

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Matthew Forgie c/o Megan Forgie	:	
	:	
v.	:	C-2022-3034051
	:	
PECO Energy Company – Electric	:	

INITIAL DECISION

Before
Mary D. Long
Administrative Law Judge

INTRODUCTION

A complainant’s request for a payment arrangement is denied because he failed to carry his burden of proving that he is entitled to a second Commission-issued payment arrangement or a reinstatement or extension of the previous one.

HISTORY OF THE PROCEEDINGS

On June 26, 2022, Matthew Forgie filed a formal complaint against PECO Energy Company – Electric (PECO). Mr. Forgie stated that he would like a payment arrangement. As relief, he requested a 60 or 72-month payment arrangement in order to pay both his current bill and his past-due balance.

PECO filed an answer with new matter on August 12, 2022. Among other things, PECO averred that the Public Utility Commission’s Bureau of Consumer Services (BCS) awarded Mr. Forgie with a payment arrangement on November 4, 2021. PECO further avers that Mr. Forgie defaulted on that payment arrangement and that he does not qualify for a new

Commission-issued payment arrangement. In new matter, PECO states that \$1,266.78 of Mr. Forgie's balance is comprised of customer assistance program (CAP) arrearages and that the Commission lacks jurisdiction to award a payment arrangement on that portion of his balance.

On September 13, 2022, this complaint was referred to the Mediation Unit. The parties did not resolve their dispute with the facilitation of the Mediation Unit, and by hearing notice dated September 30, 2022, the complaint was assigned to me and scheduled for a hearing by telephone on December 6, 2022. I issued a prehearing order on October 3, 2022, which explained the procedures for the hearing.

I convened the hearing as scheduled. Mr. Forgie appeared and testified on his own behalf. PECO was represented by Khadijah Scott, Esquire. Ms. Scott presented the testimony of one witness, Renee Tarpley, and offered six exhibits which were admitted into the record. Following the receipt of the transcript, I closed the record by order entered on January 9, 2023.

FINDINGS OF FACT

1. Complainant Matthew Forgie resides at 1626 Valley Greene Road, Paoli, Pennsylvania and receives electricity service from PECO at that address. (Tr. 8, 19)
2. PECO is a jurisdictional public utility.
3. Mr. Forgie has had significant financial challenges in the past, including periods of unemployment, which were exacerbated by the COVID-19 pandemic. (Tr. 9, 43)
4. Mr. Forgie worked as a salesman and received a small salary plus commissions. (Tr. 9)
5. Mr. Forgie's annual base salary in 2020 was \$60,000. (Tr. 11)

6. Mr. Forgie was not earning additional commission-based income in 2020. (Tr. 11)

7. During the COVID-19 pandemic, Mr. Forgie's wife, Megan Forgie, lost half her salary, and Mr. Forgie suffered a loss in income because he had no inventory to sell. (Tr. 9, 37)

8. The BCS awarded Mr. Forgie a Level 4 payment arrangement on November 24, 2021, which required him to pay a budget bill payment of \$340.00 plus \$2,444.00 toward his arrearage each month, beginning with the December 2021 bill. (BCS No. 003808885; PECO Ex. 6, Tr. 28)

9. Mr. Forgie did not make payments in compliance with the November 24, 2021, BCS payment arrangement. (Tr. 28; PECO Ex. 1)

10. Mr. Forgie secured a new job in May 2022, and his financial situation improved so he wants to resolve his arrearage with PECO. (Tr. 9)

11. Mr. Forgie's current monthly gross income is \$7,083. (Tr. 9, 11)

12. Mrs. Forgie's current monthly gross income is \$3,900. (Tr. 9)

13. The Forgies have one child under the age of 18 and a 21-year-old who lives at college. (Tr. 10)

DISCUSSION

Section 701 of the Public Utility Code (Code), provides that any person may complain, in writing, about any act or thing done or not done by a public utility which violates any laws which the Commission has the authority to administer, or any regulation or order of the

Commission.¹ A person who wants the Commission to do something to resolve their complaint has the burden of proof.²

In this matter, Mr. Forgie is the party asking for relief from the Commission; therefore, he has the burden of proof. This means that Mr. Forgie must present facts which support his claim that he should be awarded a payment arrangement by a preponderance of the evidence.³ The term “preponderance of the evidence” means one party must present evidence which is more convincing, by even the smallest amount, than the evidence presented by the other party.⁴

Mr. Forgie explained that his family has recently improved their financial circumstances, and he wants to work toward paying off his balance that he owes to PECO. He testified that he has struggled to pay his PECO bill due to periods of unemployment before the COVID-19 pandemic. He worked as a salesman, and he earned a small base salary plus a commission. During the pandemic he lost his commission income. His wife, Meghan Forgie, had her income cut in half. He went on to explain that he and his wife are now working and that he secured a new job at a higher rate of pay. While he recognizes that he has had a poor payment history in the past, he stated that he wants to work to repay his balance.

