

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lucinda Matthews	:	
	:	
v.	:	C-2022-3033241
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Administrative Law Judge
John M. Coogan

INTRODUCTION

This initial decision dismisses a Formal Complaint that Lucinda Matthew (Ms. Matthews or Complainant) filed with the Pennsylvania Public Utility Commission (Commission) requesting a Commission ordered payment arrangement with the Philadelphia Gas Works (PGW or Respondent). The Complainant has not met her burden of proving she is entitled to a further Commission ordered payment arrangement or an extension of her prior Commission ordered payment.

HISTORY OF THE PROCEEDING

On June 17, 2022, Complainant filed a Formal Complaint stating that PGW is threatening to shut off her service or has already shut off her service, and that she would like a payment arrangement. Complainant also stated she would like a payment that is the same each month. On June 23, 2022, the Formal Complaint was served upon Respondent. On July 13, 2022, PGW filed an answer denying the material allegations of the complaint. Specifically,

Respondent averred that the Complainant has at least two broken PGW-issued payment arrangements and one broken Commission-issued payment arrangement.

On July 14, 2022, the Commission issued an initial telephonic hearing notice setting a formal call-in telephonic hearing for this matter for August 30, 2022 at 10:00 a.m. and assigning me as the presiding officer. In anticipation of that hearing, I issued a prehearing order on July 15, 2022 setting forth various rules that would govern that proceeding. A hearing was held before me on August 30, 2022. Complainant Lucinda Matthews appeared *pro se* and offered no exhibits. Respondent was represented by Graciela Christlieb, Esquire. Witness Jessica Glace testified for Respondent and three exhibits for Respondent were admitted into the record. The transcript was filed, and the record closed on September 21, 2022.

FINDINGS OF FACT

1. Complainant is Lucinda Matthews, an individual residing at 2336 N. 18th Street, Philadelphia, PA 19132 (service property). Tr. 9.
2. Respondent is the Philadelphia Gas Works. Tr. 4.
3. Ms. Matthew's complaint concerns gas service from PGW to the service property. Tr. 9.
4. PGW Exhibit 1 is a statement of Ms. Matthew's account with PGW from August 23, 2019 to August 23, 2022. PGW Ex. 1.
5. PGW Exhibit 2 is a history of payment arrangements for Ms. Matthews with PGW. PGW Ex. 2.
6. PGW Exhibit 3 is a collection of informal complaints Ms. Matthews filed with the Commission regarding PGW. PGW Ex. 3.

7. Jessica Glace is a senior customer review officer at PGW. Tr. 16.
8. Ms. Matthew's account balance with PGW was \$11,899.53 as of August 30, 2022. Tr. 19; PGW Ex. 1.
9. Between August 23, 2019 and August 23, 2022, Ms. Matthews made nine payments and one grant payment was made towards Complainant's account balance with PGW. Tr. 19; PGW Ex. 1.
10. Ms. Matthews has had five payment arrangements with PGW since March 31, 2015. PGW Ex. 2.
11. Ms. Matthews has broken all of the payment arrangements she has had with PGW since March 31, 2015. Tr. 21; PGW Ex. 2.
12. Ms. Matthews received a Commission ordered payment arrangement on June 13, 2019. Tr. 20-21, 24; PGW Ex. 2; PGW Ex. 3.
13. Ms. Matthews had seven people living in her home at the time she received a Commission ordered payment arrangement in June 2019. Tr. 23; PGW Ex. 3.
14. Ms. Matthews had a gross household income of \$816 at the time she received a Commission ordered payment arrangement in June 2019. Tr. 23; PGW Ex. 3.
15. Complainant Lucinda Matthews currently works part-time twenty-five hours a week at an hourly rate of \$17 per hour. Tr. 14.
16. Ms. Matthew's household size currently consists of one adult and three children under the age of 18. Tr. 13-14.

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 Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990), *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). The Complainant must establish her case by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. 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 requested a payment arrangement.

By law, a public utility is entitled to receive payment for the service it provides. *Scaccia v. West Penn Power Co.*, 55 Pa.P.U.C. 637 (1982); *Kea v. Peoples Nat'l Gas Co.*, 60 Pa.P.U.C. 215 (1985); *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982). The Respondent has the right to bill and receive payment for the utility service actually supplied. 66 Pa.C.S. §1303; *Neal v. Phila. Gas Works*, Docket No. Z-00871874 (Final Order entered Jan. 4, 2002); *Angie's Bar v. Duquesne Light Co.*, 72 Pa.P.U.C. 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-08721758 (Opinion and Order entered Apr. 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 (Opinion and Order entered Mar. 17, 2004.)

