

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Viola Dallas	:	
	:	
v.	:	C-2017-2598537
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Darlene Davis Heep
Administrative Law Judge

This decision finds that the Complainant is not eligible for a second payment arrangement because she defaulted on a previous Commission-issued payment arrangement. Moreover, the Complainant is not eligible for reinstatement of the previous Commission-issued payment arrangement because she has not had a significant change in circumstances. Complainant is also not entitled to a payment arrangement because she has a poor payment history.

HISTORY OF THE PROCEEDING

On April 11, 2017, Viola Dallas (Complainant or Ms. Dallas) filed a formal Complaint against Philadelphia Gas Works (Respondent or PGW). In the Complaint, Ms. Dallas states that PGW is threatening to shut off her service or has shut it off and that she would like a payment arrangement.

On April 28, 2017, Respondent filed an Answer denying the material allegations of the Complaint. PGW also stated in the Answer that the Complainant was in the Customer Responsibility Program, or CRP, until December 18, 2013 when she was suspended from the

program with a balance of \$1,745.65. PGW also states that the company terminated the Complainant's gas service on April 3, 2017 for non-payment.

A Hearing Notice dated April 28, 2017 advised the parties that an initial hearing was scheduled for Thursday June 22, 2017, at 10:00 a.m. A Prehearing Order was issued on May 24, 2017, reminding the parties of the date and time of the scheduled hearing and informing them of the procedures applicable to this proceeding.

The initial hearing convened as scheduled. Ms. Dallas appeared *pro se* and testified in support of her Complaint. Laureto Farinas, Esq. represented the Respondent, and presented the testimony of Marie Charles, a Customer Review Officer at PGW. The Respondent presented four exhibits, all of which were admitted into the record.

The record in this matter closed on July 20, 2017 upon receipt of the transcript.

FINDINGS OF FACT

1. The Complainant is Viola Dallas, who is a PGW customer at 3805 Wyalusing Avenue, Philadelphia, PA (Service Address). (Tr. 6; PGW 4)
2. The Respondent is Philadelphia Gas Works.
3. The Commission's BCS previously issued Complainant a Level 1 payment arrangement on June 5, 2014. (Tr. 25; PGW 2, p. 9; PGW 2, p.1; PGW 4).
4. The Complainant did not make the payments as required by the payment arrangement. (Tr. 25; PGW 2, p. 9; PGW 2, p.1; PGW 4).
5. On September 20, 2016, the Complainant filed an informal complaint with the Commission's Bureau of Consumer Services, BCS # 3478201, seeking a payment arrangement. (PGW 1, p. 4).

6. In that informal complaint, the Complainant reported a household of three persons with income of \$1,400 per month. (PGW 1, p.4).

7. On September 20, 2016, BCS issued to the Complainant a Level 1 payment arrangement that required that she pay \$66 budget billing plus \$84 toward the arrears for a total of \$150 per month. (PGW 1. P. 4).

8. Complainant made no payments to PGW after she was awarded the payment arrangement on September 20, 2016. (PGW 4, Tr. 11).

9. On April 3, 2017, PGW shut off the Complainant's service for failure to pay her bill or comply with the terms of the payment arrangement. (PGW 1, p. 3).

10. Complainant's balance on April 3, 2017 was \$5,576.82. (PGW 1, p. 3).

11. On April 4, 2017, the Complainant called PGW to ask what was needed to restore her service and reported her household as three persons with income of \$2,156 per month. (PGW 1, p. 3).

12. On April 4, 2017, the Complainant filed another informal complaint with BCS, # 3509995, where she reported a household of three and monthly income of \$4,100; BCS dismissed that informal complaint. (PGW 1. P. 3; PGW 3).

13. The Complainant was aware of the terms of the September 20, 2016 payment arrangement and received PGW bills monthly. (Tr. 7, 16).

14. The Complainant made one payment to PGW in 2014, no payments to PGW in 2015, and one payment to PGW in 2016. (PGW 4, Tr. 27).

15. At the time of the hearing, Complainant had a household of three with income of \$2,400 per month. (Tr. 10).

16. At the time of the hearing, the Complainant's outstanding balance was \$5,703.54. (Tr. 28).

DISCUSSION

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Public Utility Code (Code), 66 Pa.C.S.A. § 332(a). Here, the burden is upon Ms. Dallas to show that she is entitled to a payment arrangement or reinstatement of the previous Commission-issued payment arrangement.

In her Complaint, Ms. Dallas stated that PGW was threatening to turn off her service or had turned it off and that she was seeking a payment arrangement. Ms. Dallas clarified during the hearing that she was only seeking reinstatement of the payment arrangement issued by BCS that required payments of \$150 per month. (Tr. 7). As the law stands, the Complainant is not eligible for another payment arrangement or reinstatement.

The Responsible Utility Customer Protection Act (Chapter 14) authorizes the Commission to establish payment arrangements between a public utility, customers and applicants, within limits. 66 Pa.C.S. § 1405(a). Chapter 14 provides in pertinent part as follows:

(d) Number of Payment Arrangements. Absent a change in income, the commission shall not establish or order a public utility to establish a second or subsequent payment arrangement if a customer has defaulted on a previous payment arrangement. A public utility may, at its discretion, enter into a second or subsequent payment arrangement with a customer.

(e) Extension of Payment Arrangements. If the customer defaults on a payment arrangement established under subsections (a) and (b) as a result of a significant change in circumstance, the commission may reinstate the payment arrangement and extend the remaining term for an initial period of six months. The initial extension period may be extended for an additional six months for good cause shown.

