



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

ISSUED: December 20, 2005

C-20054987

HOPE M CORDNER
324 MAIN STREET
PO BOX 37
GREAT BEND PA 18821

DOCUMENT
FOLDER

Hope M. Cordner
v.
Pennsylvania Electric Company

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Special Agent Amanda N. Rumsey. This decision is being issued and mailed to all parties on the above specified date.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Specifically, an original and nine (9) copies of your signed exceptions **MUST BE FILED WITH THE SECRETARY OF THE COMMISSION 2ND FLOOR, KEYSTONE BUILDING, 400 NORTH STREET, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17105-3265, within **twenty (20) days** of the issuance date of this letter.** The signed exceptions will be deemed filed on the date actually received by the Secretary of the Commission or on the date deposited in the mail as shown on U.S. Postal Service Form 3817 certificate of mailing attached to the cover of the original document (52 Pa. Code §1.11(a)) or on the date deposited with an overnight express package delivery service (52 Pa. Code 1.11(a)(2), (b)). If your exceptions are sent by mail, please use the address shown at the top of this letter. A copy of your exceptions must also be served on each party of record. 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of exceptions/reply exceptions. A certificate of service shall be attached to the filed exceptions.

If you receive exceptions from other parties, you may submit written replies to those exceptions in the manner described above within **ten (10) days** of the date that the exceptions are due.

Exceptions and reply exceptions shall obey 52 Pa. Code 5.533 and 5.535 particularly the 40-page limit for exceptions and the 25-page limit for replies to exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

If no exceptions are received within **twenty (20) days**, the decision of the Administrative Law Judge may become final without further Commission action. You will receive written notification if this occurs.

Very truly yours,

James J. McNulty
Secretary

Encls.
Certified Mail
Receipt Requested
SS

MATTHEW A TOTINO ESQUIRE
RYAN RUSSELL OGDEN & SELTZER LLP
800 NORTH THIRD STREET SUITE 101
HARRISBURG PA 17102-2025

C-20054987 Hope M. Cordner v. Pennsylvania Electric Company

Requests payment arrangements.

HOPE M CORDNER
324 MAIN STREET
PO BOX 37
GREAT BEND PA 18821

MATTHEW A TOTINO ESQUIRE
RYAN RUSSELL OGDEN & SELTZER LLP
800 NORTH THIRD STREET SUITE 101
HARRISBURG PA 17102-2025

TRD 20/10

DEC 02 2005

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Hope M. Cordner

v.

Pennsylvania Electric Company

:
:
:
:
:

C-20054987

INITIAL DECISION

**DOCUMENT
FOLDER**

Before
Amanda N. Rumsey
Special Agent

DOCKETED
DEC 21 2005

HISTORY OF THE PROCEEDING

On July 20, 2005, Hope M. Cordner (Complainant) filed a Formal Complaint with the Commission against Pennsylvania Electric Company (Respondent), alleging that she received a termination notice; that she was unemployed and that she could not pay her utility bills. As relief, Complainant requested a lower payment arrangement. On September 14, 2005¹, Respondent filed an Answer denying the material allegations of the Complaint.

By Telephone Hearing Notice dated October 13, 2005, the parties were notified that an Initial Telephone Hearing was scheduled for Tuesday, November 22, 2005. This case was assigned to me pursuant to 52 Pa. Code § 56.174.

On October 14, 2005, I issued a Prehearing Order advising the parties of the date and time of the scheduled hearing, applicable procedural rules and that the case could be dismissed if they failed to appear and participate in the hearing. Finally, the Prehearing Order

¹ Respondent was served with a copy of the Complaint on August 22, 2005.

reminded the parties of their responsibility to notify me of any change in the telephone number where they could be contacted for the hearing.

In accordance with the Prehearing Order, by cover letter dated November 15, 2005, Respondent submitted three copies of three (3) proposed exhibits for possible use at the hearing.

The hearing convened as scheduled. Matthew A. Totino, Esquire appeared, via telephone, on behalf of Respondent. I attempted to contact Complainant twice at (607) 759-8557, the home and only telephone number listed on the Complaint. Each time the phone was answered by a man who informed me that I had dialed the wrong number. The hearing was held as scheduled.

No witnesses were presented and no exhibits were admitted into the record. Mr. Totino moved for dismissal of this case for failure to prosecute. That motion will be granted in the Ordering Paragraphs below. The record closed at the conclusion of the hearing.

FINDINGS OF FACT

1. On July 20, 2005, Complainant filed a Formal Complaint with the Commission against Respondent alleging that she was unemployed and requesting a payment arrangement to assist with payment of her utility bills.
2. By Telephone Hearing Notice and Prehearing Order Complainant was advised that an Initial Telephone Hearing on her Complaint was scheduled for Tuesday, November 22, 2005.
3. Both of these documents were mailed to Complainant at the address provided on her Complaint form and were not returned to the Commission by the United States Postal Service as undeliverable.

