

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jeannine Willis

v.

Philadelphia Gas Works

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C-2024-3047920

INITIAL DECISION

Before
Arlene Ashton
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Complainant’s Formal Complaint because she failed to sustain her burden of proof to establish that she was entitled to a second Commission-issued payment arrangement because she defaulted on a prior Commission-issued payment arrangement and has not experienced a decrease in income.

HISTORY OF THE PROCEEDING

On March 27, 2024, Jeannine Willis (Complainant or Ms. Willis) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the

Complainant indicated that the utility is threatening to shut off her service and she would like a payment agreement. As relief, the Complainant requests a payment agreement.¹

On April 22, 2024, Respondent filed an Answer denying the material allegations of the Complaint.

On April 23, 2024, a Hearing Notice was issued which indicated an initial hearing was scheduled in the matter for June 20, 2024, at 10:00 a.m., and assigned to me. I issued a Prehearing Order on April 29, 2024.

The initial hearing in this matter was held as scheduled on June 20, 2024. The Complainant appeared *pro se* and testified on her own behalf. The Complainant offered one exhibit which was entered into the record at the hearing. Respondent appeared and was represented by Garret P. Lent, Esq., who presented the testimony of one witness, Dana Brunner. Respondent offered four exhibits which were entered into the record at the time of the hearing.

The hearing resulted in an 86-page transcript. The record closed on August 15, 2024, when the transcript was received.

FINDINGS OF FACT

1. The Complainant in this case is Jeannine Willis, who resides at 5118 Oakland Street, Apartment B, Philadelphia, Pennsylvania 19124 (Service Address).
Tr. 12.

¹ On the complaint form, the Complainant wrote “I would like extension or reset a payment agreement to help me get the bill down.” It is somewhat unclear whether the Complainant’s reference to getting the bill down was intended as a reduction in the outstanding balance of her bill, the amount payable each month to PGW or both.

2. The Respondent in this case is Philadelphia Gas Works.
3. The Complainant resides at the Service Address with her 17-year-old daughter. Tr. 17.
5. The Complainant is employed as a medical administrative assistant. Tr. 20.
6. The Complainant had two company-issued payment arrangements. Tr. 28; PGW Exh. 2.
7. The Complainant defaulted on both of the company-issued payment arrangements. Tr. 28; PGW Exh. 2.
8. The Complainant received a Commission-issued payment arrangement from the Bureau of Consumer Services (BCS) under Determination No. 3861844 issued November 4, 2022, which provided for budget billing of \$165.00 + \$57.00 on the arrears, a total of \$222 monthly beginning December 2022. Tr. 31-32; PGW Exh. 3.
9. The payment arrangement awarded to the Complainant in Determination No. 3861844 was based on a household size of one adult and one minor child and gross monthly income of \$3,640. Tr. 31; PGW Exh. 3.
10. The Complainant defaulted on the BCS-issued payment arrangement on or about March 30, 2023. Tr. 33; PGW Exh. 2.
11. The Complainant did not make consistent payments on her account. Tr. 55; PGW Exh. 1.

12. Since she was awarded a Commission-issued payment arrangement on November 4, 2022, the Complainant's gross income has increased to approximately \$4,000 per month. Tr. 17.

13. The Complainant last made a payment on her account on March 30, 2023, in the amount of \$210 when her balance was \$2,549.96. Tr. 47; PGW Exh. 1.

14. The Complainant's current account balance is \$5,574.50. Tr. 24.

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, 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. Sub. 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 (Pa. Cmwlth. 1990). A preponderance of the evidence is evidence that is 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 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. 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).

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 Commission-issued payment arrangement in this matter. PGW contends that the Complainant is not entitled to a Commission-issued payment arrangement due to her poor payment history and the fact that the Complainant has had a prior Commission-issued payment arrangement which was broken.

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

The Complainant resides at the Service Address with her teenage daughter and is employed as a medical administrative assistant. The Complainant received a Commission-issued payment arrangement from the Bureau of Consumer Services (BCS) under Determination No. 3861844 issued November 4, 2022, which provided for budget billing of \$165.00 + \$57.00 on the arrears, a total of \$222 monthly beginning December 2022. The payment arrangement awarded to the Complainant in Determination No. 3861844 was based on a household size of one adult and one minor child and gross monthly income of \$3,640. The Complainant defaulted on the BCS-issued payment arrangement on or about March 30, 2023.

The Complainant testified that there has been no change in the size of her household since the Commission-issued payment arrangement was put into place on November 4, 2022. Tr. 17. She also testified that there has not been any decrease in her

income since November 2022; instead, according to her own testimony, her income has increased slightly since that date. Tr. 17.

PGW's witness testified that the Complainant has made a total of five payments on her account since March 2022, with the last payment made in March 2023. Tr. 25-26. Moreover, the Complainant had company-issued payment arrangements on January 29, 2021, April 13, 2021, May 21, 2021, July 29, 2021, September 20, 2021, October 25, 2021, January 18, 2022, and March 17, 2022. PGW Exh. 2 and 3. The Complainant has defaulted on all of the company-issued payment arrangements. Tr. 71; PGW Exh. 3.

In this matter, the Commission is constrained to grant only one payment arrangement to the Complainant, absent a change in income. *See* 66 Pa.C.S. § 1405(d). 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 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. The Complainant failed to demonstrate a change in income as defined by the Public Utility Code since she was provided with a Commission-issued payment arrangement in November 2022. Despite an increase in income since November 2022, the Complainant defaulted on that payment arrangement. As such, the Complainant's request for a payment arrangement must be denied.

Also, the Complainant is not entitled to an extension of the November 4, 2022 Commission-issued payment arrangement. Section 1405(e) of the Responsible Utility Customer Protection Act reads in pertinent part:

(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.

66 Pa.C.S. § 1405(e) (emphasis added). “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.

66 Pa.C.S. § 1403.

Here, the Complainant offered no evidence that she defaulted on the November 4, 2022 Commission-issued payment arrangement as a result of a significant change in circumstances. Consequently, the Commission may not reinstate the November 4, 2022 Commission-issued payment arrangement and extend the remaining term.

Based on the foregoing, I find that the Complainant has failed to carry her burden of proving that she is entitled to a third or subsequent Commission-issued

payment arrangement or to an extension of the previous payment arrangement. Accordingly, the Complaint shall 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. 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).
5. If the customer defaults on a payment arrangement established under 66 Pa.C.S. § 1405(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. 66 Pa.C.S. § 1405(e).
6. Complainant failed to carry her burden of proof that she is entitled to a subsequent Commission-issued payment arrangement or the reinstatement of, or an

extension of, her prior Commission-issued payment arrangement. 66 Pa.C.S. §§ 332(a), 1405(d), 1405(e).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Jeannine Willis against Philadelphia Gas Works at *Jeannine Willis v. Philadelphia Gas Works*, Docket No. C-2024-3047920 is denied and dismissed;

2. That the record at Docket No. C-2024-3047920 be marked closed.

Date: November 4, 2024

/s/
Arlene Ashton
Administrative Law Judge