

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Terria Wilks	:	
	:	
v.	:	C-2024-3049293
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Emily I. DeVoe  
Administrative Law Judge

**INTRODUCTION**

This decision denies the Formal Complaint filed by Terria Wilks against Philadelphia Gas Works. The Complaint is denied because Ms. Wilks failed to meet her burden to show she experienced a “change in income” such that she is eligible for a subsequent Commission payment arrangement.

**HISTORY OF THE PROCEEDINGS**

On May 29, 2024, Terria Wilks (Complainant or Ms. Wilks) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission), against Philadelphia Gas Works (PGW, Company, or Respondent) regarding service at 7545 Sherwood Road, Philadelphia, PA (service location). Complainant checked boxes indicating the utility was threatening to shut off her service or had already done so and requesting a payment arrangement (PAR). Under requested relief, Complainant wrote, “I

would like to receive an affordable payment arrangement. I believe the charges [were] billed incorrectly before year 2009. This bill has been a problem since. The gas being shut off threatens my 14 years old son[’s] quality of life.” For service by the Commission, Complainant selected eService, checking the box next to this option.

On June 19, 2024, PGW filed an Answer and New Matter, as well as a Preliminary Objection. In its Answer, PGW admitted it issued a ten-day shut-off notice to Complainant. PGW further explained that Complainant has received multiple PGW-issued payment agreements that remain unsatisfied as well as two PUC-issued payment agreements issued at Bureau of Consumer Services (BCS) Docket Nos. 3594648 and BCS 3796411 that remain unsatisfied.

In its New Matter, PGW explained that Complainant filed a Formal Complaint against PGW at Docket No. F-2015-2471533, attached to the New Matter as appendix “A,” wherein Complainant alleged, *inter alia*, that there were incorrect or high charges on her PGW bills from 2009 and prior. On July 27, 2015, the presiding officer, Administrative Law Judge Darlene Heep (ALJ Heep), issued an Initial Decision at Docket No. F-2015-2471533 dismissing the Complaint, finding that: (a) Complainant’s claims relating to bills from and before 2009 were barred by the stature of limitations; and (b) Complainant failed to establish a prima facie case for any such claims after 2009. PGW averred that Complainant did not file Exceptions to the Initial Decision at Docket No. F-2015-2471533. By Final Order entered on October 2, 2015, the Commission informed the parties that, in accordance with the provisions of Section 332(h) of the Public Utility Code, 66 Pa.C.S. §332(h), the Initial Decision at Docket No. F-2015-2471533 had become final without further Commission action. PGW noted that the Commission’s Final Order at Docket No. F-2015-2471533 has not been set aside, annulled, or otherwise overturned.

PGW further averred that, on August 21, 2023, Complainant filed a Formal Complaint against PGW at Docket No. C-2023-3042340, attached to the New Matter as appendix “B,” wherein Complainant also alleged that there were incorrect or high charges on her PGW bills from the past. On March 8, 2024, the presiding officer, Administrative Law Judge Arlene Ashton (ALJ Ashton), issued an Initial Decision at Docket No. C-2023-3042340, attached to the New Matter as appendix “C,” wherein she upheld ALJ Heep’s decision regarding the statute of limitations regarding the bills from 2009 and prior. ALJ Ashton also dismissed Complainant’s claim that inaccurate or high bills were issued since filing of the Complaint at Docket No. F-2015-2471533, finding that Complainant failed to meet her burden of proof. Complainant did not file Exceptions to the Initial Decision at Docket No. C-2023-3042340. By Final Order entered on April 10, 2024, attached to the New Matter as appendix “D,” the Commission informed the parties that, in accordance with the provisions of Section 332(h) of the Public Utility Code, 66 Pa.C.S. §332(h), the Initial Decision at Docket No. C-2023-3042340 had become final without further Commission action. PGW explained that the Commission’s Final Order at Docket No. C-2023-3042340 has not been set aside, annulled, or otherwise overturned.

PGW argued that the statute of limitations at 66 Pa.C.S. § 3314 provides that no action for recovery of penalties or forfeitures, or any prosecution, may be maintained unless brought within three years from the date the liability arose, and effectively divests the Commission of jurisdiction to hear an action brought more than three years from the date the liability arose. To the extent that the instant Complaint raises issues pertaining to the accuracy of PGW bills issued to Complainant prior to August 21, 2023, PGW argued that those issues have been previously decided in a prior proceeding at Docket No. C-2023-3042340 where the parties had an opportunity to appear and be heard and are thereby barred by the doctrine of *res judicata*.

