

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tanesha Palmer	:	
	:	
v.	:	F-2024-3051127
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Arlene Ashton
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Complainant’s Formal Complaint because she failed to meet her burden 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 change in income.

HISTORY OF THE PROCEEDING

On September 9, 2024, Tanesha Palmer (Complainant or Ms. Palmer) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission).¹ In the Complaint, the

¹ The Complaint is a timely appeal from the determination of the Commission’s Bureau of Consumer Services (BCS), at BCS No. 3994035, which

Complainant indicated that the utility is threatening to shut off her service and requests a reasonable payment arrangement.

On October 2, 2024, Respondent filed an Answer denying the material allegations of the Complaint.

On October 10, 2024, a Hearing Notice was issued which indicated an initial hearing was scheduled in the matter for December 12, 2024, at 1:00 p.m., and assigned to me. I issued a Prehearing Order on October 16, 2024.

The initial hearing in this matter was held as scheduled on December 12, 2024. The Complainant appeared *pro se* and testified on her own behalf. The Complainant offered no exhibits during the hearing. Respondent appeared and was represented by Anita J. Murray, Esq., who presented the testimony of one witness, David Kauffman. Respondent offered three exhibits which were entered into the record at the time of the hearing.

During the hearing, PGW requested that it be allowed to submit copies of bills for service issued for the Complainant's account dated February 27, 2024, and March 27, 2024, and documentation relating to a customer contact on May 6, 2024, as late-filed exhibits. PGW was instructed to submit the exhibits to the Complainant and the undersigned no later than the day after the hearing, i.e. Friday, December 13, 2024. The Complainant was given until December 20, 2024, to express any objection to the late-filed exhibits coming into the record. PGW submitted the late-filed exhibits on a timely basis. The Complainant expressed no objection to the entry of the late-filed exhibits into the record. The late-filed copies of bills for service issued for the Complainant's account

dismissed Complainant's informal complaint. A timely BCS appeal is subject to de novo review. 52 Pa. Code § 56.173(a).

dated February 27, 2024, and March 27, 2024, are referred to herein as PGW Exhibit 4. The documentation relating to a customer contact on May 6, 2024, is referred to herein as PGW Exhibit 5. PGW's late-filed Exhibits 4 and 5 are admitted into the record in the ordering paragraphs below.

The hearing resulted in an 86-page transcript. The record closed on December 30, 2024, when I received the transcript.

FINDINGS OF FACT

1. The Complainant in this case is Tanesha Palmer, who resides at 2805 West Somerset Street, Philadelphia, Pennsylvania 19132 (Service Address). Tr. 11.
2. The Respondent in this case is Philadelphia Gas Works.
3. The Complainant resides at the Service Address with her husband and three children. Tr. 24.
4. The Complainant is employed by the US Postal Service as a Customer Service Supervisor, earning \$79,000 per year. Tr. 20.
5. The Complainant's oldest child is enrolled in college and participates in a work-study program to help fund her college expenses. Tr. 17, 25.
6. The Complainant was awarded a Commission-issued payment arrangement from the Bureau of Consumer Services (BCS) Determination No. 3941128 on September 12, 2023, based on a household consisting of four adults and two children, and income of \$4,500 per month or \$54,000 per year.

7. The Commission-issued payment arrangement awarded to the Complainant in Determination No. 3941128 required monthly payments of \$209.00, consisting of budget billing of \$148.00 plus \$61.00 on the arrears for 60 months beginning October 2023. Tr. 37-38; PGW Exh. 3.

8. The Complainant defaulted on the BCS-issued payment arrangement on April 25, 2024, due to her failure to pay for bills dated February 27, 2024, and March 27, 2024. Tr. 48, 50, 52; PGW Exh. 1, 3.

9. The Complainant had two company-issued payment arrangements on April 20, 2022, and April 12, 2023. Tr. 33-34; PGW Exh. 2.

10. The Complainant has defaulted on both the company-issued payment arrangements. Tr. 34; PGW Exh. 3.

11. The Complainant did not make consistent payments on her account. Tr. 33, 54; PGW Exh. 1.

12. The Complainant last made a payment on her account on December 23, 2024, in the amount of \$62.59. PGW Exh. 1.

13. At the time of the hearing, the Complainant's current account balance was \$5,105.17. Tr. 46; 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, 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. 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. 2 Pa.C.S. § 704; *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). 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).

