**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Glenda Brown :

:

v. : F-2013-2352695

:

PPL Electric Utilities Corporation :

**INITIAL DECISION**

Before

Tiffany A. Hunt

Special Agent

INTRODUCTION

The customer filed this Complaint to appeal the payment agreement issued by the Commission’s Bureau of Consumer Services (BCS). This decision denies the customer’s request for different payment terms as she has not experienced a change in her household income level.

HISTORY OF THE PROCEEDING

On February 28, 2013, Glenda Brown (Ms. Brown or Complainant) filed a formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL or Respondent) which alleged that PPL was threatening to shut off her service. Ms. Brown also alleged an inability to pay the amount ordered by BCS due to her husband’s wage garnishment. As relief, Ms. Brown requested a manageable payment agreement.

The Complaint is a timely appeal of the decision issued, on February 7, 2013, by BCS at BCS Case No. 3060818. BCS directed Ms. Brown to pay her monthly budget bills plus $41 per month towards her account balance.

On April 3, 2013, PPL filed an Answer (Answer) which denied the material allegations of the Complaint. PPL further responded that it agreed with the decision at BCS Case No. 3060818.

A Telephone Hearing Notice dated April 5, 2013, advised the parties that an initial telephonic hearing was scheduled for Friday, May 24, 2013, at 10:00 a.m. The case was assigned to me, pursuant to 52 Pa. Code § 56.174.

A Prehearing Order dated April 5, 2013, advised the parties of the date and time of the scheduled hearing, and informed them of the procedures applicable to this proceeding.

The initial telephonic hearing convened as scheduled on Friday, May 24, 2013, at 10:00 a.m.[[1]](#footnote-1) Ms. Brown appeared *pro se* and testified on her own behalf. Graig M. Schultz, Esq., counsel for Respondent, presented the testimony of one (1) witness, Marilyn DeLeon, a Customer Service Representative for Respondent, who sponsored one (1) exhibit, which was admitted into the record.

The record closed on May 24, 2013.

FINDINGS OF FACT

1. The Complainant is Glenda Brown, who receives electric residential service from Respondent at 3619 Rose Avenue, 1st Floor, Gordonville, PA (Service Address).
2. The Respondent is PPL Electric Utilities Corporation.
3. On February 5, 2013, Ms. Brown filed an informal complaint with the Commission at BCS Case No. 3060818.
4. On February 7, 2013, BCS issued an informal decision which directed Ms. Brown to pay her monthly budget bills plus $41 per month towards her account balance.
5. On February 28, 2013, Ms. Brown filed a formal Complaint with the Commission which alleged that PPL was threatening to shut off her service. Ms. Brown also alleged an inability to pay the amount ordered by BCS due to her husband’s wage garnishment. As relief, Ms. Brown requested a manageable payment agreement.
6. On April 3, 2013, PPL filed an Answer to the Complaint.
7. The Complainant lives with her husband at the Service Address.
8. The Complainant works part-time during the academic year for a community college.
9. From September to May, the Complainant earns $247 every two (2) weeks.
10. The Complainant’s husband works full-time and earns $27,840 per year.
11. The Complainant’s annual household income is approximately $32,533, or $2,711 per month.[[2]](#footnote-2)
12. The Complainant was enrolled in OnTrack, PPL’s Customer Assistance Program (CAP), until September 2012.
13. In January 2013, the Complainant’s OnTrack application was denied because her household income exceeded the guidelines.
14. As of the date of the hearing, the Complainant’s most recent payments were made on September 6, 2012 and January 4, 2013. PPL Exhibit 1C.
15. As of the date of the hearing, the Complainant’s account balance was $1,850.97. PPL Exhibit 1C.

DISCUSSION

In her formal Complaint, Ms. Brown alleged that PPL was threatening to shut off her service. Ms. Brown also alleged an inability to pay the amount ordered by BCS due to her husband’s wage garnishment. As relief, Ms. Brown requested a manageable payment agreement.

As the party seeking affirmative relief from the Commission, the 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, the Complainant must show that the named utility is responsible or accountable for the problem described in the Complaint. Patterson v. Bell Telephone Co. of Pa., 72 Pa. PUC 196 (1990); Feinstein v. Philadelphia Suburban Water Co., 50 Pa. PUC 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. Public Utility Comm., 578 A.2d 600 (Pa. Cmwlth. 1990), alloc. den., 602 A.2d 863 (Pa. 1992); 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. Public Utility Comm., 447 A.2d 1100 (Pa. Cmwlth. 1982); Edan Transportation Corp. v. Pa. Public Utility Comm., 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa. C.S.A. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk and Western Ry. v. Pa. Public Utility Comm., 413 A.2d 1037 (Pa. 1980); Erie Resistor Corp. v. Unemployment Compensation Bd. of Review, 166 A.2d 96 (Pa. Super. 1960); Murphy v. Dep’t. of Public Welfare, White Haven Center, 480 A.2d 382 (Pa. Cmwlth. 1984).

