

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jeannette Durant

v.

UGI Utilities, Inc.

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C-2024-3051074

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial Decision grants in part and denies in part the Formal Complaint filed by Jeannette Durant against UGI Utilities, Inc. because the Complainant has met her burden of proving that she is entitled to a Commission-issued payment arrangement. However, the Complainant has not met her burden to establish that the Company mishandled her Customer Assistance Program application after her service was terminated.

HISTORY OF THE PROCEEDING

On September 5, 2024, Jeannette Durant (Complainant or Ms. Durant) filed a Formal Complaint (Complaint) against UGI Utilities, Inc. (UGI, Company, or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant placed checkmarks in the boxes indicating “[t]he utility is threatening to shut off my service or has already shut off my service,” and “I would like a payment agreement.”

The Complainant also indicated that she had issues with a Customer Assistance Program (CAP) application.

On September 30, 2024,¹ the Respondent filed an Answer to the Complaint denying the material allegations.

By Initial Call-In Telephonic Hearing Notice dated October 4, 2024, an initial call-in telephonic hearing was scheduled for November 20, 2024, at 10:00 a.m., and the matter was assigned to me.

I issued a Prehearing Order on October 31, 2024, which indicated the procedures that would be followed for the hearing.

The hearing was convened as scheduled on November 20, 2024. The Complainant appeared *Pro Se* and testified. The Respondent appeared and was represented by Larry R. Crayne, Esq, who presented the testimony of Amy Wynn, a UGI Senior Compliance Representative. UGI offered three exhibits which were all admitted into the record.

The record closed on December 30, 2024, when I received my copy of the hearing transcript.

FINDINGS OF FACT

1. The Complainant, Jeannette Durant, resides at 1520 Russell Street, Allentown, Pennsylvania 18102 (Service Address). Tr. 8-9.

¹ The Secretary's Bureau served the Respondent with the Complaint on September 10, 2024.

2. The Respondent is UGI Utilities, Inc.
3. The Complainant lives alone at the Service Address. Tr. 12.
4. The Complainant works full time with Ameritis, earning approximately \$23.00 per hour. Tr. 12.
5. The Complainant also receives Social Security Disability payments in the amount of \$1,178 per month. Tr. 12.
6. The Complainant's wages are deducted from her Social Security Disability benefits. Tr. 18.
7. At the time of the hearing, the Complainant's gross monthly income was approximately \$3,987 for her full-time work, with her \$1,178 in Social Security Disability benefits deducted, for total gross monthly household income of approximately \$2,809. Tr. 12, 18.
8. On May 24, 2024, the Company issued a 10-day Shut Off Notice to the Complainant for service at the Service Address for her unpaid balance of \$8,331.44. Tr. 25-26; UGI Exh. 2.
9. The Company also provided telephonic notice of the pending termination. Tr. 26.
10. The Complainant's service was terminated on June 12, 2024, due to non-payment. Tr. 20; UGI Exh. 1.

11. The Complainant's outstanding balance at the time of the hearing was \$7,624.76. Tr. 22; UGI Exh. 1.

12. The Complainant has CAP arrears in the amount of \$2,263.28. Tr. 23; UGI Exh. 1.

13. The Complainant was on UGI's CAP program until November 16, 2022, when she voluntarily removed herself from the CAP program. Tr. 22.

14. The Complainant received two separate Company-issued payment arrangements, one on November 23, 2022, and one on October 27, 2023. Tr. 20-23, 27, 31 UGI Exh. 3.

15. Complainant defaulted on both the November 23, 2022, and the October 27, 2023 Company-issued payment plans due to non-payment. Tr. 20-23, 27; UGI Exh. 3.

16. The Company does not place collection or termination activities on hold if a customer has a pending application for CAP. Tr. 24.

17. UGI does not process CAP applications—they are processed through the Allentown Salvation Army. Tr. 24.

18. If a CAP application is made after service is terminated, then the person is no longer eligible for the CAP program under UGI's Commission-approved tariff. Tr. 23, 24.

DISCUSSION

The Public Utility Code places the burden of proof upon the proponent of a rule or order. 66 Pa.C.S. § 332(a). As the proponent of a rule or order, Complainant has the burden of proof in this matter. *Id.*

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. Suburban 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 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. Pa. 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 her 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), *aff'd*, 461 A.2d 1234 (Pa. 1983).

