

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Shakeena Holloway	:	
	:	
v.	:	C-2025-3053016
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Michael J. Mroczka
Special Agent

INTRODUCTION

This Initial Decision sustains the Formal Complaint of a gas service customer because Complainant has met her burden of proving she is eligible for a Commission-issued payment arrangement on her non-CAP arrears. This decision further orders that any late payment charges be waived.

HISTORY OF THE PROCEEDING

On January 14, 2025, Shakeena Holloway (Complainant or Ms. Holloway) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW, Company or Respondent).¹ Ms.

¹ The Complaint was served on PGW on January 22, 2025.

Holloway checked the box on the Complaint form requesting a Commission-issued payment arrangement.

On February 11, 2025, PGW filed its Answer to the Formal Complaint, which admitted in part and denied in part various material allegations of the Complaint. PGW requested the Complaint be dismissed.

By Hearing Notice dated February 24, 2025, an Initial Call-In Telephonic Hearing was scheduled for April 25, 2025, at 10:00 a.m., and the matter was assigned to me.

A Prehearing Order was issued on February 24, 2025, reminding the parties of the date and time of the scheduled hearing and informing them of the procedures applicable to this proceeding.

On April 25, 2025, the hearing convened as scheduled. Prior to going on the record, the parties participated in settlement discussions. During the settlement discussions, the parties stipulated to six findings of fact, which were reiterated on the record and indicated below. The Complainant appeared *pro se*, testified on her own behalf, and offered no exhibits for the record. Tracy Tripp, Esquire, appeared on behalf of PGW and presented the testimony of one witness, Jessica Antonetti, a senior customer review officer for PGW. Ms. Antonetti sponsored the following five exhibits, which were admitted into the record without objection:

- PGW Exhibit 1 – Statement of Account 4/15/2023 – 4/15/2025
- PGW Exhibit 2 – Statement of Account 4/7/2023 – 4/7/2025
- PGW Exhibit 3 – List of Payment Arrangements
- PGW Exhibit 4 – Opening of BCS case 4015181
- PGW Exhibit 5 – Closing of BCS case 4015181

The record closed on May 13, 2025, upon the filing of the 24-page transcript with the Commission.

FINDINGS OF FACT²

1. The Complainant is Shakeena Holloway, who resides at 1511 North 60th Street, Philadelphia, PA, 19151 (Service Address). Tr. 10.
2. The Respondent is Philadelphia Gas Works, a jurisdictional public utility, which provided gas service to Complainant at the Service Address.
3. Complainant has a total household size of five at the Service Address. Tr. 10.
4. Complainant's income and household size places her below 150% of the Federal poverty level. Tr. 9.³
5. Complainant's total arrearage is \$6,548.48. Tr. 9, 15; PGW Ex. 1, 2.
6. Of the total arrears, \$307.46 consists of Customer Assistance Program (CAP) arrearages. Tr. 9, 14.
7. Of the total arrears, \$372.83 consists of late-payment charges. Tr. 9; PGW Ex. 1, 2.

² The parties' six stipulated findings of fact are numbers 3 through 8.

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>

8. Ms. Holloway is eligible for a Commission-issued Payment arrangement on her non-CAP arrearages. Tr. 9-10, 17.

9. Complainant's gross monthly household income is \$0. Tr. 10-11.

10. Complainant's non-CAP arrearage totals \$6,241.02.⁴

11. Complainant has had three prior PGW-issued payment arrangements which were broken due to nonpayment. Tr. 16; PGW Ex. 3.

12. Complainant has not previously had a Commission-issued payment arrangement. PGW Ex. 3.

DISCUSSION

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (Opinion and Order entered Feb. 8, 1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (Opinion and Order entered Oct. 6, 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 complainant can meet that burden if he presents evidence more convincing, by even the smallest amount, than that evidence presented by respondent. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). The offense must be a violation of the Public Utility Code (Code), a Commission Regulation or Order, or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701.

⁴ \$6,548.48 (total arrearage) - \$307.46 (CAP arrears) = \$6,241.02.

The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. 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. Co. 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. 1961); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Cntr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on the complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *see also, Burlison v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

Complainant requests a Commission-issued payment arrangement. The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401–1419 (Chapter 14), applied to complaints alleging inability to pay and requesting a Commission-issued payment arrangement at the time of the hearing. This law provided strict guidelines that the Commission had to follow when determining whether a payment arrangement could be issued and the length of the payment arrangement. However, Chapter 14 has subsequently sunset, effective December 31, 2024, and is not currently in effect.

