, each monthly bill will be the same amount based on the average usage during the previous 12-month period with adjustments up or down four times a year, depending on the customer's usage. (Tr. 26).

5. On June 28, 2016, Complainant filed an informal complaint with BCS seeking a payment arrangement, BCS Case No. 3454324. (PGW 4).

6. Complainant's PGW balance at the time that he filed the BCS complaint was \$3,269.58. (PGW 4).

7. On June 29, 2016, BCS awarded Complainant a payment arrangement. (PGW 4).

8. BCS awarded Mr. Mapp a Level 1 payment arrangement requiring monthly payments of \$124 Budget Billing, plus \$58 toward his arrearage, for a total of \$182 per month. (PGW 4).

9. Both at the time the BCS payment arrangement was awarded and at the time of the hearing, Complainant lived alone and had a monthly income of \$776 per month. (Tr. 16).

10. Complainant's balance at the time of the hearing was \$4,325.01. (PGW 2, Tr. 31).

11. At the time of the hearing, Mr. Mapp's monthly budget billing amount had increased from \$124 to \$145 per month due to gas usage for winter heating. (Tr. 31-32).

DISCUSSION

The Responsible Utility Customer Protection Act (Chapter 14) authorizes the Commission to establish payment arrangements between a public utility, customers and applicants within the limits established. 66 Pa.C.S. § 1405(a). It sets forth parameters that are to be used when awarding a payment arrangement. In pertinent part, it provides:

§ 1405. Payment arrangements.

(a) General rule.--The commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers. The commission is authorized to establish payment arrangements between a public utility, customers and applicants within the limits established by this chapter.

(b) Length of payment arrangements.--The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment arrangement that is investigated by the commission and is entered into by a public utility and a customer shall not extend beyond:

(1) Five years for customers with a gross monthly household income level not exceeding 150% of the Federal poverty level.

(2) Three years for customers with a gross monthly household income level exceeding 150% and not more than 250% of the Federal poverty level.

(3) One year for customers with a gross monthly household income level exceeding 250% of the Federal poverty level and not more than 300% of the Federal poverty level.

(4) Six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level.

66 Pa.C.S. § 1405.

Section 332(a) of the Public Utility Code, [66 Pa.C.S. § 332\(a\)](#), provides that the party seeking relief from the Commission has the burden of proof. Complainant seeks relief from the Commission, and, therefore, has the burden of proof in this proceeding.

“Burden of proof” means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 364 Pa. 54, 70 A.2d 854 (1950).

Any payment arrangement issued by the Commission must be authorized by Chapter 14. BCS issued a monthly payment arrangement of \$182 per month. Review of that decision by BCS is *de novo*. 52 Pa.Code § 56.403(a). Complainant cannot receive the \$100 per month payment arrangement that he seeks under Chapter 14 limits.

At the time that he was awarded a payment arrangement, Mr. Mapp was eligible for a Level 1 payment arrangement given his income and the one person household. Under a Level 1 payment arrangement, a customer is given 60 months to pay the outstanding balance. § 1405(b)(1). This payment would be in addition to monthly usage or monthly budget billing.

On a balance of \$3,269.58, BCS awarded Mr. Mapp a Level 1 payment arrangement requiring a monthly payment of \$124 Budget Billing plus \$58 or a total of \$182 per month. If the payment arrangement is awarded to the Complainant based on the record here, he would be required to pay more than the \$100 per month that he seeks and more than the \$182 per month that he was awarded by BCS.

Under Chapter 14, Complainant’s current income and number of persons in his household are considered. Based on his gross income and the number of people in his household, BCS correctly found that Complainant is a Level 1 income customer.¹ This has not changed. Level 1 is the lowest payment level allowed under Chapter 14. 66 Pa.C.S. § 1405(b). However, since the BCS issued a monthly payment arrangement of \$182 per month, Complainant’s balance has increased from \$3,269.58 to \$4,325.01. Consequently, Chapter 14 would require that Mr. Mapp pay \$72 per month on his current balance over 60 months ($\$4,325.01 \div 60$ months). See § 1405(b)(1). This is more than the \$58 per month that he was required to pay on his lower balance under the terms of the BCS awarded payment arrangement.

¹ The federal poverty level for a household of 1 is \$1,005 per month. Mr. Mapp has an income of \$776 per month.

In addition, at the time of the hearing, Complainant's usage had increased his budget billing amount to \$145. Budget billing plus a Level 1 payment of his balance would require a total payment of \$217 per month under the limits of Chapter 14, 66 Pa.C.S. § 1405. Given this, and the strict limits of Chapter 14, there is no basis upon which to award Mr. Mapp a payment arrangement requiring a payment of only \$100.00 per month.²

CONCLUSIONS OF LAW

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

2. Under the limits of Chapter 14, Complainant cannot be awarded a \$100 per month payment arrangement. 66 Pa.C.S. § 1405.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Ellis Mapp against PECO Energy Company at Docket No. F-2016-2576132 is denied and dismissed.

² It is anticipated that Mr. Mapp's budget billing amount, and, consequently, his monthly bills, will decrease over the spring, summer and early fall. While his monthly winter bills can range from between \$150 to over \$200 per month, his monthly bills during the rest of the year have been as low as \$34. Also, there was no evidence introduced that Mr. Mapp is enrolled in a program that requires budget billing. Mr. Mapp is encouraged to meet with PGW representatives to discuss his possible removal from the budget billing program and whether that would significantly reduce his monthly bills for a significant portion of the year.

2. That the Secretary mark this docket closed.

Date: April 11, 2017

/s/
Darlene R. Davis Heep
Administrative Law Judge