

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Darlene DeFelice	:	
	:	F-2021-3027683
v.	:	
	:	
Duquesne Light Company	:	

INITIAL DECISION

Before
Mark A. Hoyer
Deputy Chief Administrative Law Judge

INTRODUCTION

This initial decision dismisses the formal complaint because Darlene DeFelice (Complainant) failed to meet the burden of proving the claims raised in the complaint. Specifically, Complainant failed to prove Duquesne Light Company (Respondent or Duquesne Light) violated the law, Commission regulations or its Commission-approved customer assistance program (CAP) in billing Complainant or in the administration and application of its CAP to Complainant’s residential electric heating account.

HISTORY OF THE PROCEEDING

On July 9, 2021, Complainant filed a complaint with the Pennsylvania Public Utility Commission (Commission) against Duquesne Light.¹ Complainant requests a payment agreement. She alleges she is no longer on budget billing and has not received

¹ Complainant timely appealed the decision of the Commission's Bureau of Consumer Services (BCS) dismissing her informal complaint at BCS Case No. 3787493.

monthly CAP co-payments on her electricity bill since January 2021. As relief, Complainant requests to be on budget billing with monthly CAP co-payments on her electricity bill.

Duquesne Light filed its answer on August 24, 2021. According to Duquesne Light, Complainant is billed correctly in accordance with Duquesne Light's Commission-approved CAP. Duquesne Light requests that the complaint be dismissed.

On August 24, 2021, Duquesne Light filed a Preliminary Objection. Duquesne Light sought to dismiss the complaint on the basis that it is legally insufficient under 52 Pa. Code § 5.101(a)(4). In support of its Preliminary Objection, Duquesne Light averred that it switched from a budget-based CAP to a Percentage of Income Payment Plan (PIPP) CAP pursuant to its 2020-2025 Universal Service and Energy Conservation Plan (2020-2025 USECP) at Docket No. M-2019-3008227. Duquesne Light averred it implemented its PIPP CAP on January 21, 2021. Duquesne Light requested that the Preliminary Objection be sustained, and that the complaint be dismissed with prejudice.

On September 29, 2021, a Telephonic Hearing Cancellation/Reschedule Notice was issued scheduling an initial telephone hearing for November 9, 2021. On September 30, 2021, a Corrected Prehearing Order for Telephone Hearing was issued addressing, *inter alia*, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

I conducted an initial telephone hearing on November 9, 2021, as scheduled. At the outset of the hearing, I explained the settlement judge process and Complainant declined to participate in that process. Transcript (Tr.), p. 6. The Preliminary Objection was denied orally, and the hearing procedure was explained. Tr., pp. 7-11. Complainant appeared *pro se* and testified on her own behalf. Duquesne Light was represented by Emily Farah, Esquire. Duquesne Light presented two witnesses, Roxanne Morris and Tuesday Simok. Duquesne Light offered pre-marked exhibits A, C, D, G, H, I, L, M, N, and O that were admitted into evidence.

The record consists of an 81-page transcript of the hearing held on November 9, 2021, and the aforementioned exhibits. The record was closed by interim order on December 15, 2021.

FINDINGS OF FACT

1. Complainant, Darlene DeFelice, resides at 101 Delaware Avenue, Apartment 4W, Oakmont, PA, 15139 (service address) (Tr. 13).
2. Respondent, Duquesne Light Company, provides residential electric utility service to Complainant under the residential heating (RH) rate (Tr. 34-35; 43).
3. On March 26, 2019, Complainant enrolled in Duquesne Light's CAP (Tr. 50).
4. On January 19, 2021, Duquesne Light implemented its PIPP CAP, which is a percentage of income payment plan (Tr. 57-62; Exhibit O).
5. Pursuant to the PIPP CAP, residential electric heat ratepayers pay a percentage of their income each month toward the bill based upon their certified income and the Federal Poverty Law (FPL). (Method 1). If the CAP customer's 4-month average usage is less than the percentage of income amount used to calculate the monthly bill using Method 1, the customer pays the 4-month average bill. (Method 2). If actual monthly usage is less than the percentage of income amount and less than the 4-month average usage, the customer pays the actual monthly usage amount on the bill. (Method 3) (Tr. pp. 57-60; Exhibit O, pp. 6-8).
6. Duquesne Light's PIPP CAP requires participants to re-certify income every two years (Tr. 46-47; Exhibit O).