However, in its Statement of Policy entered December 24, 2024, the Commission 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*). With regard to the provision of payment arrangements, the Commission explained that it will maintain its application of the four-tiered process establishing the length of payment arrangements previously articulated in Chapter 14. *Id.* at 4. In particular, the Commission’s *Statement of Policy* states that the principles of Section 1405 and definitions of Section 1403 will continue after the expiration of Chapter 14 on December 31, 2024. *Id.* at 5.

As Chapter 14 required, the length of time for a customer to resolve an unpaid balance that is investigated by the Commission and is entered into by a public utility and a customer shall not extend beyond:

- (1) Five years for customers with a gross monthly household income level not exceeding 150% of the Federal poverty level.
- (2) Three years for customers with a gross monthly household income level exceeding 150% and not more than 250% of the Federal poverty level.
- (3) One year for customers with a gross monthly household income level exceeding 250% of the Federal poverty level and not more than 300% of the Federal poverty level.
- (4) Six months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level.

Statement of Policy at 4 (citing 66 Pa.C.S. § 1405(b)). Section 1405(c) of the Public Utility Code (the Code) stated that “[c]ustomer assistance program rates shall be timely paid and shall not be the subject of payment arrangements negotiated or approved by the commission.” 66 Pa.C.S. § 1405(d).

If the Commission has not previously ordered a payment arrangement for a complainant, the Commission has the authority to establish a payment arrangement on a complainant's arrearages within the strict guidelines previously set forth in 66 Pa.C.S. § 1405(b), as stated above. Ms. Holloway's gross monthly household income of \$0 for a household size of five places her below 150% of the Federal poverty level.⁵ Tr. 8-10. Further, Ms. Holloway has not previously been granted a Commission-issued payment arrangement. PGW Ex. 3. Therefore, pursuant to the *Statement of Policy*, Ms. Holloway would be eligible for a five-year payment arrangement under 66 Pa.C.S. § 1405(b)(1), absent any other restrictions.

The Commission does not have authority to order a payment arrangement on customer assistance program (CAP) arrearages. 66 Pa.C.S. § 1405(c); *Cooper v. PECO Energy Co.*, Docket No. F-2011-2254904 (Opinion and Order entered Aug. 2, 2012) (*Cooper*). A "customer assistance program" is defined as follows:

A plan or program sponsored by a public utility for the purpose of providing universal service and energy conservation, as defined by Section 2202 (relating to definitions) or Section 2803 (relating to definitions), in which customers make monthly payments based on household income and household size and under which customers must comply with certain responsibilities and restrictions in order to remain eligible for the program.

66 Pa.C.S. § 1403. PGW's Customer Responsibility Program rates are CAP rates that cannot be the subject of a payment arrangement ordered by the Commission. *See Maxwell v. Phila. Gas Works*, Docket No. C-2017-2607397 (Opinion and Order entered Aug. 23, 2018). A portion, \$307.06, of Ms. Holloway's balance is made up of CAP

⁵ See Federal poverty guidelines, 90 Fed. Reg. 5917 (Jan. 17, 2025); <https://aspe.hhs.gov/sites/default/files/documents/dd73d4f00d8a819d10b2fdb70d254f7b/detailed-guidelines-2025.pdf>

arrears. Tr. 9, 14. In a mixed arrearage case, the Commission does not have authority to establish a payment arrangement for the CAP arrears under 66 Pa.C.S. § 1405, but is not restricted from issuing a payment arrangement for any remaining arrearage, subject to the discretion of the Commission. *Hewitt v. PECO Energy Co.*, Docket No. F-2011-2273271 (Opinion and Order entered Sept. 12, 2013) (*Hewitt*); *see also, Cooper, supra*.

Ms. Hunter’s non-CAP arrearage is \$6,241.02. *See* n. 4, *supra*. However, I note that the parties stipulated, and the exhibits show, that \$372.83 of the arrearage amounts to late payment charges. Tr. 9; PGW Ex. 1, 2. The Commission may “order a waiver of late payment charges levied by a public utility as a result of a delinquent account for customers with a gross monthly household income not exceeding 150% of the Federal poverty level.” 52 Pa. Code § 56.22(d) (citing 66 Pa.C.S. § 1409).⁶ I will exercise my discretion and apply this provision here, and order a waiver of the late payment charges, reducing the non-CAP arrearage to \$5,868.19.⁷

As discussed above, based on Ms. Holloway’s income and household size, this non-CAP arrearage is eligible for the five-year payment arrangement. Under a five-

⁶ While this Chapter 56 provision cites to Chapter 14 for its authority to waive late payment charges, the Commission explained in the *Statement of Policy* that “the Commission intends to continue to enforce many important Chapter 56 provisions, including *but not limited to* the medical certification protections, 52 Pa. Code §§ 56.111-56.118, *see also* 52 Pa. Code §§ 56.351-56.358; the Protection From Abuse protections, 52 Pa. Code §§ 56.36, 56.91, 56.191, *see also* 52 Pa. Code §§ 56.251, 56.252, 56.286; and the winter moratorium, 52 Pa. Code § 56.100, *see also* 52 Pa. Code § 56.340.” *Statement of Policy* at 6 (emphasis added). Therefore, while Section 56.22 was not mentioned in the inexhaustive list, it is an important Chapter 56 provision in protecting “consumers by availing them of just and reasonable access to utility service and associated payment terms,” as the Commission is obligated to do. *Id.* at 7.

