

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Khalilan Pittman	:	
	:	
v.	:	C-2017-2631658
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Darlene Davis Heep  
Administrative Law Judge

This decision awards the Complainant a payment arrangement.

**HISTORY OF THE PROCEEDING**

On October 30, 2017, Khalilan Pittman (Complainant or Ms. Pittman) filed a formal Complaint against Philadelphia Gas Works (Respondent or PGW). In the Complaint, Ms. Pittman states that PGW is threatening to shut off her service or has shut it off and that she would like a payment arrangement.

On November 20, 2017, Respondent filed an Answer stating that PGW issued a ten-day shut off notice on June 27, 2017, and shut off the Complainant's service on August 7, 2017.

A Hearing Notice dated December 11, 2017, advised the parties that a telephonic initial hearing was scheduled for February 9, 2018, at 10:00 a.m. A Prehearing Order was issued on December 15, 2017, reminding the parties of the date and time of the scheduled hearing and informing them of the procedures applicable to this proceeding.

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

The record in this matter closed on March 11, 2018, upon receipt of the transcript.

### FINDINGS OF FACT

1. The Complainant is Khalilan Pittman, a PGW customer at 1645 Wyncam Street, Philadelphia, PA 19138 (Service Address). (Tr. 4).
2. The Respondent is Philadelphia Gas Works.
3. At the time of the hearing, the Complainant had a balance with PGW of \$3,801.63. (PGW Exhibit 1; Tr. 26).
4. In the last 24 months, Ms. Pittman has made four payments to PGW. (Tr. 27).
5. Ms. Pittman made three payments in April of 2017: two payments of \$272 and one payment of \$152. (PGW Exhibit 1).
6. The Complainant made a payment of \$177 on June 21, 2017. (Tr. 26-27; Exhibit 1).
7. After making the \$177 payment, the Complainant received a shut-off notice. (PGW Exhibit 1).

8. After receiving the shut-off notice, the Complainant called PGW several times and was told by PGW personnel to call back because there was nothing in the system about her account. (Tr. 5-7).

9. PGW terminated the Complainant's gas service on August 7, 2017. (PGW Exhibit 3; Tr. 5).

10. The Complainant has been issued and defaulted upon PGW-issued payment arrangements. (PGW Exhibit 2).

11. The Complainant has not received a prior Commission-issued payment arrangement. (Tr. 44).

12. Prior to PGW issuing the Complainant a shut-off notice in 2017, the Complainant began to make efforts to catch up on and pay her PGW bill. (PGW Exhibit 1).

13. The Complainant has a five-person household, two adults and three kids, and a gross income of \$3,000 per month. (Tr. 7-8, 17).

### 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). The party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).

In her Complaint, Ms. Pittman stated that PGW was threatening to turn off her service or had turned it off and that she was seeking a payment arrangement. During the hearing, the Complainant clarified that her concern was receiving a payment arrangement and restoration of her service. (Tr. 7-9). PGW is seeking payment of the full balance before restoration of the

Complainant's service. (Tr. 35) Given the totality of the circumstances, however, the Complainant is eligible for, and will be awarded, a Commission-issued payment arrangement.

Title 66 Pa.C.S. § 1407 (c) provides that a utility *may* require full payment before restoration of service. However, 1407(c) does not “divest the Commission of its duty to act as the final arbiter of a utility consumer’s rights with respect to payment disputes.” Crawford v. National Fuel Gas Dist. Corp., Docket No. C-20066348 (Order entered December 6, 2007). The Commission retains “the authority under Section 1405 of the [Public Utility] Code to establish a payment agreement for a customer who was lawfully disconnected for nonpayment.” Rogito v. UGI Utilities, Inc., Docket No. F-02263457 (Order entered December 3, 2008).

While the Commission has the authority to establish a payment agreement when a utility has lawfully terminated a customer for nonpayment, the Commission exercises this authority very judiciously. The Commission has stated that it will not issue a payment agreement to a customer when the record demonstrates a lack of good faith effort on the part of the customer to pay her utility bills and there was no evidence that the customer experienced a significant change in circumstances which were outside of the customer’s control. Crawford at 15-16. The Complainant's payment history and good faith effort in meeting payment obligations should be considered, including the customer's inability or unwillingness to comply with payment arrangements established by the utility. See Getz v. Metropolitan Edison Company, Docket No. C-2014-2459964 (Final Order entered May 28, 2015), and Hewitt v. PECO Energy Company, Docket No. F-2011-2273271 (Order entered September 12, 2013).