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. Cmwlt. 2001).

In this case, the Complainant requests a second Commission-issued payment arrangement in this matter. PGW contends that the Complainant is not entitled to a payment arrangement due to her inconsistent payment history and the fact that the Complainant had a prior Commission-issued payment arrangement which was broken.

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. 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) (*Statement of Policy*). 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). Further, since this action arose prior to the sunset of Chapter 14, its substantive effect still applies to this action. *Ghaderi v. St. Bd. of Osteopathic Med.*, 302 A.3d 240 (Pa. Cmwlt. 2023); *Miegoc v. W.C.A.B.*, 961 A.2d 269 (Pa. Cmwlt. 2008).

The Commission's *Statement of Policy* applies to this proceeding. The Commission stated that its regulations codified at 52 Pa. Code Chapter 56 governing the existing procedures by which residential utility service may be terminated by the applicable jurisdictional utilities remain in effect until amended. These Chapter 56 regulations relate to rates charged and services provided by public utilities that are governed by Chapters 13 and 15 of the Code. See 66 Pa.C.S. §§ 1301, 1304, 1305, 1501-

1504. Specifically, with regard to the provision of payment arrangements, the Statement of Policy stated in pertinent part:

[W]ithout prejudging any future matters that may come before us, the Commission will maintain its application of the four-tiered process establishing the length of payment arrangements currently articulated in Chapter 14. This includes principles provided in Section 1405(b) and the relevant definitions of “change in income” and “significant change in circumstance” as provided in Section 1403 of the Code, 66 Pa.C.S. §§ 1403, 1405(b).

Statement of Policy p. 4 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 husband and three children; one of the children is an adult who attends college. Tr. Tr. 24.

The Commission granted Complainant a payment arrangement on September 12, 2023 at BCS case No. 3941128, based on a household consisting of four adults and two children, and income of \$4,500 per month or \$54,000 per year. PGW Exh. 3. However, the Complainant defaulted on the BCS-issued payment arrangement on April 25, 2024, due to her failure to pay for bills dated February 27, 2024, and March 27, 2024. Tr. 48, 50, 52; PGW Exh. 1, 3.

The Complainant is employed by the US Postal Service as a customer service supervisor. Tr. 20. The Complainant's current salary of \$79,000 per year is approximately \$25,000 more than when she was awarded the Commission-issued payment arrangement from BCS in September 2023. Tr. 20; PGW Exh. 3.

In addition, the Complainant had two company-issued payment arrangements on April 20, 2022 and April 12, 2023. Tr. 33-34; PGW Exh. 2. The Complainant also defaulted on both company-issued payment arrangements due to non-payment. Tr. 34; PGW Exh. 2.

The Complainant did not make consistent payments on her account. Tr. 55; PGW Exh. 1. The Complainant last made a payment on her account on December 23, 2024, in the amount of \$62.59. PGW Exh. 1. At the time of the hearing, the Complainant's account balance was \$5,105.17. Tr. 46; PGW Exh. 1.

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 (emphasis added). The Complainant failed to demonstrate a change in income since she was provided with a

Commission-issued payment arrangement in September 2023. The Complainant defaulted on that payment arrangement. Furthermore, the Complainant presented no testimony or evidence of a significant life change as define in Section 1403 of the Code, which could possibly have served as the basis for a reinstatement and extension of her broken PAR. As such, 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. 2 Pa.C.S. § 704; *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).

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. *Sunset of Chapter 14, Title 66 of the Pennsylvania Public Utility Code*, Docket No. M-2024-3052328 (Statement of Policy entered Dec. 24, 2024).

5. Complainant has failed to sustain her burden of proof. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That Respondent's late-filed Exhibits 4 and 5 are admitted into the record for this case.
2. That the Formal Complaint of Tanesha Palmer in Tanesha Palmer v. Philadelphia Gas Works at Docket No. F-2024-3051127 is denied.
3. That the record at Docket No. F-2024-3051127 be marked closed.

Date: March 24, 2025

_____/s/
Arlene Ashton
Administrative Law Judge