

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Vicky Zorbaugh	:	
	:	
v.	:	C-2023-3044245
	:	
Metropolitan Edison Company	:	

INITIAL DECISION

Before
Steven K. Haas
Administrative Law Judge

INTRODUCTION

This Decision dismisses a Formal Complaint filed by a customer of an electric distribution company seeking a new Commission-ordered payment arrangement. The Complaint is dismissed because the Complainant has failed to meet her burden of proof to demonstrate that she is entitled to the requested relief.

HISTORY OF THE PROCEEDING

On November 15, 2023, the Complainant, Vicky Zorbaugh, filed a Formal Complaint (Complaint) against Metropolitan Edison Company (Met Ed) with the Pennsylvania Public Utility Commission (Commission) at Docket Number C-2023-3044245. In her Complaint, Ms. Zorbaugh is seeking a new Commission-ordered payment arrangement that she can afford.

On December 6, 2023, Met Ed filed an Answer and New Matter in response to Ms. Zorbaugh’s Complaint. In its Answer, Met Ed denied that Ms. Zorbaugh was entitled to a

new Commission-ordered payment arrangement because she had defaulted on a prior Commission-ordered payment arrangement. In its New Matter, Met Ed again averred that Ms. Zorbaugh is not entitled to a new Commission-ordered payment arrangement. Met Ed requested that the Complaint be dismissed.

By Notice dated January 10, 2024, the parties were advised that an Initial Telephonic Hearing had been scheduled for March 6, 2024, and that I was assigned as the Presiding Officer.

The hearing convened as scheduled on March 6, 2024. Ms. Zorbaugh appeared *pro se* and testified on behalf of herself. Margaret Morris, Esquire appeared on behalf of Met Ed and presented one witness who sponsored 11 exhibits, all of which were admitted into the record. The record consists of a 41-page transcript and 11 Met Ed exhibits. The record in this proceeding closed on April 1, 2024, when the transcript was filed with the Commission.

Ms. Zorbaugh's Complaint is ready for disposition. For the reasons discussed below, the Complaint will be dismissed.

FINDINGS OF FACT

1. The Complainant in this proceeding is Vicky Zorbaugh.
2. The Respondent in this proceeding is Metropolitan Edison Company.
3. The service address is 1630 South Drive, York, PA 17408. Tr. 8.
4. There are currently two people residing at the service address; Ms. Zorbaugh and her husband. Tr. 11.
5. Ms. Zorbaugh's current gross monthly income is approximately \$4,960.00. Tr. 14.

6. Ms. Zorbaugh's husband's current gross monthly income is approximately \$3,520.00. Tr. 14-15.

7. The total current gross monthly income of Ms. Zorbaugh's household is approximately \$8,500.00. Tr. 15.

8. On November 16, 2022, Ms. Zorbaugh filed an informal Complaint with the Commission's Bureau of Consumer Services (BCS) at BCS Case No. 3877987. Tr. 29-30; Met Ed Ex. 5.

9. In her informal Complaint at BCS Case No. 3877987, Ms. Zorbaugh was seeking an affordable payment arrangement for payment of outstanding charges on her Met Ed account. Met Ed Ex. 5.

10. In her informal Complaint at BCS Case No. 3877987, Ms. Zorbaugh reported a household of one adult with a total gross monthly income of \$5,200.00. Tr. 29-30; Met Ed Ex. 5.

11. Ms. Zorbaugh's Med Ed account balance at the time of filing the informal Complaint at BCS Case No. 3877987 was \$12,063.82. Tr. 28-29; Met Ed Ex. 5.

12. In its January 6, 2023, decision at BCS Case No. 3877987, the BCS ordered a Level 4 payment arrangement, whereby Ms. Zorbaugh was required to pay her budget bill plus an additional \$2,014.00, for six months. Tr. 28-29; Met Ed Ex. 5.

13. Ms. Zorbaugh did not appeal the BCS's decision at BCS Case No. 3877987. Tr. 29.

14. On May 24, 2023, Ms. Zorbaugh filed another informal Complaint with the BCS at BCS Case No. 3912445. Tr. 31; Met Ed. Ex. 6.

15. In BCS Case No. 3912445, Ms. Zorbaugh sought a more affordable payment arrangement, based on a change in income, from the arrangement ordered by the Commission at BCS Case No. 3877987. Tr. 31; Met Ed Ex. 6.

16. In her informal Complaint at BCS Case No. 3912445, Ms. Zorbaugh reported a household of one adult with a total monthly gross income of \$3,900.00. Tr. 31; Met Ed Ex. 6.

17. Ms. Zorbaugh's Med Ed account balance at the time of filing the informal Complaint at BCS Case No. 3912445 was \$14,527.38. Tr. 29-30; Met Ed Ex. 6.

18. In its August 24, 2023, decision at BCS Case No. 3912445, the BCS again ordered a Level 4 payment arrangement, based on the gross monthly household income, whereby she was required to pay her budget bill plus an additional \$2,437.00 each month for six months. Tr. 29-30; Met Ed Ex. 6.