4. Complainant did not appear for the Hearing.

5. *Complainant did not settle or withdraw her Complaint prior to the scheduled hearing date or obtain a continuance.*

DISCUSSION

In her Formal Complaint, Complainant alleged an inability to pay her utility bills and requested a payment arrangement. As the party seeking affirmative relief from the Commission, she bears the burden of proof. 66 Pa. C.S. § 332(a). By failing to participate in the hearing, Complainant was, clearly, unable to meet this burden.

Administrative agencies, like the Public Utility Commission, are required to provide due process to the parties appearing before them. This requirement is satisfied when the parties are afforded notice and the opportunity to appear and be heard. Schneider v. Pa. PUC, 479 A.2d 10 (1984). Notice mailed to a party's last known address and not returned by the post office is presumed to have been received. Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review, 645 A.2d 944 (1994).

The Telephone Hearing Notice and Prehearing Order were mailed to Complainant at the address listed on her Formal Complaint and have not been returned to the Commission by the post office. Therefore, Complainant is deemed to have received these documents and had sufficient notice of the day, date and time of the scheduled hearing. Her failure to appear is unexcused.

Once notice of a hearing and the opportunity to be heard has been provided, it is the responsibility of the parties to appear and participate in the hearing. Craig Sentner v. Bell Telephone Co. of Pennsylvania, Opinion and Order entered October 25, 1993 at Docket No. F-00161106.

By her unexcused failure to appear Complainant waived the opportunity to participate in the hearing and this case will be dismissed with prejudice. 52 Pa. Code § 5.245(a); Martin W. Jefferson v. UGI Utilities, Inc., Opinion and Order entered December 26, 1995 at Docket No. Z-00269892.

CONCLUSIONS OF LAW

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

2. As the party seeking relief from the Commission, Complainant had the burden of proof and failed to carry that burden. 66 Pa. C.S. § 332(a).

3. Notice mailed to a party's last known address and not returned by the post office is presumed to have been received. Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review, 645 A.2d 944 (1994).

4. By failing to appear for the hearing, Complainant waived the opportunity to participate and this case will be dismissed with prejudice. 52 Pa. Code § 5.245(a); Martin W. Jefferson v. UGI Utilities, Inc., Opinion and Order entered December 26, 1995 at Docket No. Z-00269892.

ORDER

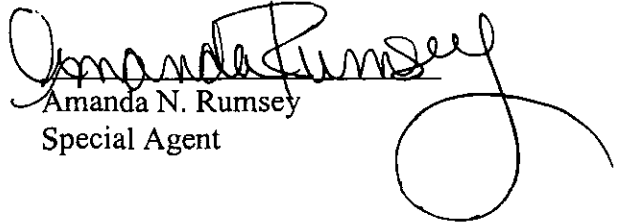
THEREFORE,


IT IS ORDERED:

1. That the motion of Pennsylvania Electric Company to dismiss the Complaint of Hope M. Cordner at Docket No. C-20054987 is granted.

2. That the Formal Complaint filed by Hope M. Cordner against Pennsylvania Electric Company at Docket No. C-20054987 is dismissed with prejudice for failure to prosecute.


Dated: November 30, 2005


Amanda N. Rumsey
Special Agent

2. Article Number		COMPLETE THIS SECTION ON DELIVERY	
		A. Received by (Please Print Clearly) <i>C. Kane</i>	B. Date of Delivery <i>12-21-05</i>
7160 3901 9843 0829 7502		C. Signature <i>C. Kane</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
3. Service Type CERTIFIED MAIL		D. Is delivery address different from item 1? If YES, enter delivery address below:	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		<input type="checkbox"/> Yes <input type="checkbox"/> No	
1. Article Addressed to:			
<div style="border: 1px solid black; padding: 5px;"> <p><i>C-20054987 ID</i></p> <p><i>Matthew Jotino Esq.</i></p> </div>			

PS Form 3811, March 2005

Domestic Return Receipt

2. Article Number		COMPLETE THIS SECTION ON DELIVERY	
		A. Received by (Please Print Clearly) <i>Nore Gardner</i>	B. Date of Delivery <i>12/30/05</i>
7160 3901 9843 0829 7533		C. Signature <i>Nore Gardner</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
3. Service Type CERTIFIED MAIL		D. Is delivery address different from item 1? If YES, enter delivery address below:	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		<input type="checkbox"/> Yes <input type="checkbox"/> No	
1. Article Addressed to:			
<div style="border: 1px solid black; padding: 5px;"> <p><i>C-20054987 ID</i></p> <p><i>Nore Gardner</i></p> </div>			

PS Form 3811, March 2005

Domestic Return Receipt