

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Thomas J. Scanlon	:	
	:	
v.	:	C-2022-3033984
	:	
PPL Electric Utilities Corporation	:	

**INITIAL DECISION**

Before  
Dennis J. Buckley  
Administrative Law Judge

**INTRODUCTION**

This Decision dismisses the Formal Complaint of Thomas J. Scanlon filed against PPL Electric Utilities Corporation requesting a new Commission-directed payment arrangement. The Complaint is dismissed because Mr. Scanlon failed to show by a preponderance of the evidence that PPL violated any provision of the Public Utility Code (Code) or the rules and regulations of the Commission and failed to establish a basis for the exercise of Commission discretion in ordering a new payment arrangement.

**HISTORY OF THE PROCEEDING**

On July 11, 2022, Thomas J. Scanlon (Complainant) filed a Formal Complaint (Complaint) against PPL Electric Utilities Corporation (PPL or Respondent) claiming that PPL had threatened to terminate his electric service. Complainant also requested a meter reading and a payment arrangement.

On August 12, 2022, PPL filed an Answer to the Complaint denying any violation of the provisions of the Public Utility Code (Code) or the regulations of the Commission. PPL stated that it had warned Complainant that service would be terminated in accordance with procedures required by the Commission. PPL asserted that Complainant had been afforded prior payment arrangements but had defaulted on them, including a Commission-directed payment arrangement established by the Commission's Bureau of Consumer Services (BCS) in BCS Case No. 3829351. PPL asked that the Complaint be dismissed as Complainant was not eligible for a further Commission-directed payment arrangement.

On September 7, 2022, a hearing Notice was issued setting October 5, 2022, as the date for a telephonic hearing in this case. The hearing was subsequently rescheduled for November 3, 2022.

A standard form prehearing Order was issued September 9, 2022.

On October 5, 2022, a telephonic evidentiary hearing was held in this matter. Complainant was present and presented testimony. Nicholas A. Stobbe, Esquire appeared on behalf of PPL. As Complainant did not have PPL's proposed exhibits available to him at the start of the hearing, the hearing was continued by the presiding officer to afford Complainant an opportunity to review those documents. On October 25, 2022, the court reporter filed a four page transcript of the hearing.

On November 10, 2022, a Notice for a rescheduled hearing was issued setting January 17, 2023, as the date for the rescheduled hearing.

On January 17, 2023, a rescheduled telephonic evidentiary hearing convened pursuant to Notice. Complainant was present and provided testimony on his own behalf. Nicholas A. Stobbe, Esquire, appeared on behalf of PPL. Attorney Stobbe presented the testimony of Ms. Tammy Rowland, a PPL Senior Customer Service Representative. Attorney Stobbe offered three exhibits that were accepted into evidence: PPL Exhibit 1, a Statement of

Account; PPL Exhibit 2, an Account Contact History; and, PPL Exhibit 4, a Summary of BCS Case No. 3829351.

The record in this case closed on February 7, 2023, with the filing by the court reporter of pages 5-43 of the hearing transcript and PPL's exhibits.

This matter is ready for adjudication.

### FINDINGS OF FACT

1. The Complainant in this case is Thomas J. Scanlon.
2. The Respondent in this case is PPL Electric Utility Corporation.
3. On July 11, 2022, Complainant filed a Complaint claiming that PPL had threatened to terminate his electric service, requesting a payment arrangement, and requesting a meter reading, the Complaint being related to a determination by the Commission's Bureau of Consumer Services at Case No. 3829351.
4. On August 12, 2022, PPL filed an Answer to the Complaint denying any violation of the provisions of the Public Utility Code (Code) or the regulations of the Commission.
5. At hearing, Complainant limited his testimony to his request for a new, Commission-directed payment arrangement.
6. Complainant resides with his wife at the service address, 1201 Grants Place, Denver, Pennsylvania.
7. The household's gross monthly income is approximately \$3,370. Tr. at 12.

8. At the time of the hearing in this case, Complainant's account arrearage amounted to \$3,962.97. Tr. at 17; PPL Exhibit 1.

9. Complainant is enrolled in PPL's Budget Billing Plan, a levelized payment subject to a three-month review at which time the budget billing amount is adjustable, with an annual true-up and settlement. Tr. at 18.

10. At the time of the hearing in this case, Complainant's monthly budget bill was \$529 per month. Tr. at 18.

11. Complainant does not make timely payments for the total amount of his electric bills. Tr. at 18, 33; PPL Exhibit 1.

12. On February 15, 2022, Complainant received a Company payment arrangement, but he later defaulted. PPL Exhibit 2.

13. On March 4, 2022, Complainant's application for the PPL Ontrack payment assistance program was rejected because Complainant was over the income eligibility limit. Tr. at 26; PPL Exhibit 2.

14. On May 2, 2022, Complainant defaulted on a Commission-directed payment arrangement established in April, 2022 in BCS Case No. 3829351 (April 2022 BCS PAR). Tr. at 29; PPL Exhibit 4.

15. Complainant defaulted on a payment arrangement that he had subsequently entered into with PPL in July, 2022. Tr. at 22; PPL Exhibit 4.

16. Complainant's household income at the time of the April 2022 BCS PAR was \$3,010. PPL Exhibit 4.

17. On July 5, 2022, Complainant was on a three-day medical certification. Tr. at 24.

18. On November 2, 2022, Complainant received a termination Notice for non-payment from PPL with a termination date of November 16, 2022. Tr. at 20, 29, 32.