The New Matter was accompanied by a Notice to Plead, directing Complainant to file a response to the New Matter within 20 days of service. This Notice further advised, “[f]ailure to file a timely reply to new matter may result in relevant facts stated in the new matter being deemed admitted.” Complainant did not file a response to the New Matter.

In its Preliminary Objection, PGW argued Complainant alleged incorrect bills were issued prior to 2009, which is beyond the statute of limitations at 66 Pa.C.S. § 3314. Additionally, PGW argued that any claims regarding incorrect bills issued prior to August 21, 2023, had been previously decided in the prior proceeding at Docket No. C-2023-3042340 and are thereby barred by the doctrine of *res judicata*.

The Preliminary Objection included a Notice to Plead, advising Complainant of her right to file a response within ten days of service. Complainant did not file a response to the Preliminary Objection.

On July 24, 2024, the Commission issued a Motion Judge Assignment Notice, assigning this matter to me.

On September 3, 2024, I issued an Interim Order granting in part and denying in part PGW’s Preliminary Objection. I dismissed all allegations and claims regarding the accuracy of bills issued prior to May 29, 2021, finding that they fell outside the applicable statutory period of limitation and are barred under 66 Pa.C.S. § 3314. Furthermore, I dismissed the claim that bills issued between May 29, 2021, and August 21, 2023, were inaccurate pursuant to 66 Pa.C.S. § 316. I explained that with regard to the accuracy of Complainant’s bills, the only bills at issue in the instant case were the bills issued after August 21, 2023. Finally, I directed that this matter be scheduled for an evidentiary hearing.

On September 4, 2024, the Commission issued a Hearing Notice, scheduling this matter for an evidentiary hearing on October 30, 2024, before Administrative Law Judge (ALJ) F. Joseph Brady.

On September 10, 2024, the Commission issued a Judge Change Notice, reassigning this matter to me.

On September 10, 2024, I issued a Prehearing Order.

The hearing convened as scheduled on October 30, 2024. Complainant appeared *pro se* and offered testimony on her own behalf. Ms. Anita Murray, Esq., appeared on behalf of PGW and presented testimony from Davis Kaufman, Customer Review Officer. PGW Exhibits 1-3 were admitted into the record. I asked Complainant whether she would be willing to provide paystubs as a late-filed exhibit. She agreed. I directed Complainant to submit her paystubs to me by email, copying the Company's counsel, by November 6, 2024, and directing Ms. Murray to submit any objection to the admission of the paystubs by November 13, 2024.

On October 30, 2024, Ms. Wilks submitted paystubs from August 2, 2024, to October 25, 2024, to me by email, copying Ms. Murray.

On October 31, 2024, Ms. Murray emailed me, advising she had no objection to the admission of the paystubs.

On November 11, 2024, the 45-page transcript was filed.

On December 3, 2024, I issued an Interim Order, admitting the pay stubs into the record as Complainant Ex. 1 and closing the record in this matter.

This matter is now ripe for adjudication.

FINDINGS OF FACT

1. Complainant is Terria Wilks.
2. The Respondent, Philadelphia Gas Works, is a jurisdictional public utility.
3. Complainant resides at 7545 Sherwood Road, Philadelphia, PA. Tr. 26.
4. Complainant resides with her fifteen-year-old child. Tr. 21, 22-23.
5. Complainant's only income is wages from her employment. Tr. 21.
6. Complainant works full time at Keystone First Health Insurance, working 40 hours per week. Tr. 19-20.
7. Complainant's son's father is deceased. Tr. 21.
8. Complainant's income does not fluctuate and remains steady. Tr. 22.
9. Complainant is paid every two weeks. Complainant's Ex. 1.
10. Complainant received the following paychecks:

Date	Gross Amount
August 2, 2024	\$1,996.58
August 16, 2024	\$1,975.07
August 30, 2024	\$1,984.28
September 13, 2024	\$1,855.28
September 27, 2024	\$1,959.72
October 11, 2024	\$1,975.07
October 25, 2024	\$1,996.46

11. On average, Complainant earns \$1,963.21 per paycheck.

Complainant Ex. 1.

12. Based on her average biweekly earnings, Complainant earns approximately \$3,926.42 per month ( $\$1,963.21 \times 2$ ). Complainant Ex. 1.