⁷ \$6,241.02 - \$372.83 = \$5,868.19.

year payment arrangement, Ms. Holloway would be required to pay the budget bill plus approximately \$98.⁸

As the Commission explained in *Hewitt*, bifurcating the arrearage and establishing a payment arrangement only for the non-CAP arrearages may not be feasible in most cases. Here, if provided a payment arrangement on the non-CAP arrears, PGW would still be within their rights to terminate service for failure to pay the CAP arrearage of \$307.06. It would not be feasible to provide a payment arrangement if the gas service would ultimately be disconnected anyway. However, Ms. Holloway has shown interest in paying off the CAP arrearage in order to begin a payment arrangement, explaining that she would pay that CAP arrearage immediately. *See*, Tr. 21. Further, in recent decisions, the Commission has held that if a complainant is eligible for a Commission-issued payment arrangement, they should be afforded the payment arrangement. *See, Bongiorno v. W. Penn Power Co.*, Docket No. F-2022-3035093 (Opinion and Order entered June 5, 2023); *Reddinger v. Pa. Elec. Co.*, Docket No. F-2022-3032104 (Opinion and Order entered Feb. 28, 2023).

Therefore, since she is eligible for a five-year payment arrangement, I will grant Ms. Holloway's request for a Commission-issued payment arrangement on her non-CAP arrears. Further, I order that the late payment charges be applied to Ms. Holloway's account be waived.

⁸ \$5,868.19 ÷ 60 months = \$97.80. I note that this number assumes that Ms. Holloway has paid her current charges while waiting on the Commission's Order. If she has not, this number will be higher.

CONCLUSIONS OF LAW

1. This Commission has jurisdiction over the parties to and subject matter of this case. 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. *Sunset of Chapter 14, Title 66 of the Pennsylvania Public Utility Code*, Docket No. M-2024-3052328 (Statement of Policy entered Dec. 24, 2024) (citing 66 Pa.C.S. § 1405(a)).
4. Customer assistance program rates shall be timely paid and shall not be the subject of payment arrangements negotiated or approved by the Commission. *Sunset of Chapter 14, Title 66 of the Pennsylvania Public Utility Code*, Docket No. M-2024-3052328 (Statement of Policy entered Dec. 24, 2024) (citing 66 Pa.C.S. § 1405(c)).
5. If a complainant is eligible for a Commission-issued payment arrangement, they should be afforded the payment arrangement. *See, Bongiorno v. West Penn Power Co.*, Docket No. F-2022-3035093 (Opinion and Order entered June 5, 2023); *Reddinger v. Pa. Elec. Co.*, Docket No. F-2022-3032104 (Opinion and Order entered Feb. 28, 2023).
6. The Commission may “order a waiver of late payment waiver of late payment charges levied by a public utility as a result of a delinquent account for customers with a gross monthly household income not exceeding 150% of the Federal poverty level.” 52 Pa. Code § 56.22(d).

7. In a mixed arrearage case, the Commission does not have authority to establish a payment arrangement for the CAP arrears under 66 Pa.C.S. § 1405 but is not restricted from issuing a payment arrangement for any remaining arrearage, subject to the discretion of the Commission. *Hewitt v. PECO Energy Co.*, Docket No. F-2011-2273271 (Opinion and Order entered Sept. 12, 2013).

8. Complainant is eligible for a five-year payment arrangement on her non-CAP arrears. *Sunset of Chapter 14, Title 66 of the Pennsylvania Public Utility Code*, Docket No. M-2024-3052328 (Statement of Policy entered Dec. 24, 2024) (citing 66 Pa.C.S. § 1405(b)(1)).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Shakeena Holloway in *Shakeena Holloway v. Philadelphia Gas Works* at Docket No. C-2025-3053016 is sustained.

2. That Philadelphia Gas Works shall waive all late payment charges levied to Shakeena Holloway's account.

3. That Shakeena Holloway shall make monthly payments consisting of her current budget bill plus one-sixtieth (1/60th) of the non-CAP arrearage owed on the account, commencing 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.

