

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Zakkiyah Salahuddin

v.

Metropolitan Edison Company

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C-2016-2547092

INITIAL DECISION

Before
Joel H. Cheskis
Administrative Law Judge

INTRODUCTION

This decision dismisses a formal complaint filed by a customer of an electric distribution company who averred that there are incorrect charges on her bill and that she is having a safety, reliability or quality problem with her utility service. The customer failed to present substantial record evidence demonstrating that there are incorrect charges on her bill or that the company in any way violated the Public Utility Code or a Commission order or regulation with regard to the service provided to her.

HISTORY OF THE PROCEEDING

On April 21, 2016, Zakkiyah Salahuddin filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Metropolitan Edison Company (Met-Ed or the company), docket number C-2016-2547092. In her complaint, Ms. Salahuddin averred that there are incorrect charges on her bill and that she is having a safety, reliability or quality problem with her utility service. Ms. Salahuddin also indicated that she is “requesting an appeal.” For relief, Ms. Salahuddin requested that she would like “the company to remove all incorrect charges on the account.”

The formal complaint was served on Met-Ed electronically by the Commission's Secretary.¹

On June 13, 2016, Met-Ed filed an answer and new matter in response to the complaint. In its answer, Met-Ed admitted or denied the various averments made by Ms. Salahuddin. In particular, Met-Ed denied that there are incorrect charges on the account or that there is a reliability or quality problem with the electric service provided to the service address. Met-Ed also noted a Final Order issued by the Commission on July 23, 2015 regarding a complaint previously filed by Ms. Salahuddin against Met-Ed making final an initial decision dismissing that prior complaint and that Ms. Salahuddin's "appeal" of that decision is not properly before the Commission. In its new matter, which was accompanied by a notice to plead, Met-Ed reiterated its position that the Commonwealth Court of Pennsylvania has exclusive jurisdiction to entertain and rule on final actions of the Commission. Met-Ed requested that Ms. Salahuddin's complaint be dismissed with prejudice or denied in its entirety.

Also on June 13, 2016, Met-Ed filed a preliminary objection in response to Ms. Salahuddin's complaint. In its preliminary objection, which was also accompanied by a notice to plead, Met-Ed averred that, because the Commonwealth Court of Pennsylvania has exclusive jurisdiction to entertain and rule on final actions of the Commission, Ms. Salahuddin's complaint contains impertinent matter in its requested relief. Met-Ed, therefore, reiterated its position that Ms. Salahuddin's complaint should be dismissed in its entirety.

Ms. Salahuddin filed neither an answer to Met-Ed's preliminary objection nor to its new matter. Met-Ed's preliminary objection was granted in part and denied in part by order dated July 22, 2016. Ms. Salahuddin's appeal of the Commission's decision to dismiss a previously filed complaint was stricken from the complaint and all remaining issues raised in the complaint were allowed to proceed to a hearing.

¹ Met-Ed has signed a waiver of the Section 702 requirements for service of formal complaints, 66 Pa.C.S. § 702, and has agreed to electronic service instead under the Commission's Waiver of 702 program. Service is listed in the Audit History of the Commission's docketing system for this case as having been effected on May 24, 2016.

On August 8, 2016, a Call-In Telephone Hearing Notice was issued scheduling a hearing for this case for Thursday, September 15, 2016 and assigning me as the presiding officer. A prehearing order dated August 8, 2016 was issued setting forth various procedural rules that would govern the hearing.

On August 18, 2016, Met-Ed filed a motion to compel discovery responses. Met-Ed averred that it served discovery on Ms. Salahuddin on July 26, 2016 and that no objections to the discovery or answers were timely received. Met-Ed requested that an order be issued compelling Ms. Salahuddin to fully and completely respond to the discovery requests or have the complaint dismissed in its entirety. Ms. Salahuddin did not file an answer to the motion. Met-Ed's motion to compel was granted via order dated August 26, 2016 wherein Ms. Salahuddin was directed to provide answers to the interrogatories within ten days or face sanctions, including possible dismissal of the complaint.

On September 7, 2016, Met-Ed filed a motion for judgment on the pleadings seeking to have Ms. Salahuddin's complaint dismissed prior to the hearing. In its motion, Met-Ed argued, among other things, that all the issues alleged in the complaint were reviewed by the Commission in response to the first complaint and that there are no material issues in dispute. Ms. Salahuddin did not file an answer to Met-Ed's motion. As the motion was filed one week prior to the hearing, it was not addressed prior to the hearing.

