

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Sharon Sanchez	:	
	:	
v.	:	C-2018-3005029
	:	
Metropolitan Edison Company	:	

INITIAL DECISION

Before
Andrew M. Calvelli
Administrative Law Judge

INTRODUCTION

This Decision dismisses a formal Complaint filed by a customer of an electric distribution company seeking a second Commission-ordered payment arrangement in order to avoid possible termination of service. The Complaint is dismissed because the Complainant has failed to meet her burden of proof to demonstrate that she is eligible for the requested relief because she has not experienced either a change in income or a significant change in circumstance as those terms are defined in the Public Utility Code. The Complainant has also failed to meet her burden of proof to demonstrate that the utility has violated the Public Utility Code or a Commission Order or Regulation with regard to service termination.

HISTORY OF THE PROCEEDING

On September 24, 2018, Sharon Sanchez filed a formal Complaint against Metropolitan Edison Company (Met Ed) at Pennsylvania Public Utility Commission Docket Number C-2018-3005029. In her Complaint, Ms. Sanchez is seeking a second Commission-ordered payment arrangement that she can afford, in order to avoid possible termination of

service. The Complaint was served on Met Ed electronically by the Commission's Secretary on October 1, 2018.¹

On October 19, 2018, Met Ed filed an Answer to Ms. Sanchez' Complaint. In its Answer, Met Ed admitted or denied the various averments made by Ms. Sanchez. In particular, Met Ed denied that Ms. Sanchez was entitled to a second Commission-ordered payment arrangement because she had defaulted on a prior Commission-ordered payment arrangement. Met Ed requested that the Complaint be dismissed.

By Telephonic Hearing Notice dated October 25, 2018, the parties were advised that an Initial Telephonic Hearing was scheduled for Thursday, December 13, 2018 and that I was assigned as the Presiding Officer. A Prehearing Order was issued on November 29, 2018 setting forth various rules that would govern the hearing.

The hearing convened on December 13, 2018 as scheduled. Ms. Sanchez appeared *pro se*. John Munsch, Esquire appeared on behalf of Met Ed. Ms. Sanchez testified and sponsored three exhibits which were admitted into the record.² Mr. Munsch presented one witness who sponsored nine exhibits which were admitted into the record. A transcript of the hearing totaling 47 pages was made. The record in this proceeding closed on January 3, 2019 when the transcript was submitted to the Commission.

Ms. Sanchez' Complaint is ready for disposition. For the reasons discussed below, the Complaint will be dismissed.

FINDINGS OF FACT

1. The Complainant in this case is Sharon Sanchez.

¹ Met Ed has signed a waiver of the Section 702 requirements for service of formal complaints, 66 Pa.C.S. § 702, and has agreed to electronic service instead under the Commission's Waiver of 702 program.

² Ms. Sanchez' Exhibits consisted of amounts owed to other creditors, including her mortgage company, her homeowner association, and the Common Pleas Court of Monroe County.

2. The Respondent in this case is Metropolitan Edison Company.
3. The service address is 3625 Westminster Drive, East Stroudsburg, PA 18302.
4. There are seven people residing at the service address: Ms. Sanchez, her husband, four adult children, and one minor child. Tr. 10, 11.
5. Ms. Sanchez' gross weekly income is \$244.00, consisting of her part time work in food service along with her partial unemployment benefits. Tr. 8-10; 43-44.
6. Ms. Sanchez receives \$180 per week in regular unemployment benefits, along with an unemployment partial benefit credit of \$64, for a total gross weekly unemployment income of \$244.00. Tr. 8-10; 43-44.
7. Ms. Sanchez is allowed to work part time and earn up to the total unemployment benefit amount of \$244.00. Tr. 8-10; 43-44.
8. As long as Ms. Sanchez earns less than \$244.00 per week from her part time work, she will receive partial unemployment benefits to bring her up to the total gross weekly unemployment income benefit of \$244.00. Tr. 8-10; 43-44.
9. Ms. Sanchez has been earning less than \$244.00 per week from her part time work and has therefore been collecting partial unemployment benefits to bring her up to the total gross weekly unemployment income benefit of \$244.00. Tr. 8-10; 43-44.
10. Ms. Sanchez' daughter has a gross weekly income of \$400.00. Tr. 12.
11. Ms. Sanchez' son works at least 24 hours per week earning \$8.00 per hour, for a gross weekly income of \$192.00. Tr. 13.