13. On August 20, 2021, BCS granted Complainant a Level 1 PAR at BCS No. 3796411 (August 2021 PAR), consisting of a monthly payment of \$273.00 (budget bill + \$166.00). Tr. 35-36; PGW Ex. 3.

14. The August 2021 PAR was calculated using a household size of two (one adult and one child) and a monthly income of \$3,666. Tr. 35; PGW Ex. 3.

15. Complainant defaulted on the August 2021 PAR. Tr. 36.

16. On July 27, 2022, Complainant sought a PAR from the Commission at BCS No. 3853419, which was dismissed due to Complainant having defaulted on the August 2021 PAR. Tr. 36-37; FE PA Ex. 3.

17. On May 9, 2024, Complainant sought a PAR from the Commission at BCS No. 3908716, based on a household size of two and a monthly income of \$4,049.07. Tr. 38-39; PGW Ex. 3.

18. BCS denied Complainant's request for a PAR in May 2024 due to Complainant previously defaulting on the August 2021 PAR and evidence indicating Complainant's household income increased. Tr. 39-40; PGW Ex. 3.

19. As of the date of the hearing, Complainant's account balance was \$8,235.99. Tr. 30; PGW Ex. 1.

20. Between August 22, 2023, and October 22, 2024, Complainant made no payments on her account. Tr. 31.

21. Ms. Wilks testified credibly.

22. Mr. Kaufman testified credibly.

### DISCUSSION

In her Formal Complaint, Complainant made two separate claims: (1) her bills since 2009 have been inaccurate and (2) she is unable to pay her bill and needs a PAR. As the party seeking affirmative relief from the Commission, Complainant bears the burden of proof. 66 Pa.C.S. § 332(a).

To satisfy this burden, Complainant must show that the named 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). This must be shown by a preponderance of the evidence, that is, by

presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990); *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. 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).

Regarding her claim of inaccurate bills, the Interim Order dated September 3, 2024, granted in part and denied in part PGW's Preliminary Objection. This Interim Order is incorporated into this Initial Decision in its entirety. For the reasons outlined in the September 3, 2024, Interim Order, Complainant's inaccurate bill claim was limited to bills issued after August 21, 2023.

At the evidentiary hearing, Complainant confirmed that she had "raised this issue" several times with the Commission and that her claim in the instant Complaint related to bills issued prior to 2023. Tr. 11-12. She clarified that she believed that the bills since 2023 are "accurate." Tr. 13. She explained that she did not want to proceed on her high bill claim, because arguing that the bills since 2023 were inaccurate "wouldn't be honest." Tr. 18.

Complainant also seeks a payment arrangement from the Commission. The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401–1419, (the Act or

Chapter 14) applies to this proceeding.<sup>1</sup> This law provides strict guidelines that the Commission must follow in handling customer complaints. Section 1405(d) of the Public Utility Code reads as follows:

(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.

66 Pa.C.S. § 1405(d). Section 1403 of the Public Utility Code defines “Payment Agreement” as follows:

An agreement whereby a customer who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.

66 Pa.C.S. § 1403 (Definition of “Payment Agreement”).

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<sup>1</sup> This decision is based, in part, upon Chapter 14 of the Code, 66 Pa.C.S. §§ 1401-1419 (Chapter 14), which was in effect and governed the conduct at issue at the time of the conduct in question. *See Ghaderi v. St. Bd. of Osteopathic Med.*, 302 A.3d 240 (Pa. Cmwlth. 2023); *Miegoc v. W.C.A.B.*, 961 A.2d 418 (Pa. Cmwlth. 2008). It is noted that Chapter 14 has sunset, effective December 31, 2024, according to its provisions, and is not currently in effect. Notwithstanding Chapter 14 sunset, the Commission has clarified that its Regulations codified at 52 Pa. Code Chapter 56 shall remain in effect until amended. *See Sunset of Chapter 14, Title 66 of the Pennsylvania Public Utility Code*, Docket No. M-2024-3052328 (Statement of Policy entered Dec. 24, 2024). The Commission will apply this Statement of Policy in all proceedings related to issues in Chapter 14 until further direction is provided. *Koger v. Duquesne Light Co.*, Docket No. C-2023-3038703, n. 2 (Opinion and Order entered Jan. 8, 2025).

Furthermore, a “Change in Income” is defined in Section 1403 of the Public Utility Code 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 (Definition of “Change in Income”). “Household Income” is defined in Section 1403 as “[t]he combined gross income of all adults in a residential household who benefit from the public utility service.” 66 Pa.C.S. § 1403 (Definition of “Household Income”).