The hearing convened on September 15, 2016 as scheduled. Ms. Salahuddin appeared pro se and provided oral testimony. Margaret Morris, Esquire, appeared on behalf of Met-Ed. Prior to the hearing, a lengthy discussion was held regarding the proper scope of the hearing in light of Met-Ed's motion for judgment on the pleadings, various orders previously issued in this case and the prior Commission decision regarding a complaint Ms. Salahuddin filed against Met-Ed on January 14, 2015 at docket number F-2015-2463441. In light of that discussion, it was determined that Ms. Salahuddin would present her testimony and a determination would be made after the transcript was reviewed regarding which issues Ms. Salahuddin was able to raise as part of her complaint. A further hearing would then be scheduled to allow Met-Ed to cross-examine Ms. Salahuddin and provide its response to her testimony on the issues in her complaint she is able to pursue.

The transcript of the September 15, 2016 hearing was submitted to the Commission on October 3, 2016.

Met-Ed's motion for judgment on the pleadings was denied via order dated October 14, 2016 wherein the scope of the proceeding was also clarified. As a result, a Telephonic Hearing Notice was issued establishing a further telephonic hearing for this matter for Tuesday, December 6, 2016.

The further telephonic hearing convened on December 6, 2016, as scheduled. Again, Ms. Salahuddin appeared pro se and Margaret Morris, Esquire appeared on behalf of Met-Ed. Ms. Morris cross-examined Ms. Salahuddin and presented the testimony of one witness who sponsored 15 exhibits that were admitted into the record. During the hearing, Ms. Salahuddin requested an opportunity to submit late-filed exhibits. Tr. 84-85. Ms. Salahuddin was given ten days from the date of the hearing to submit any additional exhibits and Met-Ed was given ten days from the date any additional exhibits were submitted to file any response to those exhibits.

On January 3, 2017, Ms. Salahuddin submitted several exhibits with an accompanying cover letter. As this submission was beyond the ten days Ms. Salahuddin was afforded to submit late-filed exhibits, it was considered as a petition to reopen the record. On January 17, 2017, Met-Ed filed a response opposing Ms. Salahuddin's submission. By order dated January 27, 2017, the petition to reopen the record was granted and the documents submitted by Ms. Salahuddin were admitted into the record of this proceeding.

The record in this case closed on January 27, 2017 when the Order admitting the late-filed exhibits was issued. For the reasons discussed further below, Ms. Salahuddin's complaint will be dismissed.

FINDINGS OF FACT

1. The Complainant in this case is Zakkiyah Salahuddin.
2. The Respondent in this case is Metropolitan Edison Company.

3. The service address is 600 Canal Street, Apartment B3, Easton, Pa.
4. In April, 2014, Ms. Salahuddin lived at 324 St. John Street in Easton, Pa and received a charge of \$911 on her monthly electric bill that she believed was incorrect. Tr. 7-8, 42.
5. Ms. Salahuddin moved to the service address in June, 2015. Tr. 8, 31, 36.
6. The balance from Ms. Salahuddin's St. John Street address transferred to her Canal Street address and she began receiving termination notices. Tr. 8-9.
7. The home at the St. John Street address was heated with oil and individual space heaters when the furnace stopped working. Tr. 28-29.
8. Tammy Taylor is a senior customer service compliance specialist with First Energy and has been employed by First Energy for 33 years, 28 of which were in the compliance department reviewing, investigating and responding to complaints filed at the Commission. Tr. 38.
9. Met-Ed Exhibit Number 1 is entitled Customer Contact History and reflects the activity on Ms. Salahuddin's account. Tr. 40; Met-Ed Exh. No. 1.
10. Ms. Salahuddin called Met-Ed on June 8, 2015 to establish service at the service address effective June 9, 2015. Tr. 41; Met-Ed Exh. No. 1.
11. Ms. Salahuddin established service at the St. John Street address on August 28, 2013 with an effective date of September 13, 2013. Tr. 42; Met-Ed Exh. No. 1.
12. Prior to living on St. John Street, Ms. Salahuddin lived in Bangor, Pa. Tr. 42-43; Met-Ed Exh. No. 1.
13. Met-Ed Exhibit Number 3 is a Detailed Statement of Account for Ms. Salahuddin's service at the St. John Street address and shows information such as meter reading, estimated date, consumption type, number of days in billing period, daily average consumption, billing

amount, total bill, due date and payments from August 28, 2013 to July 28, 2015. Tr. 43-44; Met-Ed Exh. No. 3.

