

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17120

Shymar McBride  
v.  
UGI Utilities, Inc.

Public Meeting March 20, 2014  
2391525-ALJ  
Docket No. C-2013-2391525

STATEMENT OF  
VICE CHAIRMAN JOHN F. COLEMAN, JR.

Before the Commission for disposition is an Initial Decision dismissing the customer's Formal Complaint filed in the above-captioned docket against UGI Utilities, Inc. (UGI). This Complaint is the second docketed Formal Complaint that the customer filed against UGI in 2013.

On January 22, 2013, Mr. McBride filed his first Formal Complaint against UGI at Docket F-2013-2345438 (First Complaint) denying that he stole gas and arguing that he is not responsible for the gas bill at 125 Royal Terrace, Harrisburg, PA. The Complainant also requested that his service be re-established. The Complainant's outstanding balance that he was disputing included \$3,315.70 from a prior gas account at 218 S. 20<sup>th</sup> Street, Harrisburg, PA and \$307.11 for unauthorized usage at the 125 Royal Terrace premises.

In the First Complaint proceeding, an initial telephonic hearing was scheduled for April 15, 2013. Both the Telephonic Hearing Notice and the Prehearing Order contained the date and time for the telephonic hearing and advised the parties of the consequences for failing to participate in the hearing. This included a clear statement advising Mr. McBride that if he did not participate in the hearing, the Complaint would be dismissed.<sup>1</sup> For unknown reasons, the Complainant did not participate in the hearing.

By Opinion and Order entered September 26, 2013, the Commission denied the Complainant's request to reconsider its decision to dismiss, with prejudice, the First Complaint for failure to prosecute and for failure to meet the burden of proof.<sup>2</sup> In its Order, the Commission noted that the Complainant's failure to appear at the hearing was due to his own actions, given he received proper notice of the hearing.

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<sup>1</sup> The Telephonic Hearing Notice stated in italics: "You may lose the case if you do not take part in this hearing and present facts on the issues raised." The Prehearing Order stated in bold and capital letters: "This case will be dismissed if you do not participate in the hearing and present evidence on the issues raised." Prehearing Order at 2. Both documents contained the Complainant's contact information and phone number listed in his First Complaint.

<sup>2</sup> Because the Complainant filed untimely exceptions to the Initial Decision dismissing the First Complaint, the Commission treated the filing as a Petition for Reconsideration.

On October 17, 2013, the Complainant filed the Formal Complaint at the above-captioned docket (Second Complaint) alleging that the utility improperly refused to restore service to his premises unless he paid for unauthorized usage at his address and paid a \$3,000 balance from 218 S. 20<sup>th</sup> Street for an account that was in his mother's name. By Initial Decision, the presiding officer sustained UGI's Preliminary Objections and dismissed the Second Complaint on *res judicata* grounds.

I agree with the decision to dismiss the Second Complaint because the customer raised the same issues that were previously dismissed with prejudice in the First Complaint proceeding. Under Section 316 of the Public Utility Code, our decision to dismiss the First Complaint, with prejudice, has conclusive effect. This means that the Complainant is barred from pursuing any and all issues raised in the First Complaint case, including whether the Complainant is responsible for a near \$4,000 account balance that includes the arrearage for 218 S. 20<sup>th</sup> Street.

Moreover, I do not believe that the 218 S. 20<sup>th</sup> Street arrearage is a "new issue" that warrants another hearing. As the pleadings show, the arrearage at 218 S. 20<sup>th</sup> Street was at issue in the First Complaint proceeding.<sup>3</sup> Thus, Mr. McBride was given a full and fair opportunity to be heard on the disputed arrearage, including the arrearage for 218 S. 20<sup>th</sup> Street. I note that participation at hearing is a basic requirement to prosecute a formal complaint against a utility. The Complainant, however, chose not to participate in the hearing and in so doing, gave up his opportunity to pursue this issue before the Commission.

Date: March 20, 2014



JOHN F. COLEMAN, JR.  
VICE CHAIRMAN

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<sup>3</sup> This point was confirmed by the averments in the Complainant's Petition for Reconsideration that he was "not responsible" for his "mother's debts."