PECO takes the position that Mr. Forgie was awarded a Commission-issued payment arrangement on November 24, 2021. Mr. Forgie has not complied with the BCS payment arrangement, nor has he complied with other payment arrangements provided by the company. According to PECO, Mr. Forgie is not entitled to a second Commission-issued payment arrangement.⁵

¹ 66 Pa.C.S. § 701.

² 66 Pa.C.S. § 332(a).

³ *Popowsky v. Pa. Pub. Util. Comm'n*, 937 A.2d 1040 (Pa. 2007) (*Popowsky*); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

⁴ *Popowsky*.

⁵ In closing argument, counsel for PECO stated that PECO was willing to establish a further payment arrangement for Mr. Forgie but would require a substantial lump-sum payment to do so. See Tr. 44.

The Responsible Utility Customer Protection Act (Chapter 14), 66 Pa.C.S. §§ 1401-1419, applies to complaints alleging the inability to pay and requesting a Commission-issued payment arrangement. Chapter 14 provides strict guidelines that the Commission must follow when determining whether a payment arrangement can be issued. Specifically, Chapter 14 states that the Commission is prohibited from establishing a second or subsequent payment arrangement, absent a change of income, if the customer defaults on a prior payment arrangement:

(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.^[6]

Furthermore, Chapter 14 authorizes the Commission to reinstate and extend a Commission-issued payment arrangement on which a customer has defaulted as a result of a significant change in circumstance:

(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.^[7]

Mr. Forgie is in circumstances shared by many of his fellow citizens: challenging economic circumstances resulted in a poor payment history, which were made worse by the economic downturn during the COVID-19 pandemic. Now that his economic conditions have improved, he hopes to work toward retiring his balance, but he cannot afford the terms of the

⁶ 66 Pa.C.S. § 1405(d).

⁷ 66 Pa.C.S. § 1405(e).

Commission-issued payment arrangement or the repayment terms offered by the utility. I found his stated desire to repay what he owes credible and sincere.

Unfortunately, Chapter 14 does not permit the Commission to take these factors into consideration. The Commission awarded Mr. Forgie one payment arrangement in November 2021. He defaulted on this payment arrangement. His income is now higher than it was at the time he was awarded the payment arrangement.⁸ He did not identify any circumstances, such as a change in his household size or any other circumstances that have changed for the worse which would permit the Commission to extend the November 2021 payment arrangement pursuant to Section 1405(e).⁹

The Commission reached the same conclusion in a recent and similar case, *Picklo v. PECO Energy Company*.¹⁰ Like Mr. Forgie, the complainant in *Picklo* had defaulted on a Commission-issued payment arrangement. At the time of the hearing the complainant's household income had increased, and there was no evidence of a significant change in circumstances which occurred after the Commission had provided him with the first payment

⁸ The BCS decision does not provide the income upon which it based Mr. Forgie's payment arrangement. Section 1405(b)(4) (presumably the reference to Level 4) authorizes a six-month payment arrangement where a household income exceeds 300% of the federal poverty level. 66 Pa.C.S. § 1405(b)(4). In 2022, the annual income for a family of 4 in excess of 300% of the federal poverty level was \$83,251 and above. Federal Register, Vol. 87, No. 14 at 3316 (January 21, 2022). The annual income for a family of 4 for 2023 which exceeds 300% of the federal poverty level is \$90,001. Federal Register, Vol. 88, No. 12 at 3424 (January 19, 2023). Even if the Commission were authorized to award Mr. Forgie another payment arrangement, the six-month repayment period would be the only possible award. 66 Pa.C.S. § 1405(b)(4).

⁹ A "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.

¹⁰ *Picklo v. PECO Energy Co.*, Docket C-2022-3032205 (Opinion and Order entered March 2, 2023); see also *Haymes v. Philadelphia Gas Works*, Docket C-2022-3032787 (Opinion and Order entered January 12, 2023).

arrangement. Similarly, in this case, I cannot award Mr. Forgie a second Commission payment arrangement and I must dismiss his complaint.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject-matter of this dispute. 66 Pa.C.S. § 701.
2. The Complainant bears the burden of proof. 66 Pa.C.S. § 332.
3. The Commission is authorized to establish a payment arrangement between a public utility and a customer. 66 Pa.C.S. § 1405(a).
4. Absent a decrease in income, the Commission shall not establish or order a public utility to establish a second payment arrangement if a customer has defaulted on a previous Commission-issued payment arrangement. 66 Pa.C.S. § 1405(d).
5. If a customer defaults on a Commission-issued payment arrangement as a result of a significant change in circumstances, the Commission may reinstate or extend the term of a Commission-issued payment arrangement. 66 Pa.C.S. § 1405(e).
6. The Complainant failed to prove that his household income had decreased or that the default on the November 2021 Commission-issued payment arrangement was caused by a significant change in circumstances. 66 Pa.C.S. § 1405(d), (e).
7. The Complainant is not entitled to a second Commission-issued payment arrangement. 66 Pa.C.S. § 1405.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Matthew Forgie in Matthew Forgie c/o Megan Forgie against PECO Energy Company – Electric at Docket C-2022-3034051, is dismissed.
2. That the Secretary mark the docket closed.

Date: March 30, 2023

_____/s/_____
Mary D. Long
Administrative Law Judge