**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Delores A. McCall :

:

v. : C-2014-2430851

:

Peoples Natural Gas Company LLC :

**INITIAL DECISION**

Before

Tiffany A. Hunt

Special Agent

INTRODUCTION

This decision grants the customer’s request for her first payment arrangement from the Commission.

HISTORY OF THE PROCEEDING

On July 3, 2014, Delores A. McCall (Ms. McCall or Complainant) filed a formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Peoples Natural Gas Company LLC (Peoples, Company or Respondent) which alleged, *inter alia*, an inability to afford the payment plan provided by Peoples. As relief, Ms. McCall requested a payment arrangement of $122.00 per month or lower. Complaint ¶ 5.

On July 29, 2014, Peoples filed an Answer (Answer) to the Complaint. In April 2014, Peoples placed the Complainant on a monthly payment plan, consisting of her budget amount and 1/24th of her outstanding balance (arrearage payment). A copy of the Complainant’s Statement of Account was attached as Exhibit A to the Answer.

A Telephone Hearing Notice dated August 27, 2014, advised the parties that an initial telephonic hearing was scheduled for Tuesday, September 30, 2014, at 10:00 a.m. The case was assigned to me, pursuant to 52 Pa.Code § 56.174.

A Prehearing Order dated August 27, 2014, advised the parties of the date and time of the scheduled hearing, and informed them of the procedures applicable to this proceeding.

On September 29, 2014, I granted Ms. McCall’s unopposed request to continue the hearing. My decision was memorialized by Interim Order dated October 8, 2014. By Hearing Cancellation/Reschedule Notice dated October 10, 2014, the parties were notified that the Initial Telephonic Hearing in this case was rescheduled for Wednesday, November 12, 2014, at 10:00 a.m.

The initial telephonic hearing convened as rescheduled on Wednesday, November 12, 2014, at 10:00 a.m.[[1]](#footnote-1) Ms. McCall appeared *pro se* and testified on her own behalf. Jennifer L. Petrisek, Esq., counsel for the Respondent, presented the testimony of one witness, Kristen Englert, a Customer Relations Specialist for Respondent, who sponsored three exhibits (Peoples A-C), which were admitted into the record.

The record closed on November 12, 2014.

FINDINGS OF FACT

1. The Complainant is Delores A. McCall.
2. The Respondent is Peoples Natural Gas Company LLC.
3. The Complainant receives gas service from the Respondent at 116 Van Buren Street, Evans City, PA (Service Address).
4. The Complainant lives with her adult daughter at the Service Address.
5. The Complainant works full time (37 hours per week) and earns $14.49 per hour.
6. There are no other sources of household income.
7. The Complainant’s annual household income is $27,301.56.
8. The Complainant’s annual household income is between 150% and 250% of the 2014 Federal Poverty Level Guidelines.
9. The Complainant made three payments on her account in 2012. Peoples Exhibit B.
10. The Complainant made four payments on her account in 2013. Peoples Exhibits A, B.
11. As of the date of the hearing, the Complainant had made three payments on her account in 2014. Peoples Exhibit A.
12. The Complainant has defaulted on five Company-issued payment arrangements since October 2011. Peoples Exhibit C.
13. The Complainant has not received a payment arrangement from the Commission.
14. As of the date of the hearing, the Complainant’s account balance was $3,723.54. Peoples Exhibit A.

DISCUSSION

In her formal Complaint, Ms. McCall alleged, *inter alia*, an inability to afford the payment plan provided by Peoples. As relief, Ms. McCall requested a payment arrangement of $122.00 per month or lower. Complaint ¶ 5.

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. Pub. Util. Comm’n, 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. Pub. Util. Comm’n, 447 A.2d 1100 (Pa. Cmwlth. 1982); Edan Transportation 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 and Western Ry. v. Pa. Pub. Util. Comm’n, 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).

The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1418 (the Act or Chapter 14) applies to complaints alleging inability to pay and requests for Commission-issued payment arrangements. This law provides strict guidelines that the Commission must follow in handling customer complaints.

The Public Utility Code permits the Commission to grant one payment arrangement and dictates its terms. 66 Pa.C.S. §§ 1405(a), (b).

The Complainant has not received a payment arrangement from the Commission. Since the Complainant’s income falls between 150% and 250% of the 2014 Federal Poverty Level Guidelines, the Complainant is eligible for a three year payment arrangement to address her outstanding balance. 66 Pa.C.S. § 1405(b)(2). Despite the Complainant’s poor payment history, it is appropriate to grant her this first payment arrangement from the Commission because it will result in a lower arrearage payment than the two year payment plan provided by Peoples. The Complainant is cautioned that the Commission is only authorized to direct a utility to provide one payment arrangement. In the event Ms. McCall fails to comply with the terms of this arrangement, the Commission lacks the statutory authority to order a second or subsequent arrangement absent a statutory change in income or significant change in circumstance. 66 Pa.C.S. §§ 1405(d), (e).

Therefore, beginning with the first bill following the Commission’s Final Order in this case, the Complainant is required to pay her budget bill plus an amount equal to one thirty-sixth (1/36th) of the balance accrued on her account. If Ms. McCall fails to keep this payment schedule, Peoples is authorized to suspend or terminate her service in accordance with the Commission’s statute and regulations.

The Complaint is sustained.

CONCLUSIONS OF LAW

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

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

3. The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1418 applies to this proceeding.

4. The Public Utility Code permits the Commission to grant one payment arrangement and dictates its terms. 66 Pa.C.S. §§ 1405(a), (b).

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

6. The Commission may not reinstate a payment arrangement where the customer has defaulted except in limited circumstances. 66 Pa.C.S. § 1405(e).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Delores A. McCall against Peoples Natural Gas Company LLC at Docket No. C-2014-2430851 is sustained.
2. That Delores A. McCall shall make monthly payments consisting of her budget bill plus one thirty-sixth (1/36th) of the balance accrued on her account, beginning with the first billing due date following the entry of a final Commission Order in this case.
3. That as long as Delores A. McCall keeps the payment schedule stated in this Order, Peoples Natural Gas Company LLC shall not suspend or terminate her utility service except for valid safety or emergency reasons or assess late payments or finance charges against her account.
4. That, if Delores A. McCall does not keep the payment schedule stated in this Order, Peoples Natural Gas Company LLC is authorized to suspend or terminate her utility service in accordance with the Commission’s statute and regulations.
5. That the Secretary mark this docket closed.

Date: February 9, 2015 /s/

Tiffany A. Hunt

Special Agent

1. A tape recording of the hearing was made, no court reporter being present. [↑](#footnote-ref-1)