This proceeding is a *de novo* review of the BCS determination of an appropriate payment plan for this account. 52 Pa. Code § 56.403(a). The term “*de novo*” simply means “anew” or “over again.”

The Responsible Utility Customer Protection Act, 66 Pa. C.S. § 1401, *et seq*. (the Act or Chapter 14) applies to complaints alleging inability to pay and requests for Commission-issued payment agreements. This law provides strict guidelines that the Commission must follow in handling customer complaints.

OnTrack/Customer Assistance Program Balance

The Commission has no authority to establish a payment agreement on amounts subject to customer assistance program rates. The provision at 66 Pa. C.S. § 1405(c) states as follows:

(c) Customer Assistance Programs. – Customer assistance program rates shall be timely paid and shall not be the subject of payment agreements negotiated or approved by the commission.

The Complainant was enrolled in OnTrack, PPL’s Customer Assistance Program (CAP), until September 2012. The Complainant received a monthly discount on her utility charges and arrearage forgiveness. PPL Exhibit 1C. As of the date of the hearing, the Complainant’s account balance included CAP arrears. The Commission cannot order a payment agreement on this amount; it must be timely paid, pursuant to 66 Pa. C.S. § 1405(c).

Non-OnTrack/Customer Assistance Program Balance

The Public Utility Code permits the Commission to grant one (1) payment agreement and dictates its terms. 66 Pa. C.S. § 1405(b). Absent a change in income, the Commission cannot grant a second or subsequent payment agreement, if the customer defaults on the first payment agreement. 66 Pa. C.S. § 1405(d).

The Commission issued a payment agreement to the Complainant at BCS Case No. 3060818. BCS determined that Ms. Brown was a Level 2 customer based on a household size of 3 adults and a monthly household income of $2,850. BCS directed her to pay her monthly budget bills plus $41 per month towards her account balance. Ms. Brown timely appealed this BCS decision.

Ms. Brown testified that she now lives with her husband at the Service Address. Ms. Brown works part-time during the academic year for a community college. From September to May, the Complainant earns $247 every two (2) weeks. The Complainant’s husband works full-time and earns $27,840 per year. The Complainant’s annual household income is approximately $32,533, or $2,711 per month.[[3]](#footnote-3) For a household of two (2), the Complainant’s monthly household income is more than 200% but less than 250% of the Federal poverty level, she remains a Level 2 customer. 66 Pa. C.S. § 1405(b)(2).

While the Complainant has experienced a slight decrease in income since the BCS decision, her household size has also decreased from three (3) to two (2) adults. As a result, her household income level has remained the same and she is not entitled to different payment terms. Caroline Maitland v. UGI Penn Natural Gas Inc., Docket No. C-20078353 (Order entered August 20, 2008). The payment agreement established at BCS Case No. 3060818 is the most favorable payment agreement to which the Complainant is entitled. The Complainant must make monthly payments on her non-OnTrack/CAP balance as directed by BCS (i.e. budget bills plus one twenty-fourth of the balance accrued on her account).

The Complaint is dismissed.

CONCLUSIONS OF LAW

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

2. The Complainant had the burden of proof. 66 Pa. C.S.A. § 332(a).

3. The Responsible Utility Customer Protection Act, 66 Pa. C.S.A. §§ 1401, *et seq*., applies to this proceeding.

4. Customer assistance program rates shall be timely paid and shall not be the subject of payment agreements negotiated or approved by the commission. 66 Pa. C.S.A. § 1405(c).

5. The Public Utility Code permits the Commission to grant one (1) payment agreement and dictates its terms. 66 Pa. C.S.A. § 1405(b).

6. The Commission is without authority to issue a second or subsequent payment agreement, absent a change in income, if a customer has defaulted on a previous payment agreement. 66 Pa. C.S.A. § 1405(d).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Glenda Brown against PPL Electric Utilities Corporation at Docket No. F-2013-2352695 is dismissed.
2. That the Secretary mark this docket closed.

Date: July 12, 2013 /s/

Tiffany A. Hunt

Special Agent

1. A tape recording of the hearing was made, no court reporter being present. [↑](#footnote-ref-1)
2. $247 bi-weekly x 19 two-week periods from September to May = $4,693

   $27,840 + $4,693 = $32,533. [↑](#footnote-ref-2)
3. The Public Utility Code defines “Household Income” as “The combined gross income of all adults in a residential household who benefit from the public utility service.” 66 Pa. C.S. 1403 (emphasis added). The definition of household income does not take into account wage garnishments. [↑](#footnote-ref-3)