14. There were no payments made on the account at the St. John Street address from August 28, 2013 to July 28, 2015. Tr. 44; Met-Ed Exh. No. 3.

15. An \$80 credit from Met-Ed's Pennsylvania customer assistance program (PCAP) was applied to the account at the St. John Street address each month. Tr. 30, 45; Met-Ed Exh. No. 3.

16. The PCAP payment was greater than the amount billed for ten months between August 28, 2013 to July 28, 2015. Tr. 44-45; Met-Ed Exh. No. 3.

17. Ms. Salahuddin was billed at the address in Bangor, Pa for service from May 29, 2009 to September 13, 2013 and left with an unpaid balance of \$613.54 which was transferred to her account at the St. John Street address. Tr. 46-47; Met-Ed Exh. No. 3.

18. Ms. Salahuddin received electric generation service from an electric generation supplier (EGS) from December 26, 2014 to June, 2015. Tr. 47; Met-Ed Exh. No. 3.

19. The meter at the St. John Street address was exchanged on February 16, 2015. Tr. 47-48; Met-Ed Exh. No. 3.

20. Met-Ed Exhibit Number 4 is a Hierarchy of Payment Arrangements for Ms. Salahuddin at the St. John Street address showing the \$80 PCAP credit and a debt reduction of \$16.91 effective June 11, 2013 based on monthly income of \$1,998 and a balance of \$558.14. Tr. 48; Met-Ed Exh. No. 4.

21. Ms. Salahuddin was removed from PCAP on May 1, 2015 for failure to verify her household income. Tr. 49.

22. Met-Ed Exhibit Number 6 is the opening and closing reports of the Bureau of Consumer Services (BCS) in response to an informal complaint filed by Ms. Salahuddin disputing a bill of \$1,019.67. Tr. 49; Met-Ed Exh. No. 6.

23. The BCS decision closed the case on December 16, 2014 finding that the bills were correct as rendered. Tr. 50; Met-Ed Exh. No. 6.

24. As a result of the BCS decision, Met-Ed issued a bill of \$1,212.56 on April 3, 2014 and deferred \$558.14 for forgiveness when Ms. Salahuddin enrolled in PCAP in addition to \$461.26 that was previously deferred. Tr. 50; Met-Ed Exh. No. 3.

25. When Ms. Salahuddin's account was removed from PCAP for failure to re-verify, the amount of the remaining deferred arrears was \$867.21. Tr. 50.

26. Met-Ed Exhibit Number 5 is a second informal complaint filed by Ms. Salahuddin on July 17, 2014 regarding the St. John Street account disputing a high bill. Tr. 51; Met-Ed Exh. No. 5.

27. Ms. Salahuddin's second informal complaint was closed by BCS on July 18, 2014 because it was duplicative of the first informal complaint. Tr. 51.

28. The consumption charge for Ms. Salahuddin at the St. John Street address was a total of \$1,368.53 from October 31, 2013 to April 1, 2014. Tr. 52.

29. The consumption charge for Ms. Salahuddin at the Canal Street address was \$1,818.06 from October 30, 2014 to April 2, 2015. Tr. 52.

30. The home on St. John Street had an oil furnace but it did not work properly so Ms. Salahuddin had to use two space heaters as well. Tr. 52-53.

31. Met-Ed had to take an estimated meter read for the February 28, 2014 reading at the service address because there was an unclear path to the meter. Tr. 55.

32. Ms. Taylor requested that Ms. Salahuddin's meter be exchanged because Ms. Salahuddin expressed concern that the meter was not working properly. Tr. 56.

33. Met-Ed Exhibit Number 7 is the meter test results dated February 18, 2015 for Ms. Salahuddin's meter at the St. John Street address and reveals that the meter was accurate within the Commission's guidelines. Tr. 57; Met-Ed Exh. No. 7.

34. Met-Ed Exhibit Number 8 is the meter test results dated October 7, 2014 for Ms. Salahuddin's meter at the St. John Street address and reveals that the meter was accurate within the Commission's guidelines. Tr. 58; Met-Ed Exh. No. 8.