(f) Failure to Comply with Payment Arrangement. Failure of a customer to comply with the terms of a payment arrangement shall be grounds for a public

utility to terminate the customer's service. Pending the outcome of a complaint filed with the commission, a customer shall be obligated to pay that portion of the bill which is not in dispute and subsequent bills which are not in dispute.

66 Pa.C.S. § 1405(d), (e), (f).

The Complainant asserted during the hearing that she did not pay in accordance with the September 2016 BCS-issued payment arrangement because she was waiting for a written confirmation of the payment arrangement. (Tr. 8-17). The crux of her position is that she did not default on the payment arrangement because she did not know that she had to pay.

That position is implausible given that she knew the terms of the arrangement and received six monthly bills from PGW from October 2016 through March 2017, before she was terminated by PGW, and made no payments of any kind. She did not contact PGW until her service was terminated in April of 2017. (Tr. 7-16). Also, on some unspecified date, the Complainant called the Commission to inquire about the payment arrangement and was told by Commission personnel that a document had been sent to her. (Tr.17). There is no indication that she requested additional documentation or did not understand the terms of the arrangement.

Additionally, the PGW record of her contacts with and calls to PGW do not reflect that she questioned whether or when the payment arrangement was to begin and she did not dispute any PGW bills that she received after the payment arrangement was issued. (PGW 1). Complainant's defense is not supported and the record leads to a finding that she defaulted on the payment arrangement issued by BCS in September of 2016.

Where a customer defaults on a payment arrangement, under § 1405(d), a customer is eligible for another payment arrangement only when there is a decrease in income. At the time that she received the BCS payment arrangement in September of 2016, the Complainant reported an income of \$1400 per month in a household of three. (PGW 1, p.4). During the hearing on June 22, 2017, the Complainant reported an income of \$2400 per month for a household of three, an increase in income. (Tr. 10). Therefore, the Complainant is not eligible for another payment arrangement under Section 1405(d).

Reinstatement of the September 2016 BCS-issued payment arrangement is also not available to the Complainant. Section 1405(e) provides that a payment arrangement may be reinstated where there is a significant change in circumstance. A "Significant change in circumstance" is defined in 66 Pa.C.S. § 1403 as follows:

"Significant change in circumstance." Any of the following criteria when verified by the public utility and experienced by customers with household income less than 300% of the Federal poverty level:

- (1) The onset of a chronic or acute illness resulting in a significant loss in the customer's household income;
- (2) Catastrophic damage to the customer's residence resulting in a significant net cost to the customer's household;
- (3) Loss of the customer's residence; and
- (4) Increase in the customer's number of dependents in the household.

Complainant presented no evidence at the hearing of a significant change in circumstances as required under Section 1405(e) as defined in Section 1403. Therefore, she is not eligible for reinstatement of the payment arrangement.

If even one were to accept the Complainant's contention that she did not pay because she did not receive written notice of the BCS-issued payment arrangement, the Complainant's poor payment history precludes awarding another payment arrangement. Complainant has not made a good faith effort to pay her PGW bills.

In *Crawford v. National Fuel Gas Distribution Corp.*, Docket No. C-20066348 (entered December 6, 2007) the Commission explained that the authority to award a payment arrangement under 66 Pa.C.S. § 1405(a) of the Code is discretionary. The Commission stated that it:

. . .has a responsibility to exercise its authority very judiciously when a utility has lawfully terminated a customer for non-payment. Specifically, this Commission should exercise discretion only on behalf of customers who have demonstrated some evidence of good faith efforts to pay their utility bills, or who have experienced a significant change of circumstance outside of their control.

Crawford, at 15-16.

There was no evidence of good faith efforts by the Complainant to pay her PGW bills. To the contrary, at the time of the hearing, the Complainant had an outstanding balance of over \$5,000. The record evidence also showed that since 2014, the Complainant has made approximately three payments to PGW. (PGW 4, Tr. 27). The Complainant made no payments between the time that she was awarded the payment arrangement in September of 2016 and when her service was terminated in April of 2017. (PGW 4). Additionally, Complainant did not comply with a payment arrangement issued by the Commission's BCS in 2014. (PGW 1, PGW 4). Given that account history, extending a payment arrangement to the Complainant would not be a judicious use of the Commission's authority and therefore a payment arrangement will not be awarded.

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 had the burden of proof. 66 Pa.C.S. § 332(a).
3. The Commission is authorized to establish payment arrangements between a public utility, customers and applicants within the limits established in Chapter 14 of the Pennsylvania Public Utility Code. 66 Pa.C.S. § 1405.
4. Complaint defaulted on a previous Commission-issued payment arrangement and is not eligible for a second payment arrangement under 66 Pa.C.S. § 1405(d).

5. Complainant did not have a significant change of circumstances and therefore is not eligible for reinstatement of the BCS-issued payment arrangement. 66 Pa.C.S. § 1405(e); 66 Pa.C.S. § 1403.

6. The authority of the Commission to award a payment arrangement under 66 Pa.C.S. § 1405(a) of the Code is discretionary. *Crawford v. National Fuel Gas Distribution Corp.*, Docket No. C-20066348 (entered December 6, 2007)

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Viola Davis against Philadelphia Gas Works at Docket No. C-2017-2598537 is denied.

2. That the Secretary mark this docket closed.

Date: October 13, 2017

/s/
Darlene Davis Heep
Administrative Law Judge