

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Sharon Chatman	:	
	:	
v.	:	C-2018-3003363
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Gail M. Chiodo  
Special Agent

**INTRODUCTION**

This decision denies the complaint because the complainant has failed to establish by a preponderance of the evidence that she is eligible for a second Commission-issued payment arrangement or an extension of her prior one.

**HISTORY OF THE PROCEEDING**

On July 11, 2018, Sharon Chatman (Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW or Respondent) in which she complained that PGW shut off her service. As relief, Complainant requested restoration of her service and a payment arrangement (PAR).

On August 3, 2018, PGW filed an Answer in which it admitted that it terminated Complainant's service, after providing proper notice, on May 9, 2018, for nonpayment. Respondent also attached to its Answer the decision of the Bureau of Consumer Services (BCS) at BCS Case No. 3613281, which reveals that Complainant filed an informal complaint after her service was terminated. The BCS decision, dated May 16, 2018, denies Ms. Chatman's request

for a PAR on the basis that she was not eligible for a second Commission-issued PAR.<sup>1</sup> Respondent requested that Ms. Chatman's complaint be dismissed.

On August 15, 2018, the Commission issued a hearing notice setting an initial telephonic hearing for October 10, 2018 at 10:00 a.m. The case was assigned to me pursuant to 52 Pa. Code § 56.174.<sup>2</sup> On August 15, 2018, a prehearing order was issued which advised the parties of the procedures applicable to this proceeding.

The hearing convened as scheduled on October 10, 2018. Ms. Chatman appeared *pro se* and testified on her own behalf. Ms. Chatman did not offer any exhibits. Ms. Graciela Christlieb, Esquire, appeared on behalf of PGW and presented the testimony of one witness, Joyshalyn Moore, a customer review officer for PGW. Ms. Moore sponsored three (3) exhibits, which were admitted into the record. They are:

- PGW Exhibit 1 – Statement of Account (3 pages)
- PGW Exhibit 2 – Payment Arrangement History (3 pages)
- PGW Exhibit 3 – BCS Complaints and Decisions (7 pages)

The record closed following the conclusion of the hearing.<sup>3</sup>

### FINDINGS OF FACT

1. Complainant is Sharon Chatman, who resides at 5541 W. Jefferson Street, Philadelphia, Pennsylvania (service address).
2. Respondent is Philadelphia Gas Works, which provided service to Complainant at the service address.

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<sup>1</sup> Complainant's formal complaint is an untimely appeal of this BCS decision.

<sup>2</sup> 52 Pa. Code § 56.174 (providing for review by a special agent of decisions of the BCS and any other case in which the issue is solely the ability to pay).

<sup>3</sup> Pursuant to 52 Pa. Code § 56.174(3), the hearing was tape recorded. No court reporter was present.

3. During 2016, PGW provided Complainant with two Company-issued PARs; Complainant defaulted on both. (PGW Exhibit 2).
4. On September 11, 2017, Complainant filed an informal complaint with the Commission's Bureau of Consumer Services (BCS) at Case No. 3561003 seeking a PAR. (PGW Exhibit 3)
5. By decision dated January 8, 2018, BCS granted Complainant a level one<sup>4</sup> PAR on an outstanding balance of \$3,274.44. (PGW Exhibit 3).
6. The January 8, 2018 PAR directed Ms. Chatman to pay her monthly budget bill of \$224 plus an additional \$55 towards her arrearage, for a total of \$279, beginning with the due date of her February 2018 bill. (PGW Exhibit 3, p. 3).
7. The January 8, 2018 PAR was based on Ms. Chatman's reported gross monthly household income of \$1,470 and a household size of three individuals consisting of Complainant, her adult son and one minor grandchild. (PGW Exhibit 3, p. 1).
8. On March 18, 2018, Ms. Chatman defaulted on the January 8, 2018 Commission-issued PAR. (PGW Exhibits 1 and 2).
9. On March 20, 2018, PGW issued a 10-day termination notice.
10. On May 9, 2018, PGW terminated service at the service address.
11. On May 10, 2018, Ms. Chatman filed a second informal complaint with BCS at Case No. 3613281 seeking restoration of her service and another PAR on an outstanding balance of \$5,076.17. (PGW Exhibit 3).