35. The final account balance for the St. John Street account was \$3,007.62. Tr. 59; Met-Ed Exh. No. 3.

36. Ms. Salahuddin was not charged for any usage at the St. John Street address after June 12, 2015 when the account balance was transferred to the Canal Street account. Tr. 59.

37. The main source of heat at the Canal Street address is electric heat. Tr. 61.

38. Met-Ed Exhibit Number 10 is the Detailed Statement of Account for service provided to Ms. Salahuddin at the Canal Street address from June 8, 2015 to September 21, 2016. Tr. 62; Met-Ed Exh. No. 10.

39. Met-Ed Exhibit Number 10 reflects the transfer of \$1,907.78 from the St. John Street account to the Canal Street account. Tr. 62; Met-Ed Exh. No. 10.

40. Ms. Salahuddin did not pay her bills in full or on-time for the Canal Street account and was assessed eight late payment charges and was subject to termination. Tr. 63; Met-Ed Exh. No. 10.

41. Met-Ed Exhibit Number 11 is an eight-page packet of documents consisting of ten day termination notices that were issued to Ms. Salahuddin at the Canal Street address. Tr. 63; Met-Ed Exh. No. 11.

42. Ms. Salahuddin received a termination notice on August 25, 2015 but service was not terminated because an informal complaint was filed. Tr. 63-64; Met-Ed Exh. No. 11.

43. Ms. Salahuddin received a termination notice on September 23, 2015 with service terminated on October 13, 2015 for non-payment and restored on October 14, 2015 when a medical certificate was submitted and a reconnection fee was paid. Tr. 64; Met-Ed Exh. No. 11.

44. Ms. Salahuddin received a termination notice on March 23, 2016 but service was never terminated because a medical certificate was submitted on April 15, 2016. Tr. 64-65; Met-Ed Exh. No. 11.

45. Ms. Salahuddin received a termination notice on May 23, 2016 but service was never terminated because the present complaint was filed. Tr. 65; Met-Ed Exh. No. 11.

46. Met-Ed Exhibit Number 12 is a one-page history of the medical certificates provided by Ms. Salahuddin showing that Ms. Salahuddin provided medical certificates to Met-Ed on October 13, 2015 and April 15, 2016. Tr. 66; Met-Ed Exh. No. 12.

47. Met-Ed Exhibit Number 13 is another informal complaint filed by Ms. Salahuddin on September 9, 2015 disputing a termination notice received and seeking the removal of \$1,242 from her account. Tr. 66; Met-Ed Exh. No. 13.

48. The informal complaint filed on September 9, 2015 was dismissed on September 10, 2015 because the issue had already been dismissed by BCS in a prior informal complaint. Tr. 66-67; Met-Ed Exh. No. 13.

49. Met-Ed Exhibit Number 14 is another informal complaint filed by Ms. Salahuddin on October 13, 2015 seeking to have service restored and raising various billing issues. Tr. 67-68; Met-Ed Exh. No. 14.

50. The informal complaint filed on October 13, 2015 was closed on October 28, 2015 with service restored due to a medical certificate being filed and noting, among other things, that the transfer of \$3,007.62 from the St. John Street account to the Canal Street account was proper. Tr. 68; Met-Ed Exh. No. 14.

51. Service in the Canal Street account was placed in another person's name on September 18, 2016. Tr. 69.

52. Met-Ed Exhibit Number 15 is a final bill sent to Ms. Salahuddin dated September 21, 2016 ending service in her name at the Canal Street address on September 18, 2016 with a final amount due of \$4,972.04. Tr. 70; Met-Ed Exh. No. 15.

53. Ms. Salahuddin made one payment of \$82.17 on the Canal Street account after the final bill was issued bringing the final balance to \$4,889.87. Tr. 71.

54. Ms. Salahuddin was not charged for service at the St. John Street address after she moved out. Tr. 72.

55. Salahuddin Exhibits A and B are a compilation of documents regarding Ms. Salahuddin's enrollment in PCAP. Salahuddin Exhs. A and B.

56. Salahuddin Exhibit C is a portion of Ms. Salahuddin's monthly bill from Met-Ed for April, 2013. Salahuddin Exh. C.

57. Salahuddin Exhibits D, E, F and G are a compilation of documents regarding termination notices and related materials Met-Ed sent to Ms. Salahuddin. Salahuddin Exhs. D, E, F and G.

