

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Sonya Nickerson

v.

Philadelphia Gas Works

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C-2025-3054472

INITIAL DECISION

Before
Michael J. Mroczka
Special Agent

INTRODUCTION

This Initial Decision dismisses the Formal Complaint of a gas service customer seeking a payment arrangement because she failed to meet her burden of proving that she is eligible for a second or subsequent Commission-issued payment arrangement or reinstatement of her prior payment arrangement.

HISTORY OF THE PROCEEDING

On April 8, 2025, Sonya Nickerson (Complainant or Ms. Nickerson) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW, Company or Respondent). Ms. Nickerson checked the boxes on the Complaint form stating that the utility is threatening

to shut off her service or has already shut off her service and requesting a Commission-issued payment arrangement. Ms. Nickerson also checked “Other” and wrote:

“I believe in the fall of 2022 or 2023 I was under financial distress and was one week late on a payment arrangement. At that time the PUC required a catch up amount be paid. Again, while under financial distress because I was caring for a family of four on one income I had difficulty reaching the catch up amount quoted by PGW (gas utility). Every time I was prepared to pay the amount it increased and became a moving target.

Compl. ¶ 4. Under “Requested Relief,” Complainant wrote:

I was advised by the PUC on March 28th that I need to pay \$1300 from my last payment arrangement to currently obtain assistance. I plan to pay the \$1300 by May 8th. I am better situated to meet my obligation as ask if I can have \$100 auto debited from my direct deposit on a bi-weekly basis until the debt is cured. In summary, I would like the PUC to grant me the opportunity to pay the \$1300 from old arrangement by May 8th. From that point, I would like for the PUC to [instruct] PGW to accept or to set up automatic bi-weekly payments in the amount of \$100 until the debt is cured.

Compl. ¶ 5.

On April 24, 2025, PGW filed its Answer to the Formal Complaint which admitted in part and denied in part the various material allegations of the Complaint.

By Hearing Notice dated May 1, 2025, an Initial Call-In Telephonic Hearing was scheduled for June 24, 2025, and the matter was assigned to me.

A Prehearing Order was issued and served on May 1, 2025, reminding the parties of the date and time of the scheduled hearing, and informing them of the procedures applicable to this proceeding.

On June 24, 2025, the hearing convened as scheduled. The Complainant appeared *pro se*, testified on her own behalf, and offered one Exhibit which was admitted into the record. Tracy Tripp, Esquire, appeared on behalf of PGW and presented the testimony of one witness, David Kauffman, a customer review officer with PGW. Mr. Kauffman sponsored 12 exhibits, which were admitted into the record without objection. The following exhibits were admitted.

Compl. Exhibit 1 – Complainant's receipts for pending payments

PGW Exhibit 1 – Statement of Account 6/13/2023 – 6/13/2025

PGW Exhibit 2 – Complainant's payment agreement history

PGW Exhibit 3 – Informal Complaint 3696693

PGW Exhibit 4 – Informal Complaint 3696693 decision

PGW Exhibit 5 – Informal Complaint 3735831

PGW Exhibit 6 – Informal Complaint 3735831 decision

PGW Exhibit 7 – Informal Complaint 3862234

PGW Exhibit 8 – Informal Complaint 3862234 decision

PGW Exhibit 9 – Informal Complaint 4049146

PGW Exhibit 10 – Informal Complaint 4049146 decision

PGW Exhibit 11 – Letter from PA PUC to Sonya Nickerson

PGW Exhibit 12 – Shut-off notice

During the hearing, I requested that PGW submit late-filed exhibits regarding bills back to the 2019 Commission-issued payment arrangement. On June 26, 2025, PGW provided, via email, one additional document in response to my request. The following exhibits will be admitted in the ordering paragraphs below:

PGW Exhibit 13 – Statement of Account 10/24/2019 – 5/31/2023

The record consists of the 85-page transcript and the parties' 14 total exhibits. The record closed on July 9, 2025, when the transcript and exhibits were filed with the Commission.

FINDINGS OF FACT

1. Complainant is Sonya Nickerson, who has gas service at 906 East Upsal Street, Apartment 2F, Philadelphia, Pennsylvania 19150 (Service Address). Tr. 7.
2. Respondent is Philadelphia Gas Works, a jurisdictional public utility, which provides gas service to Complainant at the Service Address.
3. Complainant resides at the Service Address with her grandson. Tr. 10.
4. Complainant's gross household monthly income is \$5,700. Tr. 29.
5. The total monthly household income and household size of two places the household over 300% of the Federal Poverty Level.¹ Tr. 10, 29.
6. Complainant had two prior Commission-issued payment arrangements; the last of which was issued on April 29, 2019 at BCS No. 3696693 beginning in June 2019 (April 2019 PAR), which was subsequently broken by Complainant. PGW Exs. 2, 4, 5; Tr. 51, 52.

¹ See Federal poverty guidelines, 90 Fed. Reg. 5917 (Jan. 17, 2025); <https://aspe.hhs.gov/sites/default/files/documents/dd73d4f00d8a819d10b2fdb70d254f7b/detailed-guidelines-2025.pdf>

7. In granting the April 2019 PAR, Ms. Nickerson's total household income was determined to be \$3,450 per month with a household size of three. PGW Exs. 3, 4.