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<sup>4</sup> A level one customer is defined as a household with a gross monthly income level not exceeding 150% of the Federal poverty level and is provided with a repayment period of not more than 60 months. 66 Pa.C.S. § 1405(b)(1).

12. By decision dated May 16, 2018, BCS denied the informal complaint at Case No. 3613281. (PGW Exhibit 3).

13. On July 11, 2018, Ms. Chatman filed the instant formal complaint.

14. Ms. Chatman's current gross monthly household income totals \$1,500.00; Ms. Chatman and her adult son each receive \$750 per month in Supplemental Security Income (SSI).

15. Ms. Chatman's current household size totals four individuals, consisting of Complainant, her adult son (age 25), adult daughter (age 31) and minor grandchild (age 7).

16. Over the 24-month period from October 2016 to October 2018, Ms. Chatman has made eleven partial payments on her PGW bill. (PGW Exhibit 1).

17. Ms. Chatman's outstanding balance as of the date of the initial hearing is \$5,255.94. (PGW Exhibit 3).

18. None of Ms. Chatman's outstanding balance is comprised of customer assistance program arrears, although at one time Ms. Chatman was enrolled in Respondent's customer assistance program.

### DISCUSSION

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). "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); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa.Cmwlt. 1990). In addition, the Commission's decision must be supported by "substantial evidence," which consists of evidence that a reasonable mind might accept as adequate to support a conclusion. A mere "trace of evidence or a suspicion of the existence of a

fact” is insufficient. *Norfolk and Western Railway Co. v. Pa. Pub. Util. Comm’n*, 413 A.2d 1037 (Pa.Cmwlth. 1980).

In her complaint, Ms. Chatman seeks the restoration of her service and a new PAR. Therefore, as the party seeking relief, Ms. Chatman bears the burden of proof. Further, since Ms. Chatman is seeking to restore service more than thirty (30) days after service was terminated, she is an “applicant” within the definition of the Public Utility Code. See, 66 Pa.C.S. § 1403 (providing that an “applicant” is a person who, after thirty (30) days of termination or discontinuance of service, seeks to have service reconnected at the same location).<sup>5</sup>

In order to restore service to Complainant, PGW seeks full payment of the outstanding balance and a reconnection fee. Pursuant to Section 1407 of the Public Utility Code, PGW may require full payment of the outstanding balance and a reconnection fee if the applicant has defaulted on two more payment arrangements, as in the instant case. In relevant part, this section provides:

**(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 . . . applicant prior to reconnection of service if the . . . applicant has defaulted on two more payment arrangements.

\* \* \*

66 Pa.C.S. § 1407(c)(2)(i).

Complainant does not dispute that she defaulted on three PARs—namely, two Company-issued PARs and one Commission-issued PAR. Therefore, Respondent is permitted to require that Complainant pay her full outstanding balance and a reconnection fee to have her service reconnected.

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<sup>5</sup> Although Complainant filed an informal complaint with BCS at Case No. 3613281 the day after her service was terminated, she did not appeal the May 16, 2018 BCS decision. The instant formal complaint was filed on July 11, 2018; hence, 56 days after the BCS decision.

As stated, Ms. Chatman is seeking a new PAR on her outstanding balance of \$5,255.94. The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1418 (Act), applies to complainants, including applicants, alleging inability to pay and requesting a Commission-issued PAR. See, 66 Pa.C.S. § 1405(a), which provides that, “[t]he commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers.”

However, the Act provides strict guidelines that the Commission must follow, including the provision that generally permits the Commission to grant only one payment agreement with limited exceptions. Specifically, this provision of the Act provides, in relevant part:

**(d) Number of Payment Agreements.**—*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 established by a commission order or decision . . . .*

66 Pa.C.S. § 1405(d) (emphasis added).

Complainant is not eligible for a new PAR because she failed to comply with the terms of the January 8, 2018 BCS decision at Case No. 3561003 which directed a payment arrangement on her account with PGW. (PGW Exhibit 3). Since Ms. Chatman did not appeal the BCS decision and failed to make the payments ordered by the BCS decision, she has defaulted on the payment agreement. Therefore, pursuant to 66 Pa.C.S. § 1405(d), Ms. Chatman is eligible for another Commission-issued PAR only if she has suffered a change in income.

