

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Adama Barry	:	
	:	
v.	:	F-2025-3056333
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision denies the Formal Complaint of Adama Barry because he failed to satisfy his burden of proving that he 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 July 17, 2025, Adama Barry (Mr. Barry or Complainant) filed a Formal Complaint (Complaint)<sup>1</sup> with the Pennsylvania Public Utility Commission (Commission)

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<sup>1</sup> The Complaint is a timely appeal from the determination of the Commission's Bureau of Consumer Services (BCS), at BCS No. 4062392, which dismissed Complainant's informal complaint. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

against Philadelphia Gas Works (PGW or Respondent). In the Complaint, Mr. Barry requested the Commission to direct PGW to re-enroll him in PGW's Customer Responsibility Program<sup>2</sup> (CRP).

On August 6, 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 was enrolled in CRP on May 26, 2021, with a beginning balance of \$8,906.28 and Complainant's CRP was suspended on May 25, 2022. PGW further averred that Complainant was re-enrolled in CRP in error on May 6, 2025, and this enrollment was cancelled the same day. Finally, PGW averred Complainant has had two Company-issued payment arrangements and one Commissioned-issued payment arrangement that were all broken and not satisfied.

By Hearing Notice dated August 8, 2025, an Initial Call-In Telephone Hearing was scheduled for October 15, 2025, and the matter was assigned to me.

A Prehearing Order was issued on August 12, 2025, advising the parties of the date and time of the scheduled hearing, and informing them of the procedures applicable to the proceeding.

On October 15, 2025, the hearing convened as scheduled. Complainant appeared *pro se*, testified on his own behalf, and offered no exhibits for the record. Tracy Tripp, Esquire, appeared on behalf of PGW and presented the testimony of David Kaufmann, a Customer Review Officer at PGW. Mr. Kaufmann sponsored three exhibits, which were admitted into the record without objection.

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<sup>2</sup> PGW's customer assistance program (CAP).

The record closed on October 29, 2025, upon the filing of the transcript with the Commission.

### FINDINGS OF FACT

1. Complainant is Adama Barry. Tr. 5.
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 3025 North 22<sup>nd</sup> Street, Philadelphia, PA 19132 (Service Address). Tr. 7.
4. The household consists of three members. Tr. 8.
5. Complainant's total gross household income is \$398.00 per month from Social Security. Tr. 8.
6. Complainant's household income is less than 150% of the Federal poverty guidelines for a three-person household.<sup>3</sup>
7. Complainant was issued payment arrangements from PGW on November 21, 2022, and May 15, 2022, which were broken for non-payment. Tr. 19-20; PGW Exh. 3.

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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>.

8. On May 25, 2023, Complainant received a Commission-issued payment arrangement based on a gross household monthly income of \$434.00, which was broken for non-payment. Tr. 10, 20; PGW Exh. 3.

9. Complainant's monthly household income has decreased 8.29% since the May 25, 2023, Commission-issued payment arrangement.<sup>4</sup> Tr. 10-11.

10. Complainant was enrolled in PGW's CRP from May 26, 2021, to May 25, 2022. PGW Answer to Complaint.

11. As of the date of the hearing, Complainant's outstanding balance was \$14,610.68. Tr. 15-16; PGW Exhs. 1, 2.

12. Complainant's balance contains \$9,577.11 in CAP arrears. PGW Exh. 1.

### DISCUSSION

As the party seeking affirmative relief from the Commission, Complainant bears the burden of proving by substantial evidence that he 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

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<sup>4</sup>  $((434 - 398) \div 434) \times 100 = -8.29\%$ .

(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).

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 his 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 for his outstanding balance. The Responsible Utility Customer Protection Act (Act), 66 Pa.C.S. §§ 1401-1419, had applied to complaints alleging inability to pay and requesting a Commission-issued payment arrangement. This Act provided 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(c) of the Public Utility Code prohibits the Commission from establishing a payment arrangement on any outstanding CAP arrears. 66 Pa.C.S. § 1405(c). Of Complainant's current outstanding balance, \$9,577.11 is composed of CAP

arrears. As such, the Commission cannot grant the Complainant a payment arrangement on this amount.

The remaining amount of non-CAP arrears is \$5,033.57, upon which the Commission can issue a payment arrangement. *Hewitt v. PECO Energy Co.*, Docket No. F-2011-2273271 (Opinion and Order entered Sept. 12, 2013).

In this regard, 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). "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.

Here, Complainant was already the beneficiary of a Commission-issued payment arrangement on May 25, 2023, which was based on a monthly household income of \$434.00. Complainant defaulted on this Commission-issued payment arrangement. During the hearing, Complainant testified that he now receives \$398.00 per

month from Social Security. Thus, Complainant's monthly household income has decreased 8.29% since the May 25, 2023, 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 present any evidence that he defaulted on the Commission-issued payment arrangement as a result of a significant change in circumstance. Consequently, the Commission may not reinstate the payment arrangement issued on May 25, 2023, and extend the remaining term.

Lastly, the record does not support awarding Complainant another payment arrangement. Complainant has a poor payment history and has demonstrated an inability or unwillingness to comply with payment arrangements established by PGW and the Commission. In addition, given Complainant's financial circumstances along with his extremely high outstanding balance, he is likely to default on any payment arrangement issued by the Commission, making it an exercise in futility.

Based on the foregoing, I find that Complainant has failed to carry his burden of proving that he is eligible for 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 (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 his burden of proving that he is eligible for 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); *Sunset of Chapter 14, Title 66 of the Pennsylvania Public Utility Code*, Docket No. M-2024-3052328 (Statement of Policy entered Dec. 24, 2024).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Adama Barry in Adama Barry v. Philadelphia Gas Works, at Docket No. F-2025-3056333, is denied.
2. That Docket No. F-2025-3056333 be marked closed.

Date: January 23, 2026

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/s/  
F. Joseph Brady  
Administrative Law Judge