7. Duquesne Light's PIPP CAP provides a maximum CAP Discount available to be used over a 12-month period for each customer, which is reset each year (Tr. 13-14, 46-47; Exhibit O).

8. On April 8, 2021, Complainant re-certified her income to be \$794 per month (Tr. 51).

9. Complainant's income, for a one-person household, falls between 51% - 100% of the FPL income guidelines (Tr. 60).

10. Under Duquesne Light's PIPP CAP, a RH customer with income between 51% - 100% of the FPL income guidelines must pay the lesser of: (1) 10% of the customer's monthly certified income toward the monthly electric bill, (2) the customer's 4-month average, or (3) actual usage (Tr. 59-61; Exhibit O, pp. 7 and 9 - charts).

11. Ten percent of Complainant's income is \$79.

12. Duquesne Light calculated Complainant's 4-month average to be \$73. (Tr. 61)

13. Under Duquesne Light's PIPP CAP, if a PIPP CAP customer's actual usage is greater than 10% of the customer's monthly certified income, the customer will receive a CAP discount in the amount of the difference between the customer's actual usage and 10% of the customer's monthly certified income, up to the maximum annual CAP discount (Tr. 62).

14. The maximum annual CAP Discount for residential electric heating customers with income between 51% - 100% of the FPL income guidelines is \$1,800.

15. Duquesne Light has billed Complainant in accordance with its PIPP CAP since January 2021 (Tr. 21, 43 and 58; Exhibits A, I and O).

16. As of October 13, 2021, the date her last bill was prepared prior to the hearing, Complainant did not have any bills where her actual monthly usage exceeded 10% of her certified income so she had not used any of her allotted CAP Discount in the amount of \$1,800 (Tr. 41-45; Exhibit I).

17. Duquesne Light has billed Complainant in accordance with its PIPP CAP since January 2021. (Tr. 21, 43 and 58; Exhibits A, I and O).

18. Complainant has complied with the terms of Duquesne Light's CAP programs since she became enrolled (Tr. 26-27; Exhibit A).

DISCUSSION

Complainant alleges she is no longer on budget billing and has not received monthly CAP co-payments on her electricity bill since January 2021. As relief, Complainant requests to be on budget billing with monthly CAP co-payments on her electricity bill.

Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of any request for relief. As the party bringing this complaint, Complainant bears the burden of proving by a preponderance of the evidence that she is entitled to relief. Complainant has failed to meet this burden of proof.

Complainant is a PIPP CAP customer of Duquesne Light. Since Duquesne Light's PIPP CAP was implemented in January 2021, the amount Complainant pays monthly toward her electric bill has increased, but Duquesne Light is billing her correctly in accordance with the approved PIPP CAP. Complainant has not used any of her annual CAP Discount of \$1,800 prior to the hearing in this case, but the PIPP CAP payment plan where frozen arrearages are forgiven each month is the best payment arrangement available to Complainant as a residential electric customer. Complainant has failed to prove that Duquesne Light violated the Pennsylvania Public Utility Code, Commission regulations or

any order of the Commission. Therefore, the complaint is dismissed in the ordering paragraphs to follow.

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 Complainant.

3. Complainant has not met her burden of proving that she is entitled to relief. 66 Pa.C.S. §§ 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the complaint of Darlene DeFelice against Duquesne Light Company at Docket No. F-2021-3027683, is dismissed.

2. That the record at Docket No. F-2021-3027683 be marked closed.

Date: March 15, 2022

/s/
Mark A. Hoyer
Deputy Chief Administrative Law Judge