The Act defines a “change in income” as follows:

**“Change in income.”** *A decrease in household income of 20% or more if the customer's household income level exceeds 200% of the Federal poverty level or a decrease in household income of 10% or more if the customer's household income level is 200% or less of the Federal poverty level.*

66 Pa.C.S. § 1403 (emphasis added).

Thus, the Commission may only order a subsequent payment arrangement if the Complainant demonstrates a decrease in household income. Additionally, “household income” is defined as, “[t]he combined gross income of all adults in a residential household who benefit from the public utility service.” 66 Pa.C.S. § 1403.

Ms. Chatman testified about her household income. Ms. Chatman’s current gross monthly household income totals \$1,500. Ms. Chatman explained that both she and her adult son, who resides with her, each receive \$750 per month in Supplemental Security Income (SSI). Ms. Chatman’s adult daughter, who also resides with her, has no income. Ms. Chatman’s gross monthly income at the time of the BCS decision dated January 8, 2018 at Case No. 3561003 was \$1,470. Ms. Chatman explained that previously she and her adult son each received \$735 in SSI benefits, which increased to \$750 per month. Thus, in comparison, Ms. Chatman is currently receiving more household income than she did at the time of the prior Commission-issued PAR. Therefore, since Complainant has not suffered a decrease in her household income, she is not eligible for a second Commission-issued PAR.

While the Complainant is not eligible for a second Commission-issued PAR, a provision of the Act provides that the Commission may reinstate and extend a previously ordered payment arrangement in limited circumstances where the customer has defaulted on that payment arrangement. Specially, section 1405(e) provides:

**(e) Extension of payment arrangements.**--If the customer defaults on a payment arrangement . . . *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 . . . .

66 Pa.C.S. § 1405(e) (emphasis added). Further, “significant change in circumstance” is defined as the following:

**“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.
- (4) Increase in the customer's number of dependents in the household.

66 Pa.C.S. § 1403.

Ms. Chatman's current gross monthly household income of \$1,500 for a household of four is less than 300% of the Federal poverty level.<sup>6</sup> Thus, Ms. Chatman is eligible for reinstatement and extension of her January 8, 2018 PAR at BCS No. 3561003 if she defaulted on said arrangement as a result of at least one of the four prongs of the definition above. The first three prongs—namely, the onset of a chronic or acute illness, catastrophic damage to her residence, or loss of residence, are not applicable as no evidence was presented whatsoever as to any of these circumstances.

As to the fourth prong—namely, the increase in the customer's number of dependents in the household, while there appears to be an increase in Ms. Chatman's household size since the January 8, 2018 BCS decision, I find that there has not been such an increase. Ms. Chatman's reported household size in the prior BCS decision was three individuals, consisting of two adults and one minor. (See PGW Exhibit 3, p. 1). Ms. Chatman explained that her adult son and minor grandchild that currently reside with her are the same individuals that she reported to BCS as residing with her at the time of the prior BCS decision. Further, as discussed above, she also reported to BCS the income of her adult son as part of her household income.

However, Ms. Chatman further testified that in addition to her son and grandchild, Ms. Chatman's adult daughter (who is the mother of her grandchild) also resides with her. In fact, Ms. Chatman testified that her daughter, like her son and grandchild "have always lived with me -- forever". When asked by counsel for PGW on cross-examination why Ms. Chatman did not report her daughter to BCS since the BCS report indicates only three individuals in its January 8, 2018 decision, Ms. Chatman responded that she was sure that she did include her

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<sup>6</sup> See *Federal Register*, Vol. 83, No. 12, pp. 2642-2644 (January 18, 2018). Also available at <http://aspe.hhs.gov/poverty> (providing that a gross monthly income of less than \$6,275.00 for a household of four is below 300% of the Federal poverty level).

daughter as residing with her; therefore, BCS must have misunderstood her. Ms. Chatman was adamant that her son, daughter, and grandchild have always resided with Complainant since they were all born.

