

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Janice Gibson	:	
	:	
v.	:	C-2017-2625375
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Elizabeth H. Barnes  
Administrative Law Judge

**INTRODUCTION**

A customer filed a complaint seeking reconnection of natural gas service from her utility and a payment arrangement. The complaint will be denied and dismissed because Complainant defaulted on several prior payment agreements when her income level was less than it is currently. Respondent is permitted to collect a reconnection fee and security deposit because Complainant previously received PGW’s service, which was terminated for nonpayment of an undisputed delinquent account.

**HISTORY OF THE PROCEEDING**

On September 19, 2017, Janice Gibson (Complainant) filed a complaint against Philadelphia Gas Works (Respondent or PGW) asserting that she is unable to pay the amount required to reconnect her natural gas service. Complainant requests that the Commission direct PGW to reconnect her service and order a payment arrangement she can afford.

The Respondent filed an answer to the complaint on October 11, 2017, requesting full payment of arrearage as well as a reconnection fee and a security deposit before Complainant's gas service is reconnected. Respondent avers Complainant has broken several prior payment arrangements, and does not deserve another one prior to reconnection of service.

By hearing notice dated November 7, 2017, the Commission scheduled a telephonic hearing for this matter on December 13, 2017 at 10:00 a.m., and assigned the case to me. I issued a prehearing order on November 8, 2017, and conducted the initial telephonic hearing as scheduled on December 13, 2017.

Complainant Janice Gibson presented testimony and sponsored no exhibits. Graciela Christlieb, Esquire represented the Respondent, which sponsored the testimony of one witness, Marie Charles, and three exhibits that I admitted into the record. The record closed on December 19, 2017, the day the transcript was filed. Based on the evidence presented at the hearing, the complaint will be dismissed for the following reasons.

#### FINDINGS OF FACT

1. The Complainant in this case is Janice Gibson, a resident at 3309 Brandywine Street, Philadelphia, PA, where gas service has been terminated since June 29, 2017. N.T. 9-10.
2. The Respondent in this case is Philadelphia Gas Works.
3. The Complainant has resided at 3309 Brandywine Street, Philadelphia, PA for at least 10 years. N.T. 9-11.
4. Complainant has had a difficult time staying employed and frequently worked in temporary positions. N.T. 10.

5. From December 2013 through October 2016, Complainant was either unemployed or temporarily employed as an accountant for an employment agency, Robert Half International. N.T. 15.

6. Since October 2016, Complainant has become a salaried employee for the Columbia Organization and earns an annual gross income of \$43,000, which is approximately \$3,583 per month. N.T. 11, 15-17, 23.

7. Complainant also recently obtained seasonal employment working 20 hours per week and earning approximately \$7.25 per hour. N.T. 13, 24.

8. Complainant lives with her 36-year-old son who is employed in retail sales for Nordstrom, earns a gross income of approximately \$10 per hour, and works 36 hours per week. N.T. 19-24.

9. Complainant does not receive any social assistance. N.T. 19.

10. Complainant's service property was damaged by lightning several years ago and she recently incurred costs in replacing her roof because it was leaking. N.T. 12, 26.

11. Complainant no longer has an active account with Respondent. Her gas service is currently terminated. N.T. 10-12. PGW Exhibit 1.

12. Complainant needs her kitchen ceiling repaired or replaced. N.T. 26.

13. Complainant uses a space heater in each room to stay warm. N.T. 26.

14. Marie Charles is a Customer Review Unit Officer for PGW. N.T. 28.

15. PGW is requiring Complainant pay her full balance owed on the account of \$4,500 plus a \$123.23 reconnection fee and \$146, which is 50% of the security deposit of \$292, for a total charge of \$4,769.23. N.T. 36-38. PGW Exhibits 1, 2 and 3.

16. On August 9, 2013, the Commission ordered a payment arrangement regarding an outstanding arrearage of \$2,316 at a time when two persons lived in the household and the household income was lower than it is currently. N.T. 33. PGW Exhibit 2.

17. From May 30, 2014 to June 16, 2015 Complainant was on PGW's Customer Responsibility Program, a customer assistance program. N.T. 34.

18. The customer was removed from the program because Complainant failed to timely re-certify and because she was income-ineligible for the program. N.T. 34-35.

19. Complainant broke the August 9, 2013 PUC Agreement 3121447 that was based on a Level 2 income. N.T. 34-35. PGW Exhibit 3.

20. Complainant is currently a Level 4 customer with household monthly income for 2 individuals greater than \$4,060. N.T. 34-35.

21. The Commission's Bureau of Consumer Services' (BCS) decision of August 10, 2017, denied Complainant a payment arrangement finding that she was not eligible because the household income level had increased from Level 2 to Level 3 with 2 persons living at the household. PGW Exhibit 3.

