

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Laurance Smith

v.

Philadelphia Gas Works

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C-2025-3054292

INITIAL DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Initial Decision denies the Formal Complaint of Laurance Smith because she failed to satisfy her burden of proving that she is eligible for a new or subsequent Commission-issued payment arrangement or to an extension of the previous payment arrangement.

HISTORY OF THE PROCEEDING

On March 28, 2025, Laurance Smith (Ms. Smith or Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW or Respondent). In the Complaint, Ms. Smith requested a new payment arrangement due to a decrease in income.

On April 15, 2025, PGW filed an Answer to the Complaint. In its Answer, PGW admitted in part, and denied in part, various material allegations of the Complaint. Specifically, PGW averred that Complainant has received one PGW-issued payment agreement that has not been satisfied and one Commission-issued payment arrangement that has not been satisfied.

By Hearing Notice dated April 24, 2025, an Initial Call-In Telephone Hearing was scheduled for June 12, 2025, and the matter was assigned to me.

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

On June 12, 2025, the hearing convened as scheduled. 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 Darneese Mallard, a Customer Review Officer at PGW. PGW offered 36 exhibits, which were all admitted into the record per joint stipulation.

The record closed on June 20, 2025, upon the filing of the transcript with the Commission.

FINDINGS OF FACT

1. Complainant is Laurance Smith. Tr. 6.
2. Respondent is Philadelphia Gas Works, a gas utility under the jurisdiction of the Pennsylvania Public Utility Commission.

3. Complainant resides and receives gas service from PGW at 5329 Baltimore Avenue, Philadelphia, PA 19143 (Service Address). Tr. 7.

4. The household consists of three adults. Tr. 7-8.

5. Complainant receives \$1,441.00 per month from Social Security. Tr. 8.

6. Complainant earns approximately \$1,040.00 per month from part-time employment.¹ Tr. 10, 27.

7. Complainant's total gross household income is \$2,481.00 per month.² Tr. 8, 27.

8. Complainant's household income is less than 200% of the Federal poverty guidelines for a three-person household.³

9. On June 9, 2022, Complainant received a Commission-issued payment arrangement based on a gross monthly income of \$2,681.00 and a household size of four, which was not satisfied. Tr. 8, 13; PGW 6, 36.

¹ Ms. Smith testified that she makes \$12/hr and works between 16 to 24 hours per week, which averages out to 20 hours per week. Tr. 27. Thus, $\$12.00 \times 20 = \$240/\text{wk}$. $52 \text{ weeks} \times \$240 = \$12,480/\text{yr}$. $\$12,480 \div 12 \text{ mos.} = \$1,040/\text{mo}$.

² $\$1,441.00 + \$1,040.00 = \$2,481.00$.

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>

10. Complainant's monthly household income has decreased 7.7% since the June 9, 2022, Commission-issued payment arrangement.⁴

11. As of the date of the hearing, the Complainant's outstanding balance was \$10,703.10. Tr. 15; PGW 1.

DISCUSSION

As the party seeking affirmative relief from the Commission, Complainant bears the burden of proving by substantial evidence that she is entitled to the requested relief. 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. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Compensation 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).

⁴ $((2481 - 2681) \div 2681) \times 100 = -7.5\%$.

Upon the presentation by Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of Complainant shifts to Respondent. If the evidence presented by Respondent is of co-equal weight, Complainant has not satisfied her burden of proof. 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).

By law, a public utility is entitled to receive payment for the service it provides. *Scaccia v. West Penn Power Co.*, 55 Pa.P.U.C. 637 (1982); *Kea v. Peoples Nat. Gas Co.*, 60 Pa.P.U.C. 215 (1985); *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982). Consequently, Respondent has the right to bill and receive payment for the utility service actually supplied. 66 Pa.C.S. § 1303; *Neal v. Phila. Gas Works*, Docket No. Z-00871874, (Final Order entered Jan. 4, 2002); *Angie's Bar v. Duquesne Light Co.*, 72 Pa.P.U.C. 213 (1990).

Additionally, all customers are obligated to pay for utility service. Otherwise, unpaid bills are included in the utility's uncollectible expenses, which all of its remaining customers must pay. *Bolt v. Duquesne Light Co.*, Docket No. Z-8721758 (Opinion and Order entered Apr. 8, 1988). A payment arrangement, which prevents service termination as long as Complainant complies with it, is a privilege, not a right. *Mandell v. Duquesne Light Co.*, Docket No. C-20030234, (Opinion and Order entered Mar. 17, 2004).

In this case, Complainant is seeking a new payment arrangement due to a decrease in her income. The Responsible Utility Customer Protection Act (Act), 66 Pa.C.S. §§ 1401-1419, applies to complaints alleging inability to pay and requesting a Commission-issued payment arrangement. This Act provides strict guidelines that the Commission must follow when determining whether a payment arrangement can be issued and the length of the payment arrangement. I note that Chapter 14 has subsequently sunset, effective December 31, 2024, according to its provisions, 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). In particular, the Commission's Statement of Policy states that the principles of Chapter 14 of the Code, 66 Pa.C.S. §§ 1401-1419 (Chapter 14), and specifically Section 1405 and definitions of Section 1403 will continue after the expiration of Chapter 14 on December 31, 2024. *Id.* at 5.

