**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Barbara Medaglia :

 :

 v. : F-2012-2300999

 :

Metropolitan Edison Company :

**INITIAL DECISION ON REMAND**

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 a longer repayment period. Based on her current household size and household income, the customer is now entitled to a shorter repayment period than provided by BCS.

HISTORY OF THE PROCEEDING

On April 25, 2012, Barbara Medaglia (Ms. Medaglia or Complainant) filed a formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Metropolitan Edison Company (Met-Ed or Respondent) which alleged, *inter alia*, an inability to pay her electric utility bills. As relief, Ms. Medaglia requested a payment agreement based on her fixed income and household expenses.

The Complaint was a timely appeal of the decision issued, on March 27, 2012, at BCS Case No. 2942372. BCS directed Ms. Medaglia to pay her monthly budget bills plus $56 per month towards her account balance.

On May 17, 2012, Met-Ed filed an Answer (Answer) to the Complaint. In the Answer, Met-Ed denied the material allegations of the Complaint and provided additional allegations of fact regarding the Complainant’s payment history and prior payment arrangements.

A Telephone Hearing Notice dated June 4, 2012, advised the parties that an initial telephonic hearing was scheduled for Tuesday, July 10, 2012. The case was assigned to Special Agent David Alexander, pursuant to 52 Pa. Code § 56.174.

 A Prehearing Order dated June 5, 2012, 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 Tuesday, July 10, 2012, at 10:00 a.m.[[1]](#footnote-1) Ms. Medaglia appeared *pro se* and testified on her own behalf. Patrick Malone, Esq., counsel for Respondent, presented the testimony of two (2) witnesses, Pamela Jordan, an Advanced Business Analyst in Respondent’s Pennsylvania Compliance Department, and Stephanie Ramos-Vega, Respondent’s CARES[[2]](#footnote-2) representative, who together sponsored seven (7) exhibits, which were admitted into the record.

By Initial Decision issued on September 11, 2012, Special Agent Alexander denied the Complaint and adjusted the Complainant’s payment agreement from five (5) years to two (2) years, in accordance with her household size and household income.

On October 12, 2012, Ms. Medaglia filed Exceptions to the Initial Decision. Met-Ed did not file Reply Exceptions. By Opinion and Order entered on April 18, 2013, the Commission granted the Complainant’s Exceptions, treated procedurally as a Petition for Reconsideration, and remanded the matter to the Office of Administrative Law Judge for further proceedings as necessary and the issuance of an Initial Decision upon Remand. Specifically, the Commission found that the Complainant presented new information that may affect the amount of her required monthly payment.

A Telephone Hearing Notice dated April 22, 2013, advised the parties that an initial telephonic hearing on remand was scheduled for Monday, June 3, 2013. The case was assigned to me, pursuant to 52 Pa. Code § 56.174.

The initial telephonic hearing convened as scheduled on Monday, June 3, 2013, at 10:00 a.m.[[3]](#footnote-3) Ms. Medaglia appeared *pro se* and testified on her own behalf. Patrick Malone, Esq., counsel for Respondent, presented the testimony of one (1) witness, Pamela Jordan, an Advanced Business Analyst in Respondent’s Pennsylvania Compliance Department, who sponsored one (1) exhibit, which was admitted into the record.

The record closed on June 3, 2013.

FINDINGS OF FACT

1. The Complainant is Barbara Medaglia, who receives electric residential service from Respondent at 967 Green Hills Road, Birdsboro, PA (Service Address).
2. The Respondent is Metropolitan Edison Company.
3. On March 15, 2012, Ms. Medaglia filed an informal complaint with the Commission at BCS Case No. 2942372. Met-Ed Exhibit 4 (Initial Hearing).
4. On March 27, 2012, BCS issued an informal decision which directed Ms. Medaglia to pay her monthly budget bills plus $56 per month towards her account balance. Met-Ed Exhibit 4 (Initial Hearing).
5. On April 25, 2012, Ms. Medaglia filed a formal Complaint with the Commission which alleged, *inter alia*, an inability to pay her electric utility bills, and requested a payment agreement based on her fixed income and household expenses.
6. On May 17, 2012, Met-Ed filed an Answer to the Complaint.
7. The Complainant lives alone at the Service Address.
8. The Complainant’s husband passed away on October 24, 2012.
9. The Complainant is retired.
10. The Complainant receives $787.33 per month from a pension; $104.45 per month from a supplemental pension; and $884 per month from Social Security.
11. The Complainant’s monthly household income is $1,775.78.
12. As of the date of the hearing, the Complainant’s account balance was $4,375.06, which included $90.06 in late fees. Met-Ed Exhibit 1.

DISCUSSION

 In her formal Complaint, Ms. Medaglia alleged, *inter alia*, an inability to pay her electric utility bills. As relief, she requested a payment agreement based on her fixed income and household expenses.

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.

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. 2942372. At the time of the BCS decision, Ms. Medaglia lived with her husband at the Service Address and they had a monthly household income of $2,525.33. For a household of two (2), the Complainant’s monthly household income was more than 150% but less than 250% of the Federal poverty level; she was a Level 2 customer. As a Level 2 customer, BCS could have provided her with only two (2) years to repay her past due balance. 66 Pa. C.S. § 1405(b)(2). However BCS provided her with the Commission’s longest repayment period of five (5) years. 66 Pa. C.S. § 1405(b)(1). Ms. Medaglia timely appealed this BCS decision.

Ms. Medaglia testified that she now lives alone at the Service Address. Ms. Medaglia is retired. She receives $787.33 per month from a pension; $104.45 per month from a supplemental pension; and $884 per month from Social Security. The Complainant’s monthly household income is $1,775.78. For a household of one (1), the Complainant’s monthly household income is more than 150% 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 decrease in household income since the BCS decision, her household size has also decreased from two (2) to one (1) adult. As a result, her household income level, pursuant to 66 Pa. C.S. § 1405(b)(2), has remained the same and she is not entitled to a longer repayment period. Caroline Maitland v. UGI Penn Natural Gas Inc., Docket No. C-20078353 (Order entered August 20, 2008). Unfortunately, the Complainant is also no longer entitled to the payment agreement established at BCS Case No. 2942372. Based on her current household size and monthly household income, Ms. Medaglia must satisfy her balance in a shorter period of time - two (2) years or twenty-four (24) months. 66 Pa. C.S. § 1405(b)(2); Tina Satterwhite v. PECO Energy Company, Docket No. C-2008-2029090 (Order entered September 10, 2009).

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

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Barbara Medaglia against Metropolitan Edison Company at Docket No. F-2012-2300999 is dismissed.
2. That Barbara Medaglia shall make monthly payments consisting of her current charges or budget bill plus one twenty-fourth (1/24th) 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 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 statute and regulations.
5. 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. CARES stands for Customer Assistance and Referral Evaluation Services. [↑](#footnote-ref-2)
3. A tape recording of the hearing was made, no court reporter being present. [↑](#footnote-ref-3)