### DISCUSSION

As the party seeking affirmative relief from the Commission, Complainant bears the burden of proof. 66 Pa.C.S. § 332(a). To satisfy this burden, a complainant must show that the named utility 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). This must be shown by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A preponderance of the evidence is evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Comm'w., Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993), 2 Pa.C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and W. Ry. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Commonwealth, Dep't. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the Complainant shifts to the Respondent. If the evidence presented by the Respondent is of co-equal weight, the Complainant has not satisfied his burden of proof. The Complainant now has to provide some additional evidence to rebut the evidence of the Respondent. *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983).

While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1419, applies to this proceeding. On December 22, 2014, Act 155 of 2014, reenacting the Responsible Utility Customer Protection Act, became effective and provides the Commission with 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 statute at 66 Pa.C.S. § 1405(a) states:

General rule.-The commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers. The commission is authorized to establish payment arrangements between a public utility, customers and applicants within the limits established by this chapter.

66 Pa.C.S. § 1405(a)

While the Commission is authorized to establish a payment arrangement for the Complainant, 66 Pa.C.S. § 1405(d) limits this ability. It provides:

(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.

66 Pa.C.S. § 1405(d)

The Code at 66 Pa.C.S. § 1403 provides a definition for what may constitute a “change in income.” It states:

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).

In his Complaint, Complainant requested a new Commission-directed payment arrangement and a meter reading. At hearing, Complainant presented no evidence to establish that he is eligible for a new payment arrangement from the Commission, nor did he expand upon his reference to a meter reading or raise the issue of misbilling. Complainant made repeated references to poor health and financial problems, but he never established how those facts (if proven) would justify a further, Commission-ordered payment arrangement.

Complainant previously received a Commission-ordered payment arrangement under the terms of the BCS determination in BCS Case No. 3829351. In order to qualify for a second Commission-directed PAR under 66 Pa.C.S. § 1405(d), the Complainant must establish a "change in income" as defined in 66 Pa.C.S. § 1403. Without such a change in income, the Commission has no authority under 66 Pa.C.S. § 1405(d) to establish, or order Respondent to establish, a second Commission-ordered payment arrangement for the Complainant. Complainant's household income at the time of the April 2022 BCS PAR was \$3,010. PPL Exhibit 4. Mr. Scanlon's household income at the time of the hearing was approximately \$3,370. Tr. at 12. The record shows that Complainant has had an *increase* in income since the April 2022 BCS PAR. Therefore, Complainant failed to establish that he is eligible for a new payment arrangement from the Commission.

It should be noted that even if the Complainant had established a change in income in this matter and would therefore potentially qualify for a second Commission-directed PAR, the Commission will only exercise its authority to establish a further payment arrangement judiciously. The Commission is not required to grant a payment arrangement and may decline to do so if the Complainant exhibits a poor payment history, inability to pay, and/or likeliness to default. *Brown v. Phila. Gas Works*, Docket No. C-2022-3032000 (Opinion and Order entered

Nov. 10, 2022); *Getz v. Metro. Edison Co.*, Docket No. C-2014-2459964 (Final Order entered May 28, 2015); *Turner v. Phila. Gas Works*, Docket No. C-2013-2388319 (Opinion and Order entered June 19, 2014); *Hewitt v. PECO Energy Co.*, Docket No. F-2011-2273271 (Opinion and Order entered Sept. 12, 2013). A payment arrangement, which prevents service termination if 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).

In this case, Complainant defaulted on the Commission-directed payment arrangement in BCS Case No. 3829351. Complainant presented no evidence of changed circumstances at hearing that would warrant the issuance of another Commission-directed payment arrangement. Complainant's poor payment history does not justify that the Commission should exercise its discretion in providing another payment arrangement.

PPL's uncontested evidence in PPL Exhibit 1, 2, and 4, and the uncontradicted testimony of PPL witness Tammy Rowland was that Complainant defaulted on both Company and Commission-directed payment arrangements and has a poor payment history. I find her testimony credible.

The underlying BCS determination was based on the requirements of the Responsible Utility Customer Protection Act, and Complainant failed to show any misapplication of that law. I note also that a public utility is entitled to full payment for service provided to customers and all customers are obligated to pay for the utility service provided to them. Otherwise, a customer's unpaid bills are included in the utility's uncollectible expenses and ultimately paid for by other utility customers. *Mill v. Pa. Public Utility Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Scaccia v. West Penn Power Co.*, 55 Pa.P.U.C. 637 (1982).

In sum, Complainant failed to demonstrate eligibility for a second Commission-directed payment arrangement, and his Complaint must, therefore, be dismissed.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. § 701.
2. The burden of proof in this proceeding is on the Complainant. 66 Pa.C.S. § 332(a).
3. The Responsible Utility Customer Protection Act applies to this proceeding. 66 Pa.C.S. §§ 1401-1419.
4. The Commission is authorized to establish a payment arrangement between a public utility and a customer. 66 Pa.C.S. § 1405(a).
5. The Commission is not authorized 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 unless there is a showing of a change in the customer's income. 66 Pa.C.S. § 1405(d).
6. A change in income is defined as a decrease in a customer's gross monthly household income. 66 Pa.C.S. § 1403.
7. The Complainant has failed to sustain his burden of proof establishing that he is entitled to a second Commission-ordered payment arrangement. 66 Pa.C.S. § 332(a); 66 Pa.C.S. § 1403; 66 Pa.C.S. § 1405(d).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal Complaint filed by Thomas J. Scanlon in Thomas J. Scanlon v. PPL Electric Utilities Corporation at Docket No. C-2022-3033984 is hereby dismissed.
2. That the case at Docket No. C-2022-3033984 be marked closed.

Dated: April 28, 2023

\_\_\_\_\_/s/\_\_\_\_\_  
Dennis J. Buckley  
Administrative Law Judge