### DISCUSSION

The Complainant in this proceeding has the burden of proof to show that the Respondent is responsible or accountable for the problem described in the complaint. *Patterson v. Bell Telephone Co. of Pennsylvania*, 72 Pa. PUC 196 (1990), *Feinstein v. Philadelphia Suburban Water Co.*, 50 Pa. PUC 300 (1976). The Complainant must establish her case by a preponderance

of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Public Utility Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. den.*, 602 A.2d 863 (Pa. 1992). To meet her burden of proof, the Complainant must present evidence more convincing, by even the smallest amount, than that presented by the Respondent. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa.1950). In this case, the Complainant appeals the BCS decision and requests a more affordable payment arrangement. Therefore, Ms. Gibson has the burden of proof in this proceeding.

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. Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Bethenergy Mines, Inc. v. Workmen's Compensation Appeal Bd.*, 612 A.2d 434 (Pa. 1992). 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*, 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).

By law, a public utility is entitled to receive payment for the service it provides. *Scaccia v. West Penn Power Co.*, 55 Pa. PUC 637 (1982). *Kea v. Peoples Natural Gas Co.*, 60 Pa. PUC 215 (1985); *Mill v. Pa. Public Utility Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982) The Respondent has the right to bill and receive payment for the utility service supplied. 66 Pa.C.S. §1303. *Neal v. Philadelphia Gas Works*, Docket No. Z-00971874, (Order entered January 4, 2002); *Angie's Bar v. Duquesne Light Co.*, 72 Pa. PUC 213 (1990). All customers are obligated to pay for utility service. Otherwise, unpaid bills are included in the utility's uncollectible expenses, which all of its remaining customers must pay. *Bolt v. Duquesne Light Co.*, Docket No. Z-8712758 (Order entered April 8, 1988). A payment arrangement, which prevents service termination as long as the Complainant complies with it, is a privilege, not a right. *Mandell v. Duquesne Light Co.*, Docket No. C-20030234, (Order entered March 17, 2004.)

The Responsible Utility Customer Protection Act, 66 Pa. C.S. §§ 1401-1418 applies to this proceeding. The Commission has the authority to establish a payment arrangement pursuant to 66 Pa. C.S. §1405(a), within the strict guidelines set forth in 66 Pa. C.S. § 1405(b).

In the instant case the Complainant has already had multiple payment arrangements with Respondent and the latest Commission-ordered one established on August 9, 2013 was broken due to missed payments. PGW Exhibit 2 at 1. N.T. 32-35. Complainant has demonstrated historically an unwillingness to make timely payments on her payment arrangements. Complainant does not contest the accuracy of the Respondent's bills. Rather, Ms. Gibson is seeking an affordable payment arrangement to restore her service. She has no social assistance, and although she admits to a current household gross income of approximately \$4,060 per month for two individuals, she has expenses related to home repairs, insurance and mortgage payments, which allegedly prevent her from paying the requested balance for reconnection of natural gas service. She requests a more affordable payment arrangement to restore her service.

66 Pa. C.S. §1407 is controlling and it provides in pertinent part:

(a) **Fee.** –A public utility may require a reconnection fee based upon the public utility's cost as approved by the commission prior to reconnection of service following lawful termination of the service.

(c) **Payment to restore service.** –

(2) A public utility may require:

(i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal poverty level or has defaulted on two or more payment agreements.

66 Pa.C.S. §1407(a); (c)(1)(i).

In the instant case, Respondent is permitted to require a reconnection fee (\$123.23) and full payment of the outstanding balance before restoring service to Complainant because Complainant defaulted on several prior payment agreements, the most recent one from August 9, 2013, when her income level was less than it is currently. At the time the Commission ordered a payment arrangement on August 10, 2013, the household income level was at a gross monthly income of \$2,316 for two individuals. Now it is approximately \$4,060. N.T. 33. This amount is more than 300% of the Federal poverty level. Additionally, pursuant to 66 Pa.C.S. § 1404(a)(1), Respondent is entitled to collect a security deposit in an amount equal to one-sixth of the applicant's estimated annual bill (\$146) because Complainant has previously received PGW's service, which was terminated for nonpayment of an undisputed delinquent account. Therefore, Complainant has failed to satisfy her burden of proving she is entitled to a more favorable payment arrangement for reconnection of natural gas service.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa. C.S. §701.
2. Complainant has the burden of proof pursuant to 66 Pa. C.S. §332(a).
3. Complainant has not met her burden of proving that she is entitled to relief. 66 Pa. C.S. §332(a).
4. The Responsible Utility Customer Protection Act, 66 Pa. C.S. §1401-1418, applies to this proceeding.
5. The Commission is authorized to establish a payment arrangement between a public utility and a customer. 66 Pa. C.S. §1405(a).
6. Respondent is entitled to require a reconnection fee and full payment of the outstanding balance before restoring service to Complainant. 66 Pa.C.S. §1407(a), (c)(1)(i).

7. Respondent is entitled to collect a security deposit in an amount equal to one-sixth of the applicant's estimated annual bill because Complainant previously received PGW's service, which was terminated for nonpayment of an undisputed delinquent account. 66 Pa.C.S. § 1404(a)(1).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the complaint filed by Janice Gibson against Philadelphia Gas Works at Docket Number C-2017-2625375, is denied and dismissed.

2. That the record at Docket No. C-2017-2625375 is marked closed.

Date: January 3, 2018

\_\_\_\_\_/s/  
Elizabeth H. Barnes  
Administrative Law Judge