

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kathleen McCullough	:	
	:	
v.	:	C-2024-3048179
	:	
Pennsylvania American Water Company	:	

**INITIAL DECISION**

Before  
Mary D. Long  
Administrative Law Judge

**INTRODUCTION**

This decision sustains the formal complaint of a water customer because she has met her burden of proving that she is eligible for a Commission-issued payment arrangement.

**HISTORY OF THE PROCEEDINGS**

Kathleen McCullough filed a Formal Complaint on April 5, 2024, against Pennsylvania American Water Company (PAWC). Her complaint is an appeal of a determination by the Commission’s Bureau of Consumer Services (BCS), which awarded her a payment arrangement beginning with the May 2024 bill.<sup>1</sup> Ms. McCullough asks for

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<sup>1</sup> This complaint was not docketed as an appeal from a BCS decision. However, Ms. McCullough filed her complaint the day after BCS awarded her a payment

more time to apply for a Dollar Energy Fund grant to satisfy her balance and avoid termination of her water service.

PAWC filed an answer on April 25, 2024. In its answer, PAWC avers that it is not actively seeking termination of Ms. McCullough's water service. According to PAWC, the payment arrangement awarded by BCS was appropriate.

On April 30, 2024, Chief Administrative Law Judge Charles E. Rainey directed the parties to attempt to resolve their dispute with the assistance of the Commission's Mediation Unit. The parties did not resolve their dispute and by hearing notice dated July 9, 2024, the Office of Administrative Law Judge scheduled a hearing by telephone for September 17, 2024, and assigned the case to me. I issued a prehearing order on July 9, 2024.

The hearing convened as scheduled. Ms. McCullough appeared and represented herself. Ms. McCullough testified on her own behalf. PAWC was represented by Michael A. Gruin, Esquire. PAWC presented the testimony of one witness and offered three exhibits which were admitted into the record. Following the receipt of the transcript, I closed the record by order entered on October 16, 2024.

#### FINDINGS OF FACT

1. The Complainant is Kathleen McCullough, who resides at 107 Fairway Landings Drive, Canonsburg, Pennsylvania. Tr. 8.

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arrangement on April 4, 2024, and she specifically stated that she was appealing the decision.

2. The Respondent is Pennsylvania American Water Company, a jurisdictional public utility.
3. PAWC provides water service to the Complainant.
4. The Complainant receives wastewater service from the Cecil Township Municipal Authority. Tr. 12.
5. The Complainant is unemployed. Tr. 8
6. The Complainant has a household size of one and has zero income. Tr. 8, 15.
7. The Complainant's income and household size places her below 150% of the Federal poverty level.<sup>2</sup>
8. The current account balance is \$188.07. Tr. 21.

### DISCUSSION

Section 701 of the Public Utility Code (Code), provides that any person may complain, in writing, about any act or thing done or not done by a public utility which violates any laws which the Commission has the authority to administer, or any

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<sup>2</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>.

regulation or order of the Commission.<sup>3</sup> A person who wants the Commission to do something to resolve their complaint has the burden of proof.<sup>4</sup>

In this matter, Ms. McCullough is the party asking for relief from the Commission; therefore, she has the burden of proof. This means that Ms. McCullough must present facts which support her claim by a preponderance of the evidence.<sup>5</sup> The term “preponderance of the evidence” means one party must present evidence which is more convincing, by even the smallest amount, than the evidence presented by the other party.<sup>6</sup>

Ms. McCullough explained that she has no income, poor health and has suffered significant legal difficulties in recent years. She is not currently employed. She sought assistance paying her PAWC bill by filing an informal complaint with BCS. BCS awarded her a Level 1 payment arrangement beginning with the May 2024 bill.

Ms. McCullough intended to apply for a Dollar Energy Fund grant which would resolve her PAWC balance. However, at the time she filed her complaint, Dollar Energy Fund required a \$50 deposit. Ms. McCullough could not raise \$50. In her Formal Complaint appealing the BCS decision, she asks for more time in which to raise the \$50 to qualify for the Dollar Energy Fund grant.