12. Ms. Sanchez' husband receives social security disability payments in the gross amount of \$1,267.00 per month. Tr. 15.

13. No other residents of the Sanchez household are employed or have any type of income. Tr. 12-15.

14. Converting the gross weekly incomes of Ms. Sanchez, her daughter, and her son, produces the following monthly gross income results (multiplying gross weekly income by 52 weeks and then dividing by 12 months in the year):

Ms. Sanchez - \$1,057.33
Ms. Sanchez' daughter - \$1,733.33
Ms. Sanchez' son - \$832.00
Subtotal - \$3,622.66

15. The total gross monthly income of the Sanchez household, when adding the subtotal above with Mr. Sanchez' social security disability payment of \$1,267.00, equals \$4,889.66.

16. Ms. Sanchez filed an informal Complaint with the Commission's Bureau of Consumer Services (BCS) on October 16, 2017 at BCS Case Number 3570451. Met Ed. Ex. 4.

17. In BCS Case Number 3570451, Ms. Sanchez sought a payment arrangement, which was granted by the BCS as a Level 1 (60 month) payment arrangement, given the Sanchez' household size of 7 residents with a total gross monthly income of \$2,400.00. Met Ed Ex. 4.

18. Ms. Sanchez did not appeal the BCS Decision in Case Number 3570451. Met Ed Ex. 3.

19. Ms. Sanchez defaulted on the BCS payment arrangement in Case Number 3570451. Met Ed Ex. 3.

20. Met Ed has been attempting to shut off Ms. Sanchez' service due to nonpayment for over two years, beginning in February of 2017. Met Ed Ex. 9.

21. Ms. Sanchez has avoided termination of service by advising Met Ed that she was filing for bankruptcy, providing a medical certificate, and by filing several informal Complaints with the BCS. Met Ed Ex. 3, 4, 9.

22. When Met Ed terminated service to Ms. Sanchez on September 27, 2018, Ms. Sanchez filed a Bankruptcy Petition the next day, which resulted in Met Ed restoring service to Ms. Sanchez. Met Ed Ex. 9.

23. Ms. Sanchez' Bankruptcy Petition was dismissed on October 29, 2018, due to Ms. Sanchez' failure to file necessary documents (her List of Creditors) with the Bankruptcy Court. Met Ed Ex. 7, 9.

24. When Ms. Sanchez' Bankruptcy Petition was dismissed, Met Ed placed her entire arrearage back on the account, which totaled \$12,302.73 as of October 29, 2018. Met Ed Ex. 9.

25. As of November 17, 2018, Ms. Sanchez' account balance totaled \$12,694.47. Met Ed Ex. 1.

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). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the Complaint in order to prevail. Patterson v. Bell Tel. Co. of Pa., 72 Pa. PUC 196 (1990). "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). The offense must

be a violation of the Public Utility Code, the Commission's regulations or an outstanding order of the Commission. 66 Pa.C.S. § 701. In this proceeding, Ms. Sanchez filed a Complaint against Met Ed seeking legal relief. Ms. Sanchez, therefore, has the burden of proof in this proceeding.

Ms. Sanchez' request for a second payment arrangement

By law, a public utility is entitled to receive payment for the service it provides. Scaccia v. Met Ed Co., 55 Pa. PUC 637 (1982); *see also*, Kea v. Peoples Natural Gas Co., 60 Pa. PUC 215 (1985); Mill v. Pa. Pub. Util. Comm'n, 447 A.2d 1100 (Pa. Cmwlth. 1982). Public utilities are entitled to bill and receive payment for the utility service actually 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).

In her Complaint, Ms. Sanchez has requested a more favorable payment arrangement, stating that she cannot meet the terms of the previous payment arrangement ordered by the BCS in Case Number 3570451. As noted above, Ms. Sanchez never appealed the BCS Decision and subsequently defaulted on the BCS payment arrangement.

The Responsible Utility Customer Protection Act, 66 Pa. C.S. §§ 1401-1419, 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).

The Commission may establish a payment arrangement between a public utility and a customer only within the limits established by 66 Pa. C.S. §§ 1401-1419. The statute at 66 Pa. C.S. § 1405(d) of the Public Utility Code states:

(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 established by a commission order or decision. A public utility may, at its discretion, enter into a second or subsequent payment arrangement with a customer.

