**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Barbara Medaglia :

 :

v. : F-2012-2300999

:

Metropolitan Edison Company :

**INITIAL DECISION**

Before

David A. Alexander

Special Agent

INTRODUCTION

The Complainant in this case has appealed the payment arrangement issued by the Commission’s Bureau of Consumer Services (BCS). For the reasons explained below, the Complaint is denied.

history of the proceeding

On April 25, 2012, Barbara Medaglia (Ms. Medaglia or Complainant) filed a formal Complaint (Complaint) against Metropolitan Edison Company (Met-Ed, the Respondent or the Company) with the Pennsylvania Public Utility Commission (Commission). On her formal Complaint form, she checked the box which indicated that she would like a payment agreement. This matter is a timely appeal of a decision by the Commission’s Bureau of Consumer Services (BCS), at BCS Case No. 2942372, issued on March 27, 2012. At that time, BCS determined that Ms. Medaglia was a level 1 customer, and ordered her to pay the Regular Budget amount of $151.00 and an Arrearage Payment of $56.00 per month for a total Special Budget Amount of $207.00 beginning in May of 2012.

On or about May 17, 2012, Respondent filed an Answer (Answer) to the Complaint, which sought dismissal of the Complaint.

A Hearing Notice dated June 4, 2012, notified the parties that a telephonic initial hearing was scheduled for Tuesday, July 10, 2012, at 10:00 a.m.

A Prehearing Order dated June 5, 2012, advised the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

In accordance with the provisions of the Prehearing Order, Respondent submitted three copies of seven (7) exhibits for possible use at the hearing.

The telephone hearing convened as scheduled on July 10, 2012, at 10:00 a.m.[[1]](#footnote-1) Ms. Medaglia testified on her own behalf. Patrick Malone, Esq., represented the Respondent, and presented the testimony of Pam Jordan, a Business Analyst in the Pennsylvania Compliance Department for Met-Ed. Respondent also sponsored seven (7) exhibits, all of which were admitted into the record.

The record in this matter closed on July 10, 2012.

FINDINGS OF FACT

1. Complainant is Barbara Medaglia, who resides at 967 Green Hills Road, Birdsboro, PA 19508 (Service Address).

2. Respondent is Metropolitan Edison Company.

3. Ms. Medaglia lives at the service address with her husband.

4. Complainant is retired. She receives $787.33 a month in a pension benefit. Complainant also receives an additional $104.00 a month in a supplemental pension benefit. Complainant receives $873.00 a month in Social Security benefits.

5. Complainant’s husband is unemployed. He receives $863.00 a month in Social Security benefits.

6. On March 27, 2012, the Commission’s Bureau of Consumer Services, (BCS) at BCS Case No. 2942372, issued its decision which stated that the Complainant was a level 1 customer, and ordered her to pay the Regular Budget amount of $151.00 and an Arrearage Payment of $56.00 per month for a total Special Budget Amount of $207.00 beginning in May of 2012. Respondent’s Exhibit M.E. 4.

7. As of the day of the scheduled hearing, Complainant was still receiving utility service from Respondent.

8. As of the day of the scheduled hearing, Complainant’s arrearage was $3,528.93.

DISCUSSION

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). Therefore 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, the Complainant must demonstrate that the Respondent was responsible for the problems alleged in the Complaint through a violation of the Code or a regulation or order of the Commission. This must be shown by a preponderance of the evidence. *Patterson v. Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). 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. PUC,* 578 A.2d 600 (Pa. Cmwlth. 1990) *alloc. den.*, 529 Pa. 654, 602 A.2d 863 (1992). In addition, 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 and Western Railway Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980).

With regard to Complainant’s request for a payment arrangement, Section 1405 of the Public Utility Code authorizes the Commission to investigate payment disputes and to establish payment arrangements between a public utility and its customers or an applicant within the limits established by Chapter 14. 66 Pa. C.S.A. § 1405(a).

The Complainant indicated that she would like a payment arrangement to help her pay off her balance. As noted previously, the Complainant’s current outstanding unpaid balance is $3,528.93.

A payment agreement is defined at 66 Pa. C.S.A. § 1403 as “[a]n agreement whereby a customer who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.”

Household Income is also defined at 66 C.S.A. § 1403 as “The combined gross income of all adults in a residential household who benefit from the public utility service.”

Regarding the length of payment agreements, 66 Pa. C.S.A. § 1405(b) reads in pertinent part:

**(b) Length of payment agreements.--**The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment agreement 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) Two 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.

Complainant testified about her financial situation. She currently resides at the Service Address with her husband. Ms. Medaglia is retired. She receives $787.33 a month in pension benefits. She also receives $104.00 a month in a supplemental pension. Complainant also receives $873.00 a month in Social Security benefits. Her husband receives $863.00 per month in Social Security benefits. The total household monthly income is $ 2,627.33 ($787.33+$104.00+$873.00+$863.00). Based upon the household income by both adults, I have determined that Complainant’s household income level exceeds 200% of the federal poverty guidelines but is less than 250% of the federal poverty guidelines and as such she is a level 2 customer.

On March 27, 2012, the Commission’s Bureau of Consumer Services, BCS, at BCS Case No. 2942372, issued its decision which stated that the Complainant was a level 1 customer, and ordered her to pay the Regular Budget amount of $151.00 and an Arrearage Payment of $56.00 per month for a total Special Budget Amount of $207.00 beginning in May of 2012. M. E. Exhibit #4.

The Commission has determined that a BCS issued payment arrangement is subject to review upon the timely filing of a formal complaint. Since the Complaint is a timely appeal of a BCS decision, the Commission must determine if the BCS determination is in compliance with the mandates of Chapter 14. When BCS made its determination, Ms. Medaglia was a level 1 customer, now she is a level 2 customer. Her monthly household income has actually increased. Consequently, I find that Complainant, as a level 2 customer, must resolve her unpaid balance within 24 months, pursuant to 66 Pa. C.S. § 1405(b)(2). Complainant is required to make monthly payments on her account consisting of her current bill plus one twenty-fourth (1/24th) of the balanced accrued on her account beginning with the first billing due date following the entry of a final Commission Order in this case.

In this present matter Complainant has failed to demonstrate that the BCS decision rendered in Case No. 2942372 is incorrect.

For the reasons stated above, Ms. Medaglia’s Complaint is denied.

Ms. Medaglia is strongly encouraged to work with Respondent and any social service agency in her community to assist her to address her outstanding balance.

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. As the proponent of a rule or order, Complainant had 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. A Customer is obligated to pay for utility serviced provided to her as the ratepayer of record. 52 Pa. Code § 56.1.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal Complaint filed by Barbara Medaglia against Metropolitan Edison Company at Docket No. F-2012-230099 has been denied.

 2. That Barbara Medaglia shall make monthly payments consisting of her current bill plus one twenty-fourth (1/24th) of the balance accrued on her account, beginning with the first billing date following the entry of a final Commission Order in this case.

 3. That as long as Barbara Medaglia keeps the payment schedule stated in this order, Metropolitan Edison Company 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 Barbara Medaglia does not keep the payment schedule stated in this order, Metropolitan Edison Company is authorized to suspend or terminate her utility service in accordance with the Commission’s statutes and regulations.

5. That the record at Docket No. F-2012-2300999 is marked closed.

Dated: August 20, 2012

 David A. Alexander

 Special Agent

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