

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Patricia Thomas	:	
	:	
v.	:	C-2017-2598408
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Christopher P. Pell  
Deputy Chief Administrative Law Judge

**INTRODUCTION**

The Complainant filed an untimely appeal of a decision of the Commission’s Bureau of Consumer Services (BCS) that granted her a 6-month payment arrangement. The Complainant seeks a reduction of the amount she is to pay monthly towards her arrears. This Initial Decision denies the Complainant’s request for a change to her Commission-issued payment arrangement.

**HISTORY OF THE PROCEEDING**

On April 5, 2017, Patricia Thomas (Complainant) filed a formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant placed a checkmark in the box indicating that she would like a payment agreement. Under the “requested relief” section, the Complainant requested a more realistic payment agreement.

The Complaint is an untimely appeal of a BCS decision, dated January 13, 2017, at BCS Case No. 3499105, that granted the Complainant a 6-month payment agreement requiring her to pay a budget bill of \$107 plus \$1,319 towards her arrears.

On May 1, 2017, Respondent filed an Answer indicating that the Complainant established service at 6130 Vandike Street, Philadelphia, PA (service address) on July 27, 2009, and that PGW terminated her service for non-payment on May 15, 2014. Respondent further indicated that the Commission's BCS granted the Complainant a payment arrangement on January 13, 2017. PGW requested that the Complaint be dismissed.

By Hearing Notice dated May 8, 2017, a hearing was scheduled for July 25, 2017 at 10:00 a.m., and the matter was assigned to me.

I issued a Prehearing Order on May 16, 2017. The Prehearing Order directed the parties to comply with various procedural requirements and explained that the Complainant bears the burden of proof to establish that the Respondent violated its tariff, the Public Utility Code, or a Commission Order or regulation, and that she is entitled to the relief requested in the Complaint.

The hearing convened as scheduled on July 25, 2017. Complainant appeared *pro se* and testified. Complainant offered one exhibit which was admitted into the record. Respondent appeared and was represented by Graciela Christlieb, Esq., who presented the testimony of Jessica Glace, a Senior Customer Review Officer. Respondent offered three exhibits (PGW Exhs. 1, 2, and 3) which were all admitted into evidence.

The record in this case consists of a 34-page transcript and four exhibits. The record closed on August 21, 2017, when I received the transcript of the hearing.

#### FINDINGS OF FACT

1. The Complainant in this case is Patricia Thomas.
2. The Respondent in this proceeding is Philadelphia Gas Works.
3. On May 15, 2014, PGW terminated the Complainant's service for non-payment. Tr. 22.

4. On January 11, 2017, the Complainant filed an informal complaint with the Commission's Bureau of Consumer Services (BCS) seeking terms for restoration of service and a payment agreement. Tr. 27-28; PGW Exh. 3.

5. At the time the Complainant contacted BCS, the Complainant indicated that she had gross monthly income of \$3,170 for a one-person household. Tr. 11, 28; PGW Exh. 3.

6. On January 13, 2017, BCS issued a decision indicating that the Complainant is a level 4 income customer, that she must make a down payment of \$1,549.23 to restore services, and granting a payment agreement requiring the Complainant to pay a budget bill of \$107 plus \$1,319 towards her arrears. Tr. 9-10; PGW Exh. 3.

7. The Complainant's household is still a one-person household. Tr. 11.

8. The Complainant's average gross monthly income is now \$3,268.  
Complainant Exh. 1.<sup>1</sup>

### DISCUSSION

The Public Utility Code, 66 Pa.C.S.A. § 332(a), places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S.A. § 332(a).

To establish a sufficient case and satisfy the burden of proof, Complainant must show that the respondent public utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Telephone Co. of Pa.*, 72 Pa.P.U.C. 196 (1990), *Feinstein v. Philadelphia Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990),

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<sup>1</sup> The Complainant submitted pay stubs for 4 bi-weekly pay-periods demonstrating that she earns an average gross-monthly income of \$3,267.62 ( $\$1,732.48 + \$1,604.33 + \$1,660.72 + \$1,537.70 = \$6,535.23/2 = \$3,267.62$  average gross monthly income).

alloc. den., 602 A.2d 863 (Pa. 1992). That is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (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*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 194 Pa.Super. 278, 166 A.2d 96 (1960); *Murphy v. Commonwealth, Dep't of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

In the present case, the Complainant indicated that she wants an affordable payment agreement. Complainant maintained that the payment terms issued by the Commission requiring her to make a monthly payment of \$1,319 towards her arrears is unrealistic in relation to her monthly income.

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

Regarding the length of payment arrangements, the Public Utility Code provides the following:

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(b).

The 2017 Federal Poverty Guidelines provide that a one-person household earning gross monthly income between \$3,015 but less than \$4,020 is between 300% and 400% of the federal poverty level. The Complainant submitted pay stubs for 4 bi-weekly pay-periods demonstrating that she earns an average gross-monthly income of \$3,267.62 ( $\$1,732.48 + \$1,604.33 + \$1,660.72 + \$1,537.70 = \$6,535.23/2 = \$3,267.62$  average gross monthly income). Complainant Exh. 1. Pursuant to the Federal Poverty Guidelines, the Complainant's gross monthly household income exceeds 300% of the Federal poverty level, making her a level 4 income customer eligible only for a 6-month payment arrangement under the Public Utility Code.

The Complainant was seeking a payment arrangement where she would be required to pay significantly less per month to satisfy her unpaid balance than what BCS originally determined in January 2017. However, pursuant to the Public Utility Code and the Complainant's gross monthly household income, the Complainant is a level 4 income customer. As a level 4 income customer, the Commission can only grant a 6-month payment arrangement for her to eliminate her unpaid balance. That is precisely the amount of time BCS gave the Complainant in its January decision on her informal complaint. Since I cannot authorize a longer term for the Complainant to eliminate her unpaid balance, and correspondingly, a reduced amount she must pay each month towards her arrearage, her Complaint must be denied.

## CONCLUSIONS OF LAW

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

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

3. 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.

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

5. Regarding the length of payment arrangements, the Public Utility Code provides that 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 six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level. 66 Pa.C.S. 1405(b)(4).

6. Complainant's arrearages are subject to a six-month Commission-ordered payment arrangement because Complainant's household income exceeds 300% of the Federal Poverty Level.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Patricia Thomas against Philadelphia Gas Works at Docket No. C-2017-2598408 is denied; and
2. That the Secretary's Bureau shall mark Docket No. C-2017-2598408 as closed.

Date: November 3, 2017

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/s/  
Christopher P. Pell  
Deputy Chief Administrative Law Judge