58. Salahuddin Exhibit H is a portion of Ms. Salahuddin's monthly bill from Met-Ed for June, 2015. Salahuddin Exh. H.

DISCUSSION

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. Patterson v. Bell Tel. Co. of Pa., 72 Pa. PUC 196 (1990). "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. Se-Ling Hosiery v. Margulies, 364 Pa. 54, 70 A.2d 854 (1950). The offense must be a violation of the Public Utility Code, the Commission's regulations or an outstanding order of the Commission. 66 Pa.C.S. § 701. In this proceeding, Ms. Salahuddin averred that there are incorrect charges on her bill and that she is having a safety, reliability or quality problem with her utility service. Ms. Salahuddin requested that Met-Ed remove all incorrect charges on her account. Ms. Salahuddin, therefore, has the burden of proof in this proceeding.

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. Milkie v. Pa. Pub. Util. Comm'n, 768 A.2d 1217 (Pa.Cmwlt. 2001) (Milkie); *see also*, Burleson v. Pa. Pub. Util. Comm'n, 443 A.2d 1373 (Pa.Cmwlt. 1982).

The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n, 489 Pa. 109, 413 A.2d 1037 (1980); Erie Resistor Corp. v. Unemployment Comp.

Bd. of Review, 166 A.2d 96 (Pa.Super. 1961); and Murphy v. Comm., Dept. of Public Welfare, White Haven Center, 480 A.2d 382 (Pa.Cmwlth.1984).

Furthermore, in cases of alleged high billing, the Commission applies the Waldron rule, which provides that to establish a prima facie case of overbilling, a complainant must show: (1) that the number of occupants in the household has not changed, (2) that the potential for energy utilization was low and (3) that complainant's billing history shows no prior abnormalities. Once the complainant makes out a prima facie case, the burden of proof then shifts to the utility; however, the ultimate burden of persuasion always remains with the complainant. Malcolm Waldron v. Philadelphia Electric Company, 54 Pa. PUC 98 (1980) (Waldron); Repogle v. Pennsylvania Electric Company, 54 Pa. PUC 528 (1980).

In Milkie, *supra*, the Commonwealth Court of Pennsylvania further refined the Waldron rule by holding:

[w]hile the [Waldron] rule is often explained by stating that the ratepayer must establish certain specific elements in order to make out a prima facie case of overbilling by a utility company, we believe this view is too restrictive. Rather the controlling principle is that even where the utility can present evidence that it has tested the customer's meter and found it to be accurate, the customer may nonetheless prove his case by circumstantial evidence, which would support a finding that the metered usage exceeded the actual usage. Thus as our Supreme Court has explained, the rule operates as a device by which the complainant is protected from dismissal because of his inability to marshal direct proof that his meter had malfunctioned.

Id. at 1219-1220. In Nehemiah Thomas v. PECO Energy Company, Docket No. C-2010-2187197 (Final Order entered November 15, 2011), the Commission explained that

[C]onsistent with our holding in Charisse Bennett v. Peoples Natural Gas Co., Docket No. C-2009-2122979 (Order entered October 13, 2010), the Waldron Rule allows a complainant to establish a prima facie case in a "high bill" complaint by showing that the disputed bill is abnormally high when compared to prior usage patterns and his or her pattern of usage has not changed or by providing other relevant evidence showing that the disputed bill is unreasonably high. In evaluating a "high bill" complaint, the Commission may consider

such evidence as “the billing history of the account, any change in usage patterns (such as a change in the number of occupants residing in the household or potential energy utilization), and any other relevant facts or circumstances that come to light during the proceeding.”

Id. at 5.

In this case, Ms. Salahuddin testified during the hearing that \$911 was added to her bill in April, 2014 that she believes should not have been added. Ms. Salahuddin added that she then began to receive termination notices from Met-Ed and that her account balance has increased to nearly \$5,000. Ms. Salahuddin requested that all incorrect charges be removed from her account. In response, Met-Ed presented the testimony of Tammy Taylor, a senior customer service compliance specialist with First Energy. Ms. Taylor provided significant testimony regarding Ms. Salahuddin’s various accounts and presented several exhibits in support of the company’s position that the complaint should be dismissed. In particular, Ms. Taylor presented and discussed the Customer Contact History, the Detailed Statement of Account, the Hierarchy of Payment Arrangements and meter test results, among other things, for Ms. Salahuddin’s account.