While a perfunctory review of the Complainant's payment history may suggest an unwillingness to pay, a closer look supports a finding that the Complainant is now able, willing and sincerely interested in paying her PGW bill.

PGW presented testimony and records ostensibly to show that the Complainant had broken 24 payment arrangements with PGW. However, further review reveals that some of these were not payment arrangements but reinstatements of a payment arrangement. (Tr. 39-40; PGW Exhibit 1). Additionally, although the Complainant had a sparse payment record for the

years 2015-2016, the record shows that prior to shut off and prior to issuance of the termination notice on June 27, 2017, the Complainant made four payments, totaling approximately \$800 dollars. This supports a finding that at that time, she was attempting to make a good faith effort to pay her PGW bill.<sup>1</sup>

The Complainant testified, and PGW records confirm, that Ms. Tillman made a payment of \$177 on June 21, 2017. (PGW Exhibit 1). It was the Complainant's understanding that this payment would be in accordance with an agreement with the company. (Tr. 6-8). Subsequently, on June 27, 2017, she received a 10-day shut-off notice. The Complainant credibly testified, and PGW did not dispute, that when she received the shut-off notice, she called PGW on several occasions.

Ms. Pittman testified that when she called, she was told by PGW personnel that she was not in the system for shut off and that she should call back. She then continued to call for several days and was given the same response by PGW personnel. She then stated that after a while she forgot to call, and her service was shut off on August 7, 2017. (Tr. 5-9). Given this recent good faith effort beginning in the Spring of 2017, the confusion regarding the state of Complainant's bill and shut off, and the fact that the Complainant has not defaulted on a Commission payment arrangement, a Commission-issued payment arrangement will be awarded here.

Section 1405 of the Code, 66 Pa. C.S. § 1405, allows the Commission to establish a payment arrangement and provides, in pertinent part, as follows:

§ 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.

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<sup>1</sup> The Complainant, who is the sole source of household income, testified that prior to this time, her husband was in school and she had to address legal issues involving one of her children. (Tr. 18-20).

(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.

The federal poverty level for a family of five is \$2,452.<sup>2</sup> Complainant's monthly gross income of \$3,000 is less than \$3,678, which is 150 percent of the federal poverty level. Therefore, the Complainant may be awarded a five-year, or 60-month, payment arrangement. 66 Pa. C.S. § 1405(b)(1).

#### 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 Commission is authorized to establish payment agreements between a public utility, customers and applicants within the limits established. 66 Pa.C.S. § 1405(a).

3. The Complainant began to make a good faith effort to pay her PGW bill, and her payment history began to improve, in the Spring of 2017. See *Getz v. Metropolitan*

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<sup>2</sup> See <https://aspe.hhs.gov/poverty-guidelines>; <https://www.masslegalservices.org/content/federal-poverty-guidelines-2018>; <https://dch.georgia.gov/sites/dch.georgia.gov/files/2018%20Federal%20Poverty%20Guidelines.pdf>

*Edison Company*, Docket No. C-2014-2459964 (Final Order entered May 28, 2015), and *Hewitt v. PECO Energy Company*, Docket No. F-2011-2273271 (Order entered September 12, 2013).

4. Complainant is eligible for a payment arrangement. 66 Pa.C.S. § 1405(a); 66 Pa.C.S. § 1403; *Turner v. Philadelphia Gas Works*, C-2013-2388319 (Order Entered June 19, 2014).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Khalilan Pittman at Docket Number C-2017-2631658 is granted.
2. That the request of Khalilan Pittman at Docket Number C-2017-2631658 for a payment arrangement is granted.
3. That 30 days after the entry of a final Commission Order in this matter, Philadelphia Gas Works shall determine Complainant's balance and issue a bill to the Complainant in the amount of 1/60th of the outstanding balance.
4. That upon receipt of payment by Khalilan Pittman of 1/60th of the balance Philadelphia Gas Works will reinstate the service at the service address.
5. That beginning with the first billing due date following reinstatement of service, Khalilan Pittman shall make monthly payments consisting of her current bill plus one 60th (1/60th) of the balance accrued on her account.

