



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

IN REPLY PLEASE  
REFER TO OUR FILE

ISSUED: February 21, 2006

C-20055016

SUSAN WALTON  
510 DEHORAH JANE DRIVE  
PITTSBURGH PA 15239

Susan Walton v. The Peoples Natural Gas Company, d/b/a Dominion Peoples

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Robert P. Meehan. 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 2<sup>ND</sup> 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.

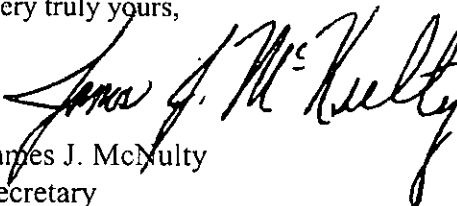
If you receive exceptions from other parties, you may submit written replies to those exceptions in the manner described above within **ten (10) days** of the date that the exceptions are due.

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.

**DOCUMENT  
FOLDER**

Very truly yours,

  
James J. McNulty  
Secretary

Encls.  
Certified Mail  
Receipt Requested  
JS

HORACE P PAYNE JR ESQUIRE  
THE PEOPLES NATURAL GAS COMPANY  
D/B/A DOMINION PEOPLES  
625 LIBERTY AVENUE  
PITTSBURGH PA 15222

SERVICE LIST: C-20055016

Susan Walton  
510 Deborah Jane Drive  
Pittsburgh, PA 15239

Horace P. Payne, Jr., Esq.  
The Peoples Natural Gas Company,  
d/b/a Dominion Peoples  
625 Liberty Avenue  
Pittsburgh, PA 15222

*TD 20/10*

JAN 23 2006

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Susan Walton

v.

The Peoples Natural Gas Company, d/b/a  
Dominion Peoples

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C-20055016

**DOCKETED**  
FEB 22 2006

**INITIAL DECISION**

Before  
Robert P. Meehan  
Administrative Law Judge

**DOCUMENT  
FOLDER**

This Initial Decision dismisses, with prejudice, the formal complaint filed by Susan Walton (Ms. Walton), against The Peoples Natural Gas Company, d/b/a Dominion Peoples (Dominion Peoples), on July 29, 2005 at Docket No. C-20055016, for the failure to appear at the hearing and prosecute the complaint.

**HISTORY OF THE PROCEEDING**

In her complaint, Ms. Walton alleged that she should not have to pay a security deposit. The answer was filed on September 22, 2005. By letter dated September 28, 2005, the Commission informed Ms. Walton and Dominion Peoples of the date, time and location of the hearing to be held in this case. Additionally, I issued a Prehearing Order in this case on October 3, 2005, which reminded them of the date, time and location of the hearing. The hearing was held on November 29, 2005 as scheduled. Ms. Walton did not appear at the hearing on her complaint. Dominion Peoples moved for the dismissal, with prejudice, of the complaint, for the failure of Ms. Walton to appear and prosecute the complaint. The record closed upon conclusion of the hearing.

## DISCUSSION

The Commission satisfied the requirement of affording Ms. Walton with administrative due process, by providing timely notice of the hearing on her complaint, and the opportunity to be heard. *Schneider v. PA PUC*, 479 A.2d 10 (Pa. Cmwlth. Ct. 1984). The Commission's letter of September 28, 2005, and the Prehearing Order of October 3, 2005, both of which informed the parties of the day, date, time and location of the telephonic hearing in this case, were mailed to Ms. Walton at the address she provided on the formal complaint form. The Commission's letter and the Prehearing Order have not been returned by the United States Postal Service. Accordingly, it is presumed that Ms. Walton received both the Commission's notice of the hearing and the Prehearing Order. *Berkowitz v. Mayflower Securities, Inc.*, 317 A.2d 584 (Pa. 1974); *Meierdierck v. Miller*, 147 A.2d 406 (Pa. 1959); *Judge v. Celina Mutual Ins. Co.*, 449 A.2d 658 (Pa. Super. Ct. 1982); *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. Ct. 1997).

The hearing in this case was one of several scheduled to be heard on November 29, 2005 at 1:30 p.m. The Commission's letter informed Ms. Walton that she should arrive no later than 1:15 p.m. on that date and report to Room 1103 in the Pittsburgh State Office Building. Ms. Walton was not present by 1:30 p.m. on November 29, 2005. After the conclusion of two other hearings that afternoon, I called Ms. Walton's name to see if she had entered the room during one of the other hearings. No one responded to my call of her name, and no one by the name of Susan Walton reported to Room 1103 of the Pittsburgh State Office Building during one of the other hearings that afternoon. Therefore, at approximately 2:50 p.m., the hearing in this case proceeded without the presence of Ms. Walton.

Once timely notice of a hearing and the opportunity to be heard have been provided, it is then the responsibility of the parties to be present and participate in the hearing. *Craig Sentner v. Bell Telephone Co. Of Pennsylvania*, Docket No. F-00161106, entered October 25, 1993. The Commission has held that when a complainant fails to be present at a scheduled hearing, then the complaint is to be dismissed, with prejudice. *Darling v.*

*Philadelphia Electric Company*, Docket No. F-00161139 entered November 16, 1993; *Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 entered December 26, 1995.

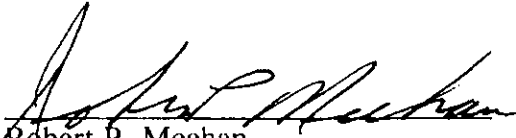
ORDER

THEREFORE,

IT IS ORDERED:

That the complaint of Susan Walton against The Peoples Natural Gas Company, d/b/a Dominion Peoples at Docket No. C-20055016, is dismissed, with prejudice, for the failure to prosecute the complaint.

Date: January 17, 2006

  
Robert P. Meehan  
Administrative Law Judge

2. Article Number



7160 3901 9843 1136 0910

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

SUSAN WALTON  
510 DEHORAH JANE DRIVE  
PITTSBURGH PA 15239

C-20055016 ID

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) <i>Susan Walton</i>	B. Date of Delivery <i>2-28-06</i>
C. Signature <i>[Signature]</i>	<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee
D. Is delivery address different from item 1? If YES, enter delivery address below:	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Domestic Return Receipt

2. Article Number



7160 3901 9843 1136 0927

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

HORACE P PAYNE JR ESQUIRE  
THE PEOPLES NATURAL GAS  
COMPANY  
D/B/A DOMINION PEOPLES  
625 LIBERTY AVENUE  
PITTSBURGH PA 15222

C-20055016 ID

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) <i>J. Payne</i>	B. Date of Delivery <i>2-23</i>
C. Signature <i>[Signature]</i>	<input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee
D. Is delivery address different from item 1? If YES, enter delivery address below:	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Domestic Return Receipt