Substantial record evidence demonstrates that Ms. Salahuddin has failed to satisfy her burden to demonstrate that there are incorrect charges on her bill or that Met-Ed in any way violated the Public Utility Code or a Commission order or regulation with regard to the service provided to her. Ms. Salahuddin’s complaint will, therefore, be dismissed.

With regard to Ms. Salahuddin’s argument that an amount of \$911 was incorrectly added to her bill, Ms. Salahuddin testified:

Starting April of 2014, I received a bill from the company, Met-Ed, and for the month of April they stated that – well, \$911 was forwarded on my Met-Ed bill, and they had informed me that this amount was due.

So, I called the company and asked the company why is my bill \$911. The company stated to me that my usage was too low, and that they had – they read my meter incorrectly.

So I told them that there must be some type of mistake. My meter couldn’t have been read incorrectly. I’m quite sure you well trained your staff to read the meters right. Why was this bill forwarded into my bill?

So, there was a long discussion about the \$911 that was on my bill.
They refused to remove the amount on my bill.

Tr. 7-8. Ms. Salahuddin provided no other evidence in support of her position that the \$911 was incorrectly added to her bill.

In response, however, Met-Ed witness Taylor testified regarding the various details of Ms. Salahuddin's account that led Met-Ed to add the \$911 charge to her amount owed. In particular, Ms. Taylor testified regarding the detailed statement of account for Ms. Salahuddin's account at the St. John Street address. Met-Ed Exh. No. 3. The time period for this account statement is August 28, 2013 to July 28, 2015. Tr. 44; Met-Ed Exh. No. 3. A review of this exhibit reveals two issues which caused Ms. Salahuddin's account balance to increase.

First, there is a transfer amount of \$613.54 from Ms. Salahuddin's account in Bangor, Pa, where she lived prior to moving to St. John Street, that occurred on December 4, 2013. This transfer increased Ms. Salahuddin's balance from a credit of \$95.76 to a balance of \$517.78. Second, Ms. Salahuddin's usage was estimated for the four consecutive months of December, 2013 thru March, 2014. These estimates have charges ranging from \$37.59 to \$40.35 and resulted in a true-up amount in April, 2014 of \$1,212.56. Exacerbating the four months of estimated usage is the fact that the extreme, prolonged cold weather, known as the "polar vortex," occurred during this period. The addition of \$1,212.56 increased Ms. Salahuddin's bill from \$286.11 to \$1,498.67.

None of Met-Ed's actions, however, constitute a violation of the Public Utility Code or a Commission regulation or order. In fact, Section 56.16 of the Commission's regulations allows utilities to transfer an unpaid balance to a new residential service account of the same customer if the customer discontinues service at a prior residence. 52 Pa.Code § 56.16(b). Ms. Salahuddin did not dispute that she lived at the Bangor, Pa address or that the bills rendered at that service address were somehow inaccurate. Additionally, Section 56.12 of the Commission's regulations allows utilities to estimate a meter reading when public utility personnel are unable to gain access to the meter, under certain circumstances. 52 Pa.Code § 56.12(4); *see also*, 52 Pa.Code § 56.14 (previously unbilled public utility service). In this case, Ms. Taylor testified that Met-Ed personnel were unable to gain access to Ms. Salahuddin's meter because there was an unclear path to the meter and, therefore, had to estimate her usage for four consecutive months. Tr. 55. This is reasonable in light of the extreme,

prolonged cold weather that was occurring at the time, as noted above, that could have prohibited Met-Ed from obtaining an actual meter reading. Ms. Salahuddin did not refute Ms. Taylor's testimony that the path to her meter was unclear.

Therefore, Ms. Salahuddin's argument that an amount of \$911 was incorrectly added to her bill will be rejected. Substantial record evidence demonstrates that Met-Ed properly transferred the \$911 balance from Ms. Salahuddin's prior service address to her then-current service address and that the company was allowed to estimate Ms. Salahuddin's meter because it was unable to access the meter to obtain actual readings.

With regard to Ms. Salahuddin's argument that her account balance has incorrectly increased to nearly \$5,000, Ms. Salahuddin testified only that "so now my bill is about – over \$5,000. And I'm still – I'm still trying to figure out how did we get \$5,000, because the company insinuated that my usage was too low." Tr. 10. Again, Ms. Salahuddin provided no other evidence in support of her position that the \$911 was incorrectly added to her bill.