A public utility is entitled to receive payment for the service it provides. *Mill v. Pa. Pub. Util. Comm’n*, 447 A.2d 1100 (Pa. Cmwlth. 1982). A complainant, who claims an inability to pay her utility bills, does not have an absolute right to a Commission-ordered payment arrangement. *E.g., DeGannaro v. Pa. Elec. Co.*, Docket No. C-2012-2300818 (Final Order entered Nov. 8, 2012). While the Commission has the authority to establish a payment arrangement, the Commission exercises this authority very carefully. It is entirely within the discretion of the Commission to determine on a case-by-case basis whether both parties, the customer, and the utility company, will benefit from the issuance of a payment arrangement. *Id.*; *see also Creekmur v. PECO Energy Co.*, Docket No. C-2008-2079322 (Final Order entered Feb. 4, 2010).

Specifically, the Commission will only approve a payment arrangement if the customer has “demonstrated some evidence of good faith efforts to pay their utility bills or who have experienced a significant change of circumstance outside of their control.” *Stormer v. Pa. Am. Water Co.*, Docket No. C-2011-2249169 (Final Order Mar. 28, 2012); *see also Crawford v. Nat’l Fuel Gas Distrib. Corp.*, Docket No. C-20066348 (Opinion and Order entered Dec. 6, 2007); *Maye v. Nat’l Fuel Gas Distrib.*

*Corp.*, Docket No. F-02140445 (Opinion and Order entered Oct. 22, 2008); *Sayre v. UGI Utils., Inc.*, Docket No. F-02292619 (Opinion and Order entered Nov. 4, 2008); *Thomas v. Nat'l Fuel Gas Distrib. Corp.*, Docket No. F-02144645 (Opinion and Order entered Dec. 9, 2008).

The Commission has awarded Ms. Wilks one prior PAR. On August 20, 2021, BCS granted Complainant a Level 1 PAR at BCS No. 3796411. Tr. 35-36; PGW Ex. 3. The August 2021 PAR was calculated using a household size of two (one adult and one child) and a monthly income of \$3,666. Tr. 35; PGW Ex. 3. Complainant defaulted on the August 2021 PAR. Tr. 36.

After having defaulted on a prior Commission PAR, Complainant is now seeking a second PAR from the Commission. In order to be eligible for a new PAR, Complainant must show she has experienced a change in household income as defined in 66 Pa.C.S. § 1403.

The paystubs provided by Complainant show the following income information, which I have organized in a chart for ease of reference:

Date	Gross Amount
August 2, 2024	\$1,996.58
August 16, 2024	\$1,975.07
August 30, 2024	\$1,984.28
September 13, 2024	\$1,855.28
September 27, 2024	\$1,959.72
October 11, 2024	\$1,975.07
October 25, 2024	\$1,996.46

On average, Complainant earns \$1,963.21 per paycheck. Complainant Ex. 1. Based on her average biweekly earnings, Complainant earns approximately \$3,926.42 per month (\$1,963.21 x 2). Complainant Ex. 1.

Based on Complainant's income evidenced by her paystubs, her income is now greater than at the time of the August 2021 PAR (\$3,666 vs. \$3,926.42). As such, there has been no decrease in income, and Complainant is ineligible for a new Commission PAR.

Additionally, Complainant has demonstrated poor payment history, failing to make any payment on her account between August 22, 2023, and October 22, 2024.  
Tr. 31.

For the reasons stated above and in view of Complainant's prior payment history with Respondent, Complainant's request for a new payment arrangement is denied. Ms. Wilks shall pay her monthly bills in full and on time.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S. § 701.
2. As the Complainant, Terria Wilks has the burden of proof and failed to carry that burden. 66 Pa.C.S. § 332(a).
3. The Commission has the authority to establish and review a payment arrangement to ensure compliance with Chapter 14 of the Public Utility Code. 66 Pa.C.S. § 1405(a).
4. 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 arrangement. 66 Pa.C.S. § 1405(d).

5. Complainant has not experienced a “change in income” as that term is defined in 66 Pa.C.S. § 1403.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed at Terria Wilks v. Philadelphia Gas Works at Docket No. C-2024-3049293 is denied.
2. That Terria Wilks shall pay to Philadelphia Gas Works her monthly bills in full and on time.
3. That the Secretary’s Bureau shall mark this case closed.

Date: January 22, 2025

\_\_\_\_\_/s/  
Emily I. DeVoe  
Administrative Law Judge