The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§1401-1419 (Chapter 14), 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) based on where the household's gross income falls in relation to the federal

poverty level guidelines.¹ Specifically, Sections 1405(c), (d), (e), and (f) of Chapter 14 address limitations on payment arrangements as follows:

(c) Customer assistance programs. – Customer assistance program rates shall be timely paid and shall not be the subject of payment arrangements negotiated or approved by the commission.

(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.

(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.

(f) Failure to comply with payment arrangement. – Failure of a customer to comply with the terms of a payment arrangement shall be grounds for a public utility to terminate the customer’s service. Pending the outcome of a complaint filed with the commission, a customer shall be obligated to pay that portion of the bill which is not in dispute and subsequent bills which are not in dispute.

66 Pa.C.S. § 1405(c)-(f).

Ms. Matthews was granted a Level 1 Commission ordered payment arrangement totaling \$296 per month in 2019 when her gross monthly income was \$816 for a household of seven. PGW Ex. 3. A Level 1 Commission ordered payment arrangement is granted to households with a gross monthly household income level not exceeding 150% of the Federal

¹ <https://aspe.hhs.gov/sites/default/files/documents/4b515876c4674466423975826ac57583/Guidelines-2022.pdf>

poverty level. 66 Pa.C.S. § 1405(b)(1). Ms. Matthews defaulted on her Level 1 Commission ordered payment arrangement established in 2019. PGW Ex. 2. Although a public utility has discretion to allow multiple payment arrangements, absent a change in income, Ms. Matthews is not eligible for another Commission ordered payment arrangement. 66 Pa.C.S § 1405(d).

Chapter 14 defines “change in income” 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

Therefore, a “change in income” per Chapter 14 only applies if household income decreases. 66 Pa.C.S. § 1403. Ms. Matthews testified that her current gross monthly income is approximately \$1,842² for a household of four. Although Ms. Matthews’ income is still below 150% of the Federal poverty level,³ her income has increased by approximately 126% since she was issued a Commission ordered payment arrangement in 2019.⁴ Therefore, because Ms. Matthews’ income has increased, not decreased, she is not eligible for another Commission ordered payment arrangement under Chapter 14.

Chapter 14 also allows for the extension of a Commission ordered payment arrangement if a customer defaults because of a significant change in circumstances. 66 Pa.C.S. §1403. Chapter 14 defines “significant change in circumstances” as:

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:

² Ms. Matthews testified that she works 25 hours a week and earns \$17 per hour. Tr. 14. A monthly income of \$1,842 was derived as follows: $\$17 \times 25 \text{ hours per week} = \425 per week ; $\$425 \text{ per week} \times 52 \text{ weeks} = \$22,100 \text{ per year}$; $\$22,100 \text{ per year} / 12 \text{ months} = \$1,842 \text{ per month}$.

³ See Federal Register, Vol. 87, No. 14 at 3316 (January 21, 2022). See also, <https://aspe.hhs.gov/sites/default/files/documents/4b515876c4674466423975826ac57583/Guidelines-2022.pdf>

⁴ The 126% percent increase was derived as follows: $100 \times ((1,842 - 816) / 816) = 125.74\%$.

- (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

There is no evidence in the record that the default on Ms. Matthew's Commission established payment arrangement in 2019 was due to a "significant change in circumstances" as defined by Chapter 14. Therefore, there is no basis to reinstate or extend the Commission-issued payment arrangement established in 2019. 66 Pa.C.S. § 1405(e).

For these reasons, I find that Ms. Matthews has failed to carry her burden of proving that she is entitled to another Commission ordered payment arrangement or an extension of her previous Commission ordered payment arrangement. Accordingly, Ms. Matthews request for a payment arrangement shall be denied, and her complaint will be dismissed.

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. 66 Pa.C.S. §332(a).
3. The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1419, applies to this proceeding.
4. The Commission is authorized to establish a payment arrangement between a public utility and a customer. 66 Pa.C.S. §1405(a).

5. 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 Commission order or decision. 66 Pa.C.S. § 1405(d).

6. If a customer defaults on a payment arrangement established by the Commission under subsections 1405(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. 66 Pa.C.S. § 1405(e).

7. Complainant has not met her burden of proving she is entitled to a further Commission ordered payment arrangement on her balance or an extension of her previous Commission ordered payment arrangement. 66 Pa.C.S. § 332(a); 66 Pa.C.S. § 1405(d), (e).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the complaint filed by Lucinda Matthews at Lucinda Matthews v. Philadelphia Gas Works, at Docket Number C-2022-3033241, is dismissed.

2. That the docket at Docket Number C-2022-3033241 be marked closed.

Date: November 16, 2022

/s/

John M. Coogan
Administrative Law Judge