Since the Complainant has failed to make the payments ordered by the BCS in BCS Case Number 3570451, she has defaulted on that payment arrangement. According to 66 Pa. C.S. § 1405(d), the Complainant may receive another payment arrangement only if she has suffered a change in income. The statute at 66 Pa. C.S. § 1403 defines a “Change in income” as follows:

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.

In this case, the Complainant testified that her current gross household income is \$4,889.66 per month. Tr. 8, 9, 10, 12, 13, 15, 43, 44. This is considerably greater than Ms. Sanchez’ prior gross monthly household income of \$2,400.00 at the time she received a payment arrangement in BCS case number 3570451. Met Ed Ex. 4. Since the Complainant did not timely appeal the BCS decision in case number 3570451, the Complainant is not challenging the BCS decision but is instead requesting another payment arrangement. Nugent v. PECO Energy Company, Docket No. C-2009-2096243 (Order entered April 26, 2010). I cannot order a second payment arrangement, pursuant to 66 Pa. C.S. § 1405(d), however, since the Complainant testified that the gross household income had greatly increased at the time of the hearing.

Alternatively, the Commission may reinstate a payment arrangement where the customer has defaulted due to a significant change in circumstance. The statute at 66 Pa. C.S. § 1405(e) speaks to that issue as follows:

(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.

The statute at 66 Pa. C.S. § 1403 defines “significant change in circumstance” 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.
- (4) Increase in the customer's number of dependents in the household.

In this case, the Complainant’s income of \$4,889.96 for household of 7 is slightly above 150% of the Federal poverty level. Federal Register, Vol. 84, No. 22 at 1168 (February 1, 2019). The Complainant did not produce any evidence that the household suffered a significant loss in income due to illness. In fact, the competent record evidence demonstrates that there has been a significant increase in the household income. The Complainant also did not produce any evidence of catastrophic damage to her residence, loss of the residence or an increase in the number of dependents in the household. Therefore, the Commission may not reinstate the BCS payment arrangement ordered in BCS case number 3570451, because Complainant has not experienced a significant change in circumstance as defined by the Public Utility Code.

Termination of service issues mentioned in the Complaint

The other issue raised in Ms. Sanchez' Complaint concerns termination of service. In that regard, Ms. Sanchez checked off the box in Paragraph 4 of the Complaint that states, "the utility is threatening to shut off my service or has already shut off my service."

Ms. Sanchez did not provide any testimony or other evidence to indicate that Met Ed acted unlawfully or unreasonably in its various attempts to terminate her service. Met Ed produced evidence demonstrating that it had complied with relevant statutory and regulatory rules each time it attempted to terminate Ms. Sanchez' service. Met Ed Ex. 3, 4, 6, 8, 9.

There is no competent evidence in the record to demonstrate that Met Ed acted unlawfully or unreasonably in its attempts to terminate Ms. Sanchez' service. In fact, the evidence demonstrates that when Ms. Sanchez actually did file a Bankruptcy Petition, Met Ed immediately restored service which had been terminated. Only after Ms. Sanchez' Bankruptcy Petition was dismissed did Met Ed add the past due arrearages back to Ms. Sanchez' account. Met Ed Ex. 9. Accordingly, Ms. Sanchez' arguments regarding termination will also be rejected.

CONCLUSION

Ms. Sanchez has failed to meet her burden of proof to demonstrate that she is eligible for a second Commission-ordered payment arrangement, because she has failed to demonstrate, by a preponderance of the evidence, that she has suffered either a change in income or a significant change in circumstance as those terms are defined in the Public Utility Code. Ms. Sanchez has also failed to meet her burden of proof to demonstrate that Met Ed acted unlawfully or unreasonably in its attempts to terminate her service. Ms. Sanchez has produced no evidence in support of such claims, while the evidence produced by Met Ed demonstrates that it has, at all times, acted lawfully and reasonably in its attempts to terminate Ms. Sanchez' service. For these reasons, Ms. Sanchez' Complaint is dismissed.

CONCLUSIONS OF LAW

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

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

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. Met Ed has the right to bill and receive payment for the utility service actually 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).

5. 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).

6. The Commission is authorized to establish a payment arrangement between a public utility and a customer under certain conditions as set forth in 66 Pa. C.S. § 1405(a).

7. The Complainant has not met her burden of proving that she is eligible for a second Commission-ordered payment arrangement or a reinstatement and extension of her prior one under 66 Pa. C.S. §§ 1405(d), (e).

8. The Complainant has failed to satisfy her burden of proof in this proceeding to demonstrate that Met Ed violated the Public Utility Code, a Commission Order or