19. Ms. Zorbaugh did not appeal the BCS Decision at Case No. 3912445. Tr. 30.

20. Ms. Zorbaugh defaulted on the BCS payment arrangement at Case No. 3912445. Tr. 30.

21. Ms. Zorbaugh's Met Ed account balance at the time of the hearing in this proceeding was \$16,040.66. Tr. 26; Met Ed Ex. 2.

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 (1990). “Burden of proof” means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. Se-Ling Hosiery v. Margulies, 70 A.2d 854 (Pa. 1950). The offense must be a violation of the Public Utility Code, the Commission’s regulations or an outstanding order of the Commission. 66 Pa.C.S. § 701. Here, Ms. Zorbaugh filed a Complaint against Met Ed seeking legal relief. Ms. Zorbaugh, therefore, has the burden of proof.

In her Complaint, Ms. Zorbaugh has requested a more favorable payment arrangement, stating that she cannot meet the terms of the previous payment arrangement ordered by the BCS at Case No. 3912445. As noted, Ms. Zorbaugh never appealed the BCS Decision which, therefore, became a Commission-ordered payment arrangement.

The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§1401-1419, 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).

The Commission may establish a payment arrangement between a public utility and a customer only within the limits established by 66 Pa.C.S. §§1401-1419. The statute at 66 Pa.C.S. §1405(d) of the Public Utility Code states:

(d) Number of Payment Agreements. – Absent a change in income, the Commission shall not establish or order a public utility to establish a second or subsequent payment agreement if a customer has defaulted on a previous payment agreement. A public utility may, at its discretion, enter into a second or subsequent payment agreement with a customer.

Since the Complainant failed to make the payments ordered by the BCS at Case No. 3912445, she has defaulted on that payment arrangement. According to 66 Pa.C.S. §1405(d), the Complainant may receive another payment arrangement only if she has experienced a change in income. The statute at 66 Pa.C.S. §1403 defines a “Change in Income” as follows:

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.

In this case, the Complainant testified that her current gross monthly household income is \$8,500.00. Tr. 14-15. This is considerably greater than Ms. Zorbaugh's prior gross monthly household income of \$3,900.00 at the time she received a payment arrangement in BCS Case No. 3912445. Met Ed Ex. 6. As noted, she did not timely appeal that BCS decision. I cannot order a second payment arrangement, pursuant to 66 Pa.C.S. §1405(d), since the Complainant testified that the current gross household monthly income had significantly increased by the time of the hearing.

Alternatively, the Commission may reinstate and extend a payment arrangement where the customer has defaulted due to a significant change in circumstances. The statute at 66 Pa.C.S. §1405(e) speaks to that issue as follows:

(e) Extension of payment agreements.--If the customer defaults on a payment agreement established under subsections (a) and (b) as a result of a significant change in circumstance, the commission may reinstate the payment agreement 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.

The statute at 66 Pa.C.S. §1403 defines "significant change in circumstance" as follows:

"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.

In this case, the Complainant did not produce any evidence that the household suffered a significant loss in income due to illness. In fact, the competent record evidence demonstrates that there has been a significant increase in the household income. The Complainant also did not produce any evidence of catastrophic damage to her residence or a loss of the residence. She did, however, testify that the number of dependents in the household increased from one person at the time of the BCS-ordered payment arrangement to two people at the time of the hearing in this case. Given the significant increase in the monthly household income since the BCS-ordered payment arrangement, however, I do not conclude that the increase in the number of dependents from one to two justifies an extension or reinstatement of the prior BCS-ordered payment arrangement. Therefore, the Commission may not reinstate or extend the payment arrangement ordered in BCS Case No. 3912445, because Complainant has not experienced a significant change in circumstance as defined by the Public Utility Code.

CONCLUSION

Ms. Zorbaugh has failed to meet her burden of proof to demonstrate that she is entitled to a new Commission-ordered payment arrangement, because she has failed to demonstrate, by a preponderance of the evidence, that she has suffered either a change in income or a significant change in circumstances as those terms are defined in the Public Utility Code. Accordingly, Ms. Zorbaugh's Complaint is dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of 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. "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. Se-Ling Hosiery v. Margulies, 70 A.2d 854 (Pa. 1950).

4. The Commission is authorized to establish a payment arrangement between a public utility and a customer under certain conditions as set forth in 66 Pa.C.S. §1405(a).

5. The Commission may order a new, revised payment arrangement for a customer if the customer has experienced a change in income. 66 Pa.C.S. §1405(d).

6. "Change in Income" is defined as follows:

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.

7. The Commission may reinstate and extend a prior payment arrangement where the customer has defaulted due to a significant change in circumstance. 66 Pa.C.S. §1405.

8. "Significant change in circumstances" is defined as follows:

"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.

9. The Complainant has not met her burden of proving that she is entitled to the requested relief. 66 Pa.C.S. §332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Vicky Zorbaugh in Vicky Zorbaugh v. Metropolitan Edison Company at Docket No. C-2023-3044245 is hereby dismissed.

2. That the Secretary's Bureau shall mark the proceeding at Docket No. C-2023-3044245 as closed.

Dated: July 1, 2024

_____/s/
Steven K. Haas
Administrative Law Judge