In response, however, Met-Ed witness Taylor testified regarding each of Ms. Salahuddin's accounts, demonstrating how it came to be that Ms. Salahuddin's balance exceeded \$5,000. For example, Ms. Taylor discussed the Detailed Statement of Accounts for Ms. Salahuddin at the St. John Street address which demonstrated that Ms. Salahuddin did not make any payments on her account for service accrued at the St. John Street address. Instead, from August 28, 2013 to April 6, 2015, the only credits to the account were from PCAP resulting in a balance of \$3,730.36. Tr. 43-45; Met-Ed Exh. No. 3. Furthermore, Ms. Taylor testified regarding Ms. Salahuddin's receipt of a payment arrangement from the Company to help reduce her outstanding balance owed as well as the various informal complaints Ms. Salahuddin filed with the Commission's Bureau of Consumer Services. Tr. 48-52; Met-Ed Exh. Nos. 4, 5 and 6. Ms. Taylor also testified regarding the fact that Ms. Salahuddin utilized space heaters in her home when the furnace was not working and that she advised Ms. Salahuddin that using space heaters would cause an increase in her bills in the winter. Tr. 53. Ms. Taylor testified regarding the fact that the meter at the service address was twice tested for accuracy and both times the meters tested within the Commission's acceptable range. Tr. 56-58; Met-Ed Exh. Nos. 7 and 8. Finally, Ms. Taylor also testified regarding the Detailed Statement of Account for Ms. Salahuddin's service at the Canal Street address from June 8, 2015 to September 21, 2016.

Ms. Taylor demonstrated that, although Ms. Salahuddin made several payments on her account during that time, none of the payments covered the full amount owed for the month and eight late payment charges were assessed during that period. Tr. 61-63; Met-Ed Exh. No. 10. As a result of this account activity, it is reasonable that Ms. Salahuddin's balance increased to \$4,889.87 during that time.

As a result, Met-Ed has sufficiently rebutted the evidence presented by Ms. Salahuddin and demonstrated that her account balance was billed correctly when it increased to nearly \$5,000. Met-Ed's evidence substantially outweighs Ms. Salahuddin's evidence and, therefore, Ms. Salahuddin has failed to satisfy her burden of proving that Met-Ed's action in any way violated the Public Utility Code or a Commission order or regulation. Milkie. The only evidence presented by Ms. Salahuddin was her testimony that she was incorrectly charged from a prior account or that her meter was being read incorrectly. Tr. 8-11. Ms. Salahuddin did not present any evidence demonstrating that the number of occupants in the household has not changed, that the potential for energy utilization was low or that complainant's billing history shows no prior abnormalities. Waldron. Nor did Ms. Salahuddin present any circumstantial evidence that would support a finding that the metered usage exceeded the actual usage. Milkie. Ms. Salahuddin's argument that her amount owed incorrectly increased to nearly \$5,000 must, therefore, be denied.

Finally, with regard to any issues pertaining to the termination notices Met-Ed provided to Ms. Salahuddin, Ms. Salahuddin has again failed to satisfy her burden of demonstrating that Met-Ed violated the Public Utility Code or a Commission order or regulation by incorrectly issuing a termination notice to Ms. Salahuddin. Ms. Salahuddin provided copies of the termination notices Met-Ed issued as part of her late-filed exhibits. Salahuddin Exh. Nos. D, E, F and G. Ms. Taylor also discussed the termination notices that were provided to Ms. Salahuddin, noting that Ms. Salahuddin filed an informal complaint in response to one termination notice and a medical certificate in response to another. Tr. 63-66; Met-Ed Exh. Nos. 11 and 12. Ultimately, Ms. Salahuddin called Met-Ed on September 18, 2016 to request that service in her name at the service address be terminated. Tr. 69; Met-Ed Exh. No. 1. Met-Ed then sent Ms. Salahuddin a final bill on September 21, 2016 for \$4,889.87. Tr. 70-71; Met-Ed Exh. No. 15.