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<sup>3</sup> 66 Pa.C.S. § 701.

<sup>4</sup> 66 Pa.C.S. § 332(a).

<sup>5</sup> *Popowsky v. Pa. Pub. Util. Comm’n*, 937 A.2d 1040 (Pa. 2007) (*Popowsky*); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

<sup>6</sup> *Popowsky*.

Review of a timely appeal of a decision by BCS is *de novo*.<sup>7</sup> This means that as the administrative law judge, my consideration is “new.” No part of the record in the informal complaint proceeding can be relied upon in the formal complaint proceeding.<sup>8</sup> A complainant as the party with the burden of proof, must develop a record which supports the relief the complainant is requesting.<sup>9</sup> However, as a timely appeal from a payment arrangement, the customer cannot be in default of the payment arrangement until the formal complaint on appeal is fully adjudicated and a final order is entered.<sup>10</sup>

Ms. McCullough qualifies for a payment arrangement.<sup>11</sup> The Commission has not previously awarded her a payment arrangement. Ms. McCullough has no

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<sup>7</sup> 52 Pa. Code §§ 56.173(a), 56.403(a).

<sup>8</sup> *Leung v. Phila. Gas Works*, Docket F-2020-3020041 (Opinion and Order entered Oct. 28, 2021).

<sup>9</sup> *Id.*

<sup>10</sup> 52 Pa. Code § 56.174(b)(upon the timely appeal from a BCS decision, there shall be an automatic stay of payment arrangements). *See also Harnett v. PPL Elec. Utils. Corp.*, No. F-2012-2329578 (Opinion and Order entered Nov. 14, 2013) (providing in ability to pay proceedings involving a timely appeal from the BCS decision, the informal decision is automatically stayed, and the customer cannot be in default until the formal complaint on appeal is fully adjudicated and a final order is entered).

<sup>11</sup> Todd Haslup, a Supervisor of Customer Service for PAWC, testified that as of October 1, 2024, Dollar Energy Fund grants will be replenished. Income-qualified applicants, like Ms. McCullough, would not be required to make any payment to PAWC. He testified that Ms. McCullough could call Dollar Energy or a local community-based organization to apply for the grant. Ms. McCullough credibly stated in the hearing that she intended to apply for the Dollar Energy grant. Her complaint requesting time to pay her bill may be moot. However, as of this writing she has not withdrawn her complaint, nor has PAWC filed a certificate of satisfaction. I must decide the complaint based solely on the record.

monthly income, which places her below 150% of the Federal poverty level.<sup>12</sup> Therefore, Ms. McCullough qualifies for a 60-month payment arrangement.<sup>13</sup>

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of the dispute. 66 Pa.C.S §§ 701.
  
2. The burden of proof in this proceeding is upon the Complainant. 66 Pa.C.S. § 332(a).
  
3. The Commission is authorized to establish a payment arrangement between a public utility and a customer. 66 Pa.C.S. § 1405(a).
  
4. Complainant has met her burden of proving that she is eligible for a Commission issued payment arrangement under 66 Pa.C.S. § 1405. 66 Pa.C.S. § 332(a).

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<sup>12</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>.

<sup>13</sup> 66 Pa.C.S. § 1405(b)(1).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Kathleen McCullough against Pennsylvania American Water Company at Docket C-2024-3048179, is sustained.
  
2. That Kathleen McCullough shall make monthly payments consisting of her current budget bill plus one-sixtieth (1/60<sup>th</sup>) of the arrearage owed on the account, beginning 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.
  
3. That as long as Kathleen McCullough maintains the terms of the payment arrangement stated herein, Pennsylvania American Water Company shall not suspend or terminate her water service except for valid safety or emergency reasons or assess late payments or finance charges against her account.
  
4. That if Kathleen McCullough does not keep the payment schedule stated herein, Pennsylvania American Water Company is authorized to suspend or terminate her water service in accordance with the Public Utility Code and Commission Regulations.