8. Complainant entered into three company-issued payment arrangements which were broken by Complainant. PGW Ex. 2; Tr. 41.

9. Complainant's outstanding balance at the time of the hearing was \$4,589.55. PGW Exs. 1, 13; Tr. 39.

10. At the time of the hearing, there were \$463.20 worth of pending payments on the account which, if cleared, would bring the total arrearage to \$4,126.35. Tr. 39-40.

DISCUSSION

Section 332(a) of the Public Utility Code (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 they present 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, a Commission Regulation or Order, or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701.

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 Ctr.*, 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).

Payment Arrangement

Complainant requests a Commission-issued payment arrangement. Specifically, in the Complaint, Ms. Nickerson requests that the Commission permit her to make a catch-up payment of \$1,300 and reinstate an arrangement issued by PGW. However, the Commission is not permitted to reinstate company-issued payment arrangements.

Prior to sunseting, 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. 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. Chapter 14 has 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)).

Ms. Nickerson testified that she has a gross monthly household income of \$5,700 and a household size of two. Tr. 29. Based on the household income of \$5,700 per month, and her household size of two, Complainant falls above 300% of the Federal poverty level.² Tr. 97-98. Absent further restrictions, Ms. Nickerson would qualify for a Level 4 payment arrangement. 66 Pa.C.S. § 1405(b)(4). However, as explained below, due to restrictions placed on the Commission by the Code, I cannot provide Complainant with a new Commission-issued payment arrangement.

Second or Subsequent Payment Arrangement

If the Commission has not previously ordered a payment arrangement for a complainant, the Commission has the authority to establish a payment arrangement, pursuant to 66 Pa.C.S. § 1405(a), on a complainant's arrearages within the strict guidelines set forth in 66 Pa.C.S. § 1405(b), as stated above. However, Chapter 14, as followed by the *Statement of Policy*, restricts the Commission from issuing a second or subsequent payment arrangement if a customer defaulted on a previous Commission-issued payment arrangement. The Code addresses second or subsequent payment arrangements as follows:

(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

² See Federal poverty guidelines, 90 Fed. Reg. 5917 (Jan. 17, 2025); <https://aspe.hhs.gov/sites/default/files/documents/dd73d4f00d8a819d10b2fdb70d254f7b/detailed-guidelines-2025.pdf>

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). “Change in income” is defined by the Code 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.

Complainant had two prior Commission-issued payment arrangements with the last one being issued on April 29, 2019 at BCS No. 3696693. PGW Exs. 2, 4, 5; Tr. 51-52. In granting the April 2019 PAR, Ms. Nickerson’s total household income was determined to be \$3,450 per month with a household size of three. PGW Exs. 3, 4; Tr. 52-53. Complainant defaulted on the April 2019 PAR. Tr. 51-52; PGW Ex. 2.

Currently, as explained above, Ms. Nickerson’s household income is \$5,700 which is an increase of \$2,250 per month from the income determined in the April 2019 PAR. Complainant’s current income, with two people in the household, is above 300% of the Federal poverty level. Therefore, she would need to show at least a 20% decrease in her household income to meet the “Change in income” definition under the statute to qualify for a second Commission-issued payment arrangement. Because Ms. Nickerson has had an increase in household income instead of a decrease of 20% or more, the Commission is not permitted to grant a second or subsequent payment arrangement under Chapter 14 of the Code. 66 Pa.C.S. §§ 1403, 1405(d).

Reinstatement of Prior Payment Arrangement

Although Ms. Nickerson is not eligible for a second Commission-issued payment arrangement, I must determine if she is eligible for reinstatement and extension of the April 2019 PAR. Chapter 14, as followed by the *Statement of Policy*, authorizes the Commission to reinstate and extend a Commission-issued payment arrangement on which a customer has defaulted as a result of a significant change in circumstance:

(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). A “significant change in circumstance” is defined in the Code as follows:

“Significant change in circumstance.” 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.

Ms. Nickerson testified that she lost a second job due to the COVID-19 pandemic. Tr. 15. However, Ms. Nickerson defaulted on the April 2019 PAR in July of 2019. Tr. 51. Therefore, there is no evidence on the record that this loss resulted in Ms. Nickerson's default of the April 2019 PAR. Ms. Nickerson has not presented any evidence to meet the four criteria set out in the definition of significant change of circumstances.

Accordingly, the Complainant's request for a Commission-issued payment arrangement must be denied and the Complaint will be dismissed.

CONCLUSIONS OF LAW

1. The 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 Responsible Utility Customer Protection Act applies to this proceeding. 66 Pa.C.S. §§ 1401–1419; *Sunset of Chapter 14, Title 66 of the Pennsylvania Public Utility Code*, Docket No. M-2024-3052328 (Statement of Policy entered Dec. 24, 2024).
4. 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)).

5. 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) (citing 66 Pa.C.S. § 1405(d)).

6. 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. *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(e)).

7. The Complainant has failed to carry the burden of proving that she is eligible for a second or subsequent Commission-issued payment arrangement or an extension of her prior Commission-issued payment arrangement. 66 Pa.C.S. §§ 332(a), 1405(c), (e).

