

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Robbin Stanton

v.

Philadelphia Gas Works

:
:
:
:
:

F-2023-3043322

INITIAL DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Initial Decision sustains the Formal Complaint of a gas service customer seeking a payment arrangement because the customer met her burden of proving that she is eligible for a Commission-issued payment arrangement.

HISTORY OF THE PROCEEDING

On September 21, 2023, Robbin Stanton (Complainant or Ms. Stanton) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW, Company, or Respondent).¹ Ms. Stanton checked the boxes on the Complaint form stating that the utility is threatening to shut off her service or has already shut off her service, that she is requesting a Commission-issued payment arrangement, and that there are incorrect charges on her bill. Ms. Stanton further explained that she believed she was being charged for more than one meter.

¹ The Complaint is a timely appeal from the determination of the Commission's Bureau of Consumer Services (BCS), at BCS No. 3906743, which dismissed the Complainant's informal complaint. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

On October 20, 2023, PGW filed its Answer to the Complaint which admitted in part and denied in part the various material allegations of the Complaint.

By Hearing Notice dated October 25, 2023, an Initial Call-In Telephonic Hearing was scheduled for December 20, 2023, and the matter was assigned to me.

A Prehearing Order was issued on November 17, 2023, reminding the parties of the date and time of the scheduled hearing, and informing them of the procedures applicable to this proceeding.

On December 20, 2023, the hearing convened as scheduled. The Complainant appeared *pro se*, testified on her own behalf, and offered no exhibits for the record. Graciela Christlieb, Esquire, appeared on behalf of PGW and presented the testimony of one witness, Ronda Cobb, a Customer Review Officer at PGW. Ms. Cobb sponsored one exhibit, which was admitted into the record without objection.

The record closed on January 12, 2024, upon the filing of the transcript with the Commission.

FINDINGS OF FACT

1. The Complainant is Robbin Stanton.
2. The Respondent is Philadelphia Gas Works, a gas utility under the jurisdiction of the Pennsylvania Public Utility Commission.
3. The Complainant receives gas service from PGW at 121 South Ruby Street, Philadelphia, Pennsylvania 19139 (Service Address). Tr. 6.
4. The Complainant resides with her adult son at the Service Address. Tr. 6.

5. Ms. Stanton's gross monthly income is \$4,160.00.² Tr. 7.
6. Ms. Stanton's son's gross monthly income is \$1,000. Tr. 7.
7. The Complainant's gross monthly household income is \$5,160.00.³ Tr. 7.
8. The Complainant's household income exceeds 300% of the Federal poverty guidelines for a two person household.⁴
9. The Complainant's outstanding balance at the time of the hearing was \$2,726.05. Tr. 9; PGW Ex. 6.
10. The Complainant has never received a Commission-issued payment arrangement. Tr. 10.

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.P.U.C. 196 (Opinion and Order entered Feb. 8, 1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (Opinion and Order entered Oct. 6, 1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A complainant can meet that burden if he presents evidence more convincing, by even the smallest amount, than that evidence presented by Respondent. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854

² Ms. Stanton testified that she makes \$24.00/hr. for 40 hours per week. (\$24.00 x 40 = \$960/wk.) (52 wks. x \$960 = \$49,920/yr.) (\$49,920 ÷ 12 mos. = \$4,160/mo.). Tr. 7.

³ \$4,160.00 + \$1,000.00 = \$5,160.00.

⁴ See Federal poverty guidelines, 89 Fed. Reg. 2961 (Jan. 17, 2024); <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

(Pa. 1950). The offense must be a violation of the Public Utility Code (Code), a Commission Regulation or Order, or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701.

The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. 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. 1961); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on the complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *see also, Burlison v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

In this case, Ms. Stanton originally checked the boxes on the Complaint form stating that the utility is threatening to shut off her service or has already shut off her service, that she is requesting a Commission-issued payment arrangement, and that there are incorrect charges on her bill. However, prior to going on the record, the parties held a discussion wherein Ms. Stanton concluded that she only wanted to move forward with her request for a payment arrangement. Tr. 6.

The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401–1419, applies to complaints alleging inability to pay and requesting a Commission-issued payment arrangement. This law provides strict guidelines that the Commission must follow when determining whether a payment arrangement can be issued. Section 1405(a)–(c) of the Code reads as follows:

§ 1405. Payment arrangements

(a) 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.

(b) Length of payment arrangements.—The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment arrangement that is investigated by the commission and is entered into by a public utility and a customer shall not extend beyond:

- (1) Five years for customers with a gross monthly household income level not exceeding 150% of the Federal poverty level.
- (2) Three years for customers with a gross monthly household income level exceeding 150% and not more than 250% of the Federal poverty level.
- (3) One year for customers with a gross monthly household income level exceeding 250% of the Federal poverty level and not more than 300% of the Federal poverty level.
- (4) Six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level.

* * *

(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(a)–(b), (d).

Here, based on the Complainant’s gross household income of \$5,160 per month, and the household size of two, the Complainant exceeds 300% of the Federal poverty level. The

Complainant has not had a prior Commission issued payment arrangement. Therefore, the Complainant qualifies for a Level 4 payment arrangement. 66 Pa.C.S. § 1405(b)(4), (d). Accordingly, the Complainant will be granted a six month repayment period to extinguish the arrearage.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this case. 66 Pa.C.S. §§ 701, 1401–1419.

2. The Complainant has the burden of proof in this proceeding. 66 Pa.C.S. § 332(a).

3. A complainant must show, by a preponderance of the evidence, 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.P.U.C. 196 (Opinion and Order entered Feb. 8, 1990); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (Opinion and Order entered Oct. 6, 1976).

4. The decision of the Commission must be supported by substantial evidence or evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. 2 Pa.C.S. § 704; *Norfolk & W. Ry. Co. 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. 1961); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

5. Once a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence

by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on the complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *see also*, *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

6. The Responsible Utility Customer Protection Act applies to this proceeding. 66 Pa.C.S. §§ 1401–1419.

7. The Commission is authorized to establish a payment arrangement between a public utility and a customer. 66 Pa.C.S. § 1405(a).

8. The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment arrangement that is investigated by the Commission and is entered into by a public utility and a customer shall not extend beyond six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level. 66 Pa.C.S. § 1405(b)(4).

9. The Complainant has carried her burden of proving that she is eligible for a Commission-issued payment arrangement. 66 Pa.C.S. §§ 332(a), 1405.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Robbin Stanton in *Robbin Stanton v. Philadelphia Gas Works* at Docket No. F-2023-3043322 is sustained.

2. That Robbin Stanton shall make monthly payments consisting of her current budget bill plus one-sixth (1/6th) of the arrearage owed on the account, commencing with

the first billing due date following the entry of the Commission's Final Order in this case, and continuing thereafter on the due date for the payment of each regular monthly bill, until the arrearage on her account has been paid in full.

3. That as long as Robbin Stanton maintains the terms of the payment arrangement stated herein, Philadelphia Gas Works shall not suspend or terminate her utility service except for valid safety or emergency reasons or assess late payments or finance charges against her account.

4. That if Robbin Stanton does not keep the payment schedule stated herein, Philadelphia Gas Works is authorized to suspend or terminate her utility service in accordance with the Public Utility Code and Commission Regulations.

5. That Docket No. F-2023-3043322 be marked closed.

Date: April 10, 2024

_____/s/
F. Joseph Brady
Administrative Law Judge