

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Charles Harrison Jr.	:	
	:	
v.	:	C-2023-3041776
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Marta Guhl  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision denies the Complainant’s Formal Complaint because he has failed to establish that he is entitled to a second Commission-issued payment arrangement.

**HISTORY OF THE PROCEEDING**

On July 12, 2023, Charles Harrison Jr. (Complainant or Mr. Harrison) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant requested a payment arrangement.

On August 7, 2023<sup>1</sup>, Respondent filed an Answer denying the material allegations of the Complaint.

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<sup>1</sup> The Complaint was served on the Respondent by the Secretary’s Bureau on July 18, 2023.

On August 14, 2023, a Hearing Notice was issued which indicated an Initial Hearing was scheduled in the matter for October 4, 2023, at 10:00 a.m., and assigned to Administrative Law Judge Francis Brady. Judge Brady issued a Prehearing Order on September 7, 2023.

On September 26, 2023, a Judge Change Notice was issued which indicated that the matter had been reassigned to me.

On October 3, 2023, a Cancellation/Reschedule Notice was issued to reschedule the matter for an Initial Call-In Telephonic Hearing on December 6, 2023 at 10:00 a.m. The matter was rescheduled at the request of the Complainant's wife due to the Complainant's illness.

On December 6, 2023, the hearing was held as scheduled and the Complainant appeared with his wife, Angela Love-Harrison. PGW appeared represented by its counsel, Graciela Christlieb, Esq., and had one potential witness. However, the Complainant was not able to represent himself at the hearing so the matter was continued.

On December 6, 2023, a Hearing Reschedule Notice was issued and rescheduled the matter for a further hearing on January 5, 2024, at 1:30 p.m.

The hearing took place as scheduled on January 5, 2024. The Complainant was *pro se* and presented his testimony at the hearing. PGW was present and represented by Graciela Christlieb, Esq. who presented the testimony of one witness, Jessica Antonetti, a Customer Review Officer at PGW. The Respondent offered four exhibits at the hearing, which were entered into the record at that time.

The two hearings resulted in a total 29-page transcript. The record closed on March 19, 2024, when I received the hearing transcript from the January 5, 2024 hearing.

## FINDINGS OF FACT

1. The Complainant in this case is Charles Harrison Jr., who resides at 8923 Sylvia Lane, Philadelphia, Pennsylvania 19115 (Service Address). Tr. 14.
2. The Respondent in this case is Philadelphia Gas Works.
3. The Complainant resides at the Service Address with his wife and two children, ages 7 and 18. Tr. 15.
4. The Complainant receives \$1,543 per month in Social Security Disability payments. Tr. 16.
5. The Complainant's wife works full-time for a nursing agency. Tr. 15, 18.
6. The Complainant's wife earns \$22.00 per hour and works 40 hours per week. Tr. 15.
7. The Complainant's monthly income of \$5,356.33<sup>2</sup> per month for a household of four is 206% of the Federal Poverty guidelines.<sup>3</sup>
8. On August 13, 2022, the Complainant sustained an injury which resulted in his disability. Tr. 17.
9. Prior to his injury, the Complainant was working full-time and earning \$62,000.00 per year before taxes. Tr. 17.

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<sup>2</sup> \$22.00 x 40 = \$880 per week x 52 = \$45,760 / 12 = \$3,813.33 + \$1,543.00 = \$5,356.33 per month total household income.

<sup>3</sup> See Federal poverty guidelines, 89 Fed. Reg. 2961 (Jan. 17, 2024); <https://aspe.hhs.gov/sites/default/files/documents/7240229f28375f54435c5b83a3764cd1/detailed-guidelines-2024.pdf>

10. The Complainant has had four Company-issued payment arrangements which he failed to complete. Tr. 23; PGW Exh. 2.

11. On May 27, 2022, the Complainant received a Commission-issued payment arrangement from the Commission's Bureau of Consumer Services (BCS) Case No. 3832326 based on a household of five with a monthly income of \$2,600.00 (May 2022 PAR). Tr. 24; PGW Exhs. 2, 3.

12. The May 2022 PAR granted Complainant a Level One payment arrangement made up of \$177.00 budget billing and \$82.00 monthly repayment. Tr. 24; PGW Exh. 3.

13. The Complainant broke the May 2022 Commission-issued payment arrangement due to non-payment. Tr. 23; PGW Exh. 2.

14. The Complainant's account balance as of the hearing date was \$7,239.51 which consists of unpaid bills and late payment charges. Tr. 23; PGW Exh. 1.