I find Ms. Chatman's testimony credible that her two adult children and minor grandchild have always resided with her. Therefore, Complainant's current household size consists of four individuals.

The statute requires that the default on the previously ordered PAR by the customer must be "as a result of a significant change in circumstance" for the Commission to reinstate the PAR. The Complainant did not present any evidence that she defaulted on the BCS decision dated January 8, 2018 because of an increase in the number of dependents<sup>7</sup> in her household. To the contrary, accepting Ms. Chatman's testimony as credible, which I did, Complainant's household size did not increase after the January 8, 2018 Commission-issued PAR, but remained the same.<sup>8</sup>

Complainant failed to honor the terms of the January 8, 2018 BCS decision and was in default while her adult daughter resided with her. Ms. Chatman's default was not the

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<sup>7</sup> Although "dependent" is not defined in the Act, the Commission has regarded adult children as dependents. (See, e.g., *Hayes v. Philadelphia Gas Works*, Docket No. C-2017-2634526 (Opinion and Order entered October 1, 2018) (holding that a customer's 24-year old son moving in with the customer after a BCS-issued PAR did increase the customer's number of dependents in the household).

<sup>8</sup> Even assuming, *arguendo*, that BCS had based Complainant's BCS-issued PAR on a household size of four, rather than three, in its January 8, 2018 decision, the terms of Ms. Chatman's prior Commission-issued PAR would have been the same since she was afforded a level one PAR. A level one customer is defined as a household with a gross monthly income level not exceeding 150% of the Federal poverty level and is provided with a repayment period of not more than 60 months, which is the maximum repayment terms that the Commission may provide under the Act. See, 66 Pa.C.S. § 1405(b)(1). In other words, the inclusion of Ms. Chatman's adult daughter in her household would not have yielded her a more favorable Commission-issued PAR in the January 8, 2018 BCS decision.

I also note that the most recent BCS decision at Case No. 3613281 dated May 16, 2018, which denied Complainant a new PAR, also conflicts with Ms. Chatman's testimony. Specifically, while the May 16, 2018 decision is based on a household of four, it is based on two adults and two minors. This clearly conflicts with Complainant's testimony that two adults and one minor have always resided with her. Further, the May 16, 2018 BCS decision is based on reported household income of only \$470 per month. This appears to be a typographical error since it attributed an income of \$235 each to two of the adults in the household, rather than an income of \$735 each.

result of any additional dependents who moved into her household after the BCS decision. Therefore, the Commission may not reinstate the payment arrangement ordered January 8, 2018.

Consequently, I conclude that the Complainant has failed to establish by a preponderance of the evidence that she is eligible for a second Commission-issued PAR or an extension of the prior one. Therefore, I am constrained to conclude that the Commission lacks authority to order a second PAR in these circumstances and Respondent can request the full balance due and a reconnection fee in order to restore service.

### CONCLUSIONS OF LAW

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

2. Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).

3. "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).

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 an applicant. 66 Pa.C.S. § 1405(a).

6. 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 or applicant has defaulted on a previous payment arrangement established by a commission order or decision. 66 Pa.C.S. § 1405(d).

7. A "change in income" is defined as: "A decrease in household income of 20% or more if the customer's household income level exceeds 200% of the Federal poverty level or a decrease in household income of 10% or more if the customer's household income level is 200% or less of the Federal poverty level." 66 Pa.C.S. § 1403.

8. Complainant has failed to carry her burden of proving that she is eligible for a second or subsequent Commission-issued payment arrangement. 66 Pa.C.S. § 1405(d).

9. If the customer defaults on a payment arrangement 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. 66 Pa.C.S. § 1405(e).

10. Complainant has failed to carry her burden of proving that she is eligible for a reinstatement of the Commission-issued payment arrangement at BCS Case No. 3561003. 66 Pa.C.S. § 1405(e).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the complaint of Sharon Chatman against Philadelphia Gas Works at Docket No. C-2018-3003363 is denied.
2. That the docket at Docket No. C-2018-3003363 be mark closed

Date: October 31, 2018

\_\_\_\_\_/s/  
Gail M. Chiodo  
Special Agent