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).

Payment Arrangement

Regarding payment agreements, it is important to note that Chapter 14 of the Public Utility Code (Chapter 14) was in effect at the time of the conduct in question in this matter.² 66 Pa.C.S. §§ 1401-1419. Chapter 14 has subsequently sunset, effective December 31, 2024, according to its provisions, and is not currently in effect. However, the Commission recently addressed the sunset of Chapter 14, in pertinent part, as follows:

Thus, it is the Commission's present view and statement of policy herein that all final orders issued pursuant to Chapter 14 of the Code remain in effect and are enforceable by the Commission unless reversed on appeal or amended by the Commission after notice and opportunity to be heard. 66 Pa.C.S. § 703(e), (g).

Additionally, with regard to the provision of payment arrangements, and without 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).

² See *Ghaderi v. St. Bd. of Osteopathic Med.*, 302 A.3d 240 (Pa. Cmwlth. 2023); *Miegoc v. W.C.A.B.*, 961 A.2d 269 (Pa. Cmwlth. 2008).

Sunset of Chapter 14, Title 66 of the Pennsylvania Public Utility Code, Docket No. M-2024-3052328 (Statement of Policy entered Dec. 24, 2024). Accordingly, the provisions of Chapter 14 will be applied here.

Section 1405(a) of the Act 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).

Under Section 1405(b) of the Act, a utility customer is entitled to a payment arrangement of three years if they have a gross monthly household income level exceeding 150% but less than 250% of the Federal Poverty Guidelines. 66 Pa.C.S. § 1405(b)(2).

The record indicates that the Complainant has not had a prior Commission-issued payment arrangement. The Complainant's household is a one-person household. Tr. 12. The Complainant works full time with Ameritis, earning approximately \$23.00 per hour. Tr. 12. The Complainant also receives Social Security Disability payments in the amount of \$1,178 per month. Tr. 12. The Complainant's wages are deducted from her Social Security Disability benefits. Tr. 18. At the time of the hearing, the Complainant's gross monthly income was approximately \$3,987 for her full-time work, with her \$1,178 in Social Security Disability benefits deducted, for total gross monthly household income of approximately \$2,809. Tr. 12, 18. Therefore, the Complainant's

gross monthly household income level is 187% of the Federal Poverty Guidelines.³ As such, the Complainant is eligible for a three-year payment arrangement.

The Complainant's outstanding balance at the time of the hearing was \$7,624.76. Tr. 22; UGI Exh. 1. However, the Complainant has CAP arrears in the amount of \$2,263.28. Tr. 23; UGI Exh. 1. Under the former provisions of Chapter 14, the Commission may not issue a payment arrangement on CAP arrears. 66 Pa.C.S. § 1405(c). Therefore, a payment arrangement may only be established for the non-CAP arrears portion of the Complainant's balance, which is \$5,361.48.

CAP Application

The Complainant also indicated that she has submitted a CAP application, but the Company lost that application. The Complainant's timeline in terms of her submission of the CAP application is vague, but she does indicate in her testimony that she submitted an application on June 26, 2024. Tr. 10.

The Company presented the testimony of Ms. Amy Wynn, who stated that on May 24, 2024, the Company issued a 10-day Shut Off Notice to the Complainant for service at the Service Address for her unpaid balance of \$8,331.44. Tr. 25-26; UGI Exh. 2. The Complainant's service was terminated on June 12, 2024, due to non-payment. Tr. 20; UGI Exh. 1. Ms. Wynn also testified that UGI does not place collection activities on hold if a customer has a pending application for CAP. Tr. 24. Further, she indicated that UGI does not process CAP applications. Tr. 24. She testified that they are processed through the Allentown Salvation Army. Tr. 24. Ms. Wynn also noted that if a CAP application is made after service is terminated, then the person is no longer eligible for

³ See Federal poverty guidelines, 90 Fed. Reg. 5917 (Jan. 17, 2025); <https://aspe.hhs.gov/sites/default/files/documents/dd73d4f00d8a819d10b2fdb70d254f7b/detailed-guidelines-2025.pdf>

the CAP program. Tr. 24. Ms. Wynn indicated that this was part of UGI's Commission-approved tariff. Tr. 24.