The Commission's regulations provide extensive details regarding notice a utility must provide to a customer before terminating utility service. *See*, 52 Pa.Code § 56.81, *et seq.* This includes

general notice provisions and the content of those notices, pre-termination procedures, post-termination procedures, and winter termination procedures, among other things. In general, however, a review of the record does not reveal that Met-Ed violated the Public Utility Code or a Commission order or regulation with regard to the termination notices provided by Met-Ed. Ms. Salahuddin's account was clearly in arrears at the time the termination notices were provided and termination was properly withheld as a result of the filing of an informal complaint and a medical certificate. Ms. Salahuddin then terminated service at the service address on her own. Ms. Salahuddin's argument that Met-Ed incorrectly provided any termination notice will, therefore, be rejected.

In conclusion, Ms. Salahuddin has failed to satisfy her burden that Met-Ed incorrectly added \$911 to her account, that her account balance incorrectly increased to nearly \$5,000 or that Met-Ed incorrectly issued any termination notice to her. Met-Ed has provided substantial record evidence demonstrating that it was allowed to transfer the outstanding amount Ms. Salahuddin owed from a prior service address to her current service address and that Ms. Salahuddin's poor payment history, among other things, was the cause of her balance increase, and not any error on Met-Ed's part. Furthermore, there is no record evidence demonstrating that Met-Ed incorrectly issued any termination notices to Ms. Salahuddin. As a result, Ms. Salahuddin's complaint will be denied.

CONCLUSIONS OF LAW

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

2. Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).

3. A complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. Patterson v. Bell Tel. Co. of Pa., 72 Pa. PUC 196 (1990).

4. "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. Se-Ling Hosiery v. Margulies, 364 Pa. 54, 70 A.2d 854 (1950).

5. The offense must be a violation of the Public Utility Code, the Commission's regulations or an outstanding order of the Commission. 66 Pa.C.S. § 701.

6. If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. Milkie v. Pa. Pub. Util. Comm'n, 768 A.2d 1217 (Pa.Cmwlt. 2001); *see also*, Burleson v. Pa. Pub. Util. Comm'n, 443 A.2d 1373 (Pa.Cmwlt. 1982).

7. The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

8. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n, 489 Pa. 109, 413 A.2d 1037 (1980); Erie Resistor Corp. v. Unemployment Comp. Bd. of Review, 194 Pa.Superior 278, 166 A.2d 96 (1961); and Murphy v. Comm., Dept. of Public Welfare, White Haven Center, 85 Pa.Cmwlt. 23, 480 A.2d 382 (1984).

9. In cases of alleged high billing, to establish a *prima facie* case of overbilling, a complainant, must show: (1) that the number of occupants in the household has not changed, (2) that the potential for energy utilization was low and (3) that complainant's billing history shows no prior abnormalities. Once the complainant makes out a *prima facie* case, the burden of proof then shifts to the utility however; the ultimate burden of persuasion always remains with the

complainant. Malcolm Waldron v. Philadelphia Electric Company, 54 Pa. PUC 98 (1980); Repogle v. Pennsylvania Electric Company, 54 Pa. PUC 528 (1980).

10. Even where the utility can present evidence that it has tested the customer's meter and found it to be accurate, the customer may nonetheless prove his case of overbilling by the utility by circumstantial evidence, which would support a finding that the metered usage exceeded the actual usage. Milkie v. Pa. Pub. Util. Comm'n, 768 A.2d 1217 (Pa.Cmwlt. 2001).

11. Section 56.16 of the Commission's regulations allows utilities to transfer an unpaid balance to a new residential service account of the same customer if the customer discontinues service at a prior residence. 52 Pa.Code § 56.16(b).

12. Section 56.12 of the Commission's regulations allows utilities to estimate a meter reading when public utility personnel are unable to gain access to the meter, under certain circumstances. 52 Pa.Code § 56.12(4).

13. The Commission's regulations provide extensive details regarding the notice a utility must provide to a customer before terminating utility service. *See*, 52 Pa.Code § 56.81, *et seq.*

14. Ms. Salahuddin has failed to satisfy her burden to demonstrate that there are incorrect charges on her bill or that Met-Ed violated the Public Utility Code or a Commission order or regulation with regard to the service provided to her.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal complaint filed by Zakkiyah Salahuddin on April 21, 2016 against Metropolitan Edison Company docket number C-2016-2547092 is hereby dismissed.
2. That this matter be marked closed.

Date: February 16, 2017

/s/
Joel H. Cheskis
Administrative Law Judge