Section 1405(d) regarding payment arrangements reads in pertinent part:

(d) *Number of payment arrangements.*

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. A public utility may, at its discretion, enter into a second or subsequent payment arrangement with a customer.

66 Pa.C.S. § 1405(d) (emphasis added). "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).

Here, Complainant was already the beneficiary of a Commission-issued payment arrangement on June 9, 2022, which was based on a monthly household income of \$2,681.00 and a household size of four. Complainant defaulted on this Commission-issued payment arrangement. During the hearing, Complainant testified that she receives \$1,441.00 per month from Social Security and earns approximately \$1,040.00 per month from part-time employment. Thus, Complainant's total household income is currently \$2,481.00 per month, which is a 7.5% decrease since the June 9, 2022, Commission-issued payment arrangement. Since this decrease is less than 10%, it does not constitute a "change in income" as defined by Section 1403, and therefore, pursuant to Section 1405(d), the Commission is prohibited from establishing a second payment arrangement. 66 Pa.C.S. §§ 1403; 1405(d).

Also, the Complainant is not eligible to an extension of the Commission-issued payment arrangement. Section 1405(e) regarding payment arrangements reads in pertinent part:

(e) Extension of payment arrangements.

If the customer defaults on a payment arrangement established under subsections (a) and (b) as a result of a significant change in circumstance, the commission may reinstate the payment arrangement and extend the remaining term for an initial period of six months. The

initial extension period may be extended for an additional six months for good cause shown.

66 Pa.C.S. § 1405(e) (emphasis added). “Significant change in circumstance” is defined as:

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.
- (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.

66 Pa.C.S. § 1403.

Here, Complainant did not default on the Commission-issued payment arrangement as a result of a significant change in circumstances. Consequently, the Commission may not reinstate the payment arrangement issued on June 9, 2022, and extend the remaining term.

Based on the foregoing, I find that Complainant has failed to carry her burden of proving that she is eligible to a second or subsequent Commission-issued payment arrangement or to an extension of the previous payment arrangement. Accordingly, the Complaint is denied.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. § 701.

2. The burden of proof in this proceeding is on Complainant. 66 Pa.C.S. § 332(a).

3. Preponderance of the evidence means that the party with the burden of proof has presented evidence that is more convincing than that presented by the other party. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa.Cmwlth. 1990).

4. The Commission's decision must be supported by "substantial evidence," which consists of evidence that a reasonable mind might accept as adequate to support a conclusion. A mere "trace of evidence or a suspicion of the existence of a fact" is insufficient. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

5. By law, a public utility is entitled to receive payment for the service it provides. *Scaccia v. West Penn Power Co.*, 55 Pa.P.U.C. 637 (1982); *Kea v. Peoples Nat. Gas Co.*, 60 Pa.P.U.C. 215 (1985); *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982).

6. A public utility has the right to bill and receive payment for the utility service actually supplied. 66 Pa.C.S. § 1303; *Neal v. Phila. Gas Works*, Docket No. Z-00871874, (Final Order entered Jan. 4, 2002); *Angie's Bar v. Duquesne Light Co.*, 72 Pa.P.U.C. 213 (1990).

7. A payment arrangement, which prevents service termination as long as Complainant complies with it, is a privilege, not a right. *Mandell v. Duquesne Light Co.*, Docket No. C-20030234, (Opinion and Order entered Mar. 17, 2004).

8. Following the sunset of Chapter 14, Title 66 of the Pennsylvania Public Utility Code, the Commission's 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).

9. The principles of Section 1405 and definitions of Section 1403 of the Pennsylvania Public Utility Code will continue after the expiration of Chapter 14 on December 31, 2024. *Sunset of Chapter 14, Title 66 of the Pennsylvania Public Utility Code*, Docket No. M-2024-3052328, at 5 (Statement of Policy entered Dec. 24, 2024).

10. "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.

11. 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).

12. If a customer defaults on a payment arrangement established by the Commission under subsections 1405(a) and (b) as a result of a significant change in circumstance, the commission may reinstate the payment arrangement and extend the

remaining term for an initial period of six months. The initial extension period may be extended for an additional six months for good cause shown. 66 Pa.C.S. § 1405(e).

13. “Significant change in circumstance” is defined as: “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; (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. 66 Pa.C.S. § 1403.

14. Complainant has failed to carry her burden of proving that she is eligible to a second or subsequent Commission-issued payment arrangement or to an extension of the previous payment arrangement. 66 Pa.C.S. §§ 1405(d), 1405(e).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Laurance Smith in Laurence Smith v. Philadelphia Gas Works at Docket No. C-2025-3054292 is denied.