Based on the above, there is nothing to indicate that the Company violated the Public Utility Code, Commission regulations, or a Commission order in this matter. The Company initiated termination of the Complainant's service on May 24, 2024, via a 10-day Shut Off Notice which the Complainant acknowledged she received. It appears that the Complainant submitted her CAP application after that point, but UGI does not manage that process and was not aware, nor would it have been required to place the termination of service on hold. Further, the Complainant was not entitled to CAP after the termination of service under UGI's tariff. A strong presumption exists that a utility's Commission-approved tariff is just and reasonable. *Popowsky v. Pa. Pub. Util. Comm'n*, 669 A.2d 1029 (Cmwlth. 1995). To satisfy the burden of proving that the utility's Commission-approved tariff is unjust and unreasonable, the Complainant cannot merely state personal beliefs or pose questions without offering concrete proof. "Mere bald assertions, personal opinions or perceptions do not constitute evidence. *Mid-Atlantic Power Sup. Assn. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Cmwlth. 2000); *Pa. Bur. of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *see also Steffy's Pattern Shop v. Frontier Comm'ns. of Pa., Inc.*, Docket No. R-00994808 (Order Entered Mar. 3, 2000). As such, this portion of the Complaint will be denied and dismissed.

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. 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). *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. Under Section 1405(b) of the Act, a utility customer is entitled to a payment arrangement of three years if they have a gross monthly household income level exceeding 150% but less than 250% of the Federal Poverty Guidelines. 66 Pa.C.S. § 1405(b)(2).

6. Under Section 1405 (c) of the Act, the Commission may not provide a payment arrangement on Customer Assistance Program arrears. 66 Pa.C.S. § 1405(c).

7. The Complainant has sustained her burden of demonstrating that she is eligible for a Commission-issued payment arrangement. 66 Pa.C.S. § 332(a).

8. A strong presumption exists that a utility's Commission-approved tariff is just and reasonable. *Popowsky v. Pa. Pub. Util. Comm’n*, 669 A.2d 1029 (Cmwlth. 1995).

9. To satisfy the burden of proving that the utility's Commission-approved tariff is unjust and unreasonable, the Complainant cannot merely state personal beliefs or pose questions without offering concrete proof. "Mere bald assertions, personal opinions or perceptions do not constitute evidence. *Pa. Bur. of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *Mid-Atlantic Power Sup. Assn. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Cmwlth. 2000); *see also Steffy's Pattern Shop v. Frontier Comm'ns. of Pa., Inc.*, R-00994808 (Order Entered Mar. 3, 2000).

10. The Complainant has failed to meet her burden to establish that UGI's actions related to her CAP application were outside of its Commission-approved tariff or that the tariff is unjust or unreasonable. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Jeannette Durant in *Jeannette Durant v. UGI Utilities, Inc.* at Docket No. C-2024-3051074 is granted in part and denied in part.

2. That the Complainant, Jeannette Durant's, request for a Commission-issued payment arrangement is granted on the balance of \$5,361.48 for a term of three years.

3. That the Complainant, Jeannette Durant, shall make monthly payments consisting of her budget bill plus one-thirty-sixth (1/36th) of the balance accrued on her account, for the payment of each regular monthly bill, beginning with the

first billing due date following the entry of a final Commission Order in this case, and continuing until the arrearage on her account has been paid in full.

4. That the Complainant, Jeannette Durant, shall have her service restored if she pays \$2,263.28, which is her current CAP arrears balance.

5. That as long as Complainant, Jeannette Durant, keeps the payment schedule stated in this Order, UGI Utilities, Inc. – Gas Division shall not suspend or terminate her utility service except for valid safety or emergency reasons or assess late payments or finance charges against her account.

6. That, if Jeannette Durant does not keep the payment schedule stated in this Order, UGI Utilities, Inc. – Gas Division is authorized to suspend or terminate her utility service in accordance with the Commission's statute and regulations.

7. That the portion of the Complaint related to Jeannette Durant's CAP application is denied.

8. That the Secretary's Bureau shall mark Docket No. C-2024-3051074 as closed.

Date: March 28, 2025

_____/s/
Marta Guhl
Administrative Law Judge