### DISCUSSION

The Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, the Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S. § 332(a).

To establish a sufficient case and satisfy the burden of proof, the Complainant must show that the respondent public 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). 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, 602 (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. 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 & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 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 would be required to provide 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).

#### Request for Payment Arrangement

The Complainant requests a payment arrangement for his outstanding balance. The Responsible Utility Customer Protection Act, 66 Pa.C.S. § 1401-19 (the Act or Chapter 14), applies to complaints alleging inability to pay and requesting a Commission-issued payment arrangement. This law provides strict guidelines that the Commission must follow in handling customer complaints. Section 1405(a) of the Public Utility 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.

66 Pa.C.S. § 1405(a).

However, 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.

66 Pa.C.S. § 1405(d). Under Section 1403 of the Public Utility Code, a “change in income” is defined as a decrease in household income of 20% or more if the customer's household income level exceeds 200% of the Federal poverty level.

66 Pa.C.S. § 1403.

The Complainant resides at the Service Address with his wife and two children, ages 7 and 18. Tr. 15. The Complainant receives \$1,543 per month in Social Security Disability payments. Tr. 16. The Complainant's wife works full-time for a nursing agency. Tr. 15, 18. The Complainant's wife earns \$22.00 per hour and works 40 hours per week. Tr. 15. The Complainant's monthly income of \$5,356.33 per month for a household of four is 206% of the Federal Poverty guidelines.

The Complainant has had four Company-issued payment arrangements which he failed to complete. Tr. 23; PGW Exh. 2. On May 27, 2022, the Complainant received a Commission issued payment arrangement from Bureau of Consumer Services (BCS) Case No. 3832326 based on a household of five with a monthly income of \$2,600.00. Tr. 24; PGW Exhs. 2 and 3. The Complainant received a Level One payment arrangement made up of \$177.00 budget billing and \$82.00 monthly repayment. Tr. 24; PGW Exh. 3. The Complainant broke the Commission issued payment arrangement due to non-payment. Tr. 23; PGW Exh. 2. The Complainant's account balance as of the hearing date was \$7,239.51 which consists of unpaid bills and late payment charges. Tr. 23; PGW Exh. 1.

Because Complainant defaulted on his prior Commission-issued payment arrangement, the Commission cannot grant a second payment arrangement to the Complainant

absent a change in income. *See* 66 Pa.C.S. § 1405(d). To qualify as a change in income under the Code, Complainant has to prove his household experienced a decrease in household income of at least 20% from the date of his prior Commission-issued payment arrangement. 66 Pa.C.S. § 1403. The Complainant's monthly household income has actually increased since the May 2022 PAR. Consequently, the Complainant failed to demonstrate a change in income since he was provided with a Commission-issued payment arrangement in May 2022.

However, the Commission may reinstate a payment arrangement if the customer defaults on a payment arrangement as a result of a significant change in circumstance, and extend the remaining term for an initial period of six months. *See* 66 Pa.C.S. § 1405(e). A "significant change in circumstance" is defined 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:

- (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.

*See* 66 Pa.C.S. § 1403.

In this instance, the Complainant has not experienced a significant change in circumstances. Although the Complainant was injured in August 2022 which resulted in his disability and a decrease in his earnings, his monthly household income has actually increased from \$2,600 to \$5,356.33 from May 2022 to the present. As such, there has not been a significant change in circumstances as defined by the Public Utility Code. Accordingly, the Complainant's request for a payment arrangement must be denied.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.

2. The burden of proof in this proceeding is upon the complainant. 66 Pa.C.S. § 332(a).

3. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. 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.

4. The Responsible Utility Customer Protection Act, 66 Pa.C.S. § 1401-19, applies to complaints alleging inability to pay and requesting a Commission-issued payment arrangement.

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

6. If the customer defaults on a payment arrangement 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. *See* 66 Pa.C.S. § 1405(e).

7. The Complainant has not established that he has experienced a change in income or significant change in circumstances and therefore, is not entitled to a second Commission-issued payment arrangement. *See* 66 Pa.C.S. § 1405(d), (e).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Charles Harrison Jr. in Charles Harrison Jr. v. Philadelphia Gas Works at Docket No. C-2023-3041776 is denied;
2. That the record at Docket No. C-2023-3041776 be marked closed.

Date: June 18, 2024

\_\_\_\_\_/s/  
Marta Guhl  
Administrative Law Judge