

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bernice Taylor	:	
	:	
v.	:	C-2024-3051501
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Marta Guhl  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision denies the Formal Complaint filed by Bernice Taylor against Philadelphia Gas Works because the Complainant has not met her burden of proving that she is eligible to another Commission-issued payment arrangement, or reinstatement of her prior one.

**HISTORY OF THE PROCEEDING**

On September 24, 2024, Bernice Taylor (Complainant or Ms. Taylor) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW, 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.”

On October 23, 2024,<sup>1</sup> the Respondent filed an Answer to the Complaint denying the material allegations.

By Initial Call-In Telephonic Hearing Notice dated October 30, 2024, an initial call-in telephonic hearing was scheduled for January 16, 2025, at 10:00 a.m., and the matter was assigned to me.

I issued a Prehearing Order on November 1, 2024, which indicated the procedures that would be followed for the hearing.

The hearing was convened as scheduled on January 16, 2025. The Complainant appeared *pro se* and testified. The Respondent appeared and was represented by Anita J. Murray, Esq., who presented the testimony of David Kauffman, a Customer Review Officer. PGW offered three exhibits which were all admitted into the record.

The record closed on February 13, 2025, when I received my copy of the hearing transcript.

### FINDINGS OF FACT

1. The Complainant, Bernice Taylor, resides at 2129 North 12<sup>th</sup> Street, Philadelphia, Pennsylvania 19122 (Service Address). Tr. 8.
2. The Respondent is the Philadelphia Gas Works.

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<sup>1</sup> The Secretary's Bureau served the Respondent with the Complaint on October 3, 2024.

3. The Complainant currently has service with PGW and there is no current shut-off notice pending. Tr. 19-20.
4. The Complainant lives alone at the Service Address. Tr. 10.
5. The Complainant works full-time, earning approximately \$19.82 per hour. Tr. 10.
6. At the time of the hearing, the Complainant's gross monthly income was approximately \$3,435.47 for her full-time work. Tr. 10.
7. The Complainant's outstanding balance at the time of the hearing was \$7,568.55. Tr. 20-21; PGW Exh. 1.
8. The Complainant has made 20 payments to her account with PGW between September 20, 2022, to January 8, 2025. Tr. 21; PGW Exh. 1.
9. The Complainant was provided two Commission-issued payment arrangements, on December 31, 2018, and July 30, 2019. Tr. 24; PGW Exh. 2.
10. Both Commission-issued payment arrangements were broken due to Complainant's failure to make payments. Tr. 24-25; PGW Exh. 2.
11. The December 2018 payment arrangement was based on a household size of two adults and one child and a household gross monthly income of \$2,400.00. Tr. 26; PGW Exh. 3.

12. The July 2019 payment arrangement was based on a household size of two adults and one child and a household gross monthly income of \$0. Tr. 27; PGW Exh. 3.

### DISCUSSION

The Public Utility Code (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. Cmwlt. 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. Cmwlt. 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.<sup>2</sup> 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 addressed the anticipated 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

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<sup>2</sup> See *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).

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 at 3-4 (Statement of Policy entered Dec. 24, 2024). Accordingly, the provisions of Chapter 14 will be applied here.

Section 1405(a) of the 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).

Under Section 1405(d) of the Code, a utility customer is entitled to one payment arrangement absent a change in income. 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 record indicates that the Complainant was provided two Commission-issued payment arrangements, on December 31, 2018 and July 30, 2019. Tr. 24; PGW Exh. 2. The Complainant’s household is a one-person household. Tr. 10. The

Complainant works full-time, earning approximately \$19.82 per hour. Tr. 10. At the time of the hearing, the Complainant's gross monthly income was approximately \$3,435.47 for her full-time work. Tr. 10. Therefore, the Complainant's gross monthly household income level is 263% of the Federal Poverty Guidelines.<sup>3</sup> The December 2018 payment arrangement was based on a household of two adults and one child with a monthly income of \$2,400.00. Tr. 26; PGW Exh. 3. The July 2019 payment arrangement was based on a household of two adults and one child with a monthly income of \$0. Tr. 27; PGW Exh. 3.

Based on the above, the Complainant has not experienced a change in income as defined by Chapter 14. The Complainant's household monthly income has increased, not decreased, from the time of her last Commission-issued payment arrangement in July 2019 from \$0 per month to \$3,435.47 per month. As such, the Complainant is not eligible to another payment arrangement from the Commission under the law.

Further, the Complainant is not eligible for an extension of her Commission-issued payment arrangement. Under Section 1405(e) of the Code, a customer may be eligible for a six-month extension of a Commission-issued payment arrangement if they have experienced a "significant change in circumstances." A significant change in circumstances is defined as follows under 66 Pa.C.S. § 1403:

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.

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

- (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.

The Complainant's household size has decreased from two adults and one child to one adult. The Complainant did not present any testimony that she has lost her residence or that there was damage to it. The Complainant did not testify that she is suffering from any illness that has resulted in a loss of income. As such, the Complainant is also not eligible for an extension of her Commission-issued payment arrangement.

### 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 (d) of the Act, the Commission may not provide a second or subsequent payment arrangement absent a change in income. 66 Pa.C.S. § 1405(d).

6. Under Section 1405(e) of the Act, the Commission may provide an extension of a previous payment arrangement if there is a significant change in circumstances. 66 Pa.C.S. § 1405(e).

7. The Complainant has not sustained her burden of demonstrating that she is eligible for another Commission-issued payment arrangement or to the reinstatement of her previous payment arrangement. 66 Pa.C.S. § 332(a).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Bernice Taylor in *Bernice Taylor v. Philadelphia Gas Works* at Docket No. C-2024-3051501 is denied.

2. That the Secretary's Bureau shall mark Docket No. C-2024-3051501 as closed.

Date: May 9, 2025

\_\_\_\_\_/s/  
Marta Guhl  
Administrative Law Judge