

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Iris M. Mateo-Perez	:	
	:	
v.	:	F-2016-2551706
	:	
PPL Electric Utilities Corporation	:	

**INITIAL DECISION**

Before  
Tiffany L. Tran  
Special Agent

**INTRODUCTION**

This decision dismisses the Complaint filed in this matter for failure of the Complainant to appear for the hearing and prosecute the Complaint.

**HISTORY OF THE PROCEEDING**

On June 13, 2016, Iris M. Mateo-Perez (Complainant) filed a formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (Respondent). The Complaint alleged the Respondent is threatening to terminate her service or has already done so. The Complainant requested that the Commission grant her an affordable payment arrangement. This is a timely appeal of a BCS decision at Case No. 3420067.

The Respondent filed an Answer on July 7, 2016, by and through its counsel, Graig M. Schultz, Esq.<sup>1</sup> The Answer admitted that Respondent has provided notice of intent to terminate Complainant's service for an unpaid balance and admitted that the Complainant is

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<sup>1</sup> Attorney Schultz filed a Notice of Appearance with the Secretary of the Commission on June 21, 2016.

requesting a payment arrangement. Respondent denied that it has not provided Complainant with the most advantageous payment arrangement to which she is entitled and requested that the Commission deny the Complaint.

By notice dated August 3, 2016, the Commission scheduled this matter for an initial telephonic hearing on September 19, 2016, at 10:00 a.m. and assigned the case to me, pursuant to 52 Pa. Code § 56.174. I issued a prehearing order dated August 4, 2016, addressing, inter alia, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements, and cautioning the Complainant that she might lose her case if she failed to appear.

I attempted to contact the Complainant using the telephone number provided on the formal complaint form on September 19, 2016, at 10:00 a.m. There was no response and no answering machine on which I could leave a message for the Complainant. A second attempt to call the Complainant at 10:10 a.m. again resulted in no response and no ability to leave a voice message.

The Complainant had not contacted the office to indicate that the Complainant would be unable to participate in the telephonic hearing. My voice mail and email had no messages from the Complainant stating that she would be unable to participate in the hearing.

Having twice been unable to establish contact with the Complainant or leave a voice mail, I convened the hearing.<sup>2</sup> Attorney Schultz moved to dismiss the Complaint for failure to appear and prosecute. I advised Attorney Schultz that I would take his motion under advisement.

The record closed on September 19, 2016, at the conclusion of the hearing. No witnesses were presented and no exhibits were introduced into the record. This decision grants the Respondent's motion to dismiss the Complaint.

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<sup>2</sup> A tape recording was made, no court reporter being present.

## FINDINGS OF FACT

1. The Complainant in this case is Iris M. Mateo-Perez.
2. The Respondent in this case is PPL Electric Utilities Corporation.
3. On June 13, 2016, the Complainant filed a complaint with the Commission against the Respondent.
4. The Respondent filed an Answer on July 7, 2016.
5. By notice dated August 3, 2016, the Commission scheduled this matter for an initial telephonic hearing on September 19, 2016 at 10:00 a.m.
6. The Commission sent notice of the telephonic hearing in this case to the Complainant by regular first-class mail to the address stated on the Complaint.
7. The Commission's hearing notice was never returned to the sender.
8. The Complainant failed to appear at the September 19, 2016 telephonic hearing.
9. The Complainant did not settle, withdraw or request a continuance of the matter.

## DISCUSSION

Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. Schneider v. Pa. Pub. Util. Comm'n., 479 A.2d 10 (Pa.Cmwlth. 1984). This due process requirement is satisfied, however, when the administrative agency provides the parties notice and the opportunity to be heard.

The Commission sent notice of the telephonic hearing in this case to the Complainant on August 3, 2016, by regular first-class mail to the address stated on the Complaint. To my knowledge this piece of mail was never returned to the sender, the scheduling staff for OALJ in Harrisburg.

In addition, I issued a prehearing order dated August 4, 2016, which, inter alia, directed the parties to notify me if the telephone numbers where they could be reached at the time of the hearing changed. The prehearing order, which was mailed to the Complainant at the address shown on the Complaint, was never returned. Accordingly, I must presume that this mail, which was sent in the ordinary course of business, was received by the Complainant. Berkowitz v. Mayflower Securities, Inc., 317 A.2d 584 (Pa. 1974); Meierdierck v. Miller, 147 A.2d 406 (Pa. 1959); Samaras v. Hartwick, 698 A.2d 71 (Pa.Super. 1997); Judge v. Celina Mutual Insurance Co., 444 A.2d 658 (Pa.Super. 1982).

The Complainant did not appear for the scheduled hearing despite two attempts to contact her using the telephone number provided in the Complaint. Under these circumstances, it appears the Complainant had ample opportunity to appear and be heard in this proceeding, but voluntarily chose not to do so. Therefore, the due process rights of the Complainant have been fully protected. Sentner v. Bell Telephone Co. of Pa. Docket No. F-00161106 (Opinion and Order entered October 25, 1993); 52 Pa.Code § 5.245(a).

Finally, Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of any request for relief. As the party bringing this complaint, the Complainant bears the burden of proving by a preponderance of the evidence that they are entitled to relief. By failing to appear and proffer any evidence to support her complaint, the Complainant has failed to meet this burden. Under these circumstances, the complaint should be dismissed with prejudice. Jefferson v. UGI Utilities, Inc., Docket No. Z-00269892 (Opinion and Order entered December 26, 1995); El-Ayazra v. West Penn Power Company, Docket No. F-2015-2509292 (Opinion and Order entered June 30, 2016); 52 Pa.Code § 5.245.

CONCLUSIONS OF LAW

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

2. The due process rights of the Complainant have been fully protected in this proceeding. Sentner v. Bell Telephone Co. of Pa., Docket No. F-00161106 (Opinion and Order entered October 25, 1993); 52 Pa.Code § 5.245(a).

3. By failing to appear for the hearing and proffer any evidence to support the complaint, the Complainant has failed to meet her burden of proving that she is entitled to the relief that she seeks from the Commission. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion of PPL Electric Utilities Corporation to dismiss the Complaint filed by Iris M. Mateo-Perez at Docket No. F-2016-2551706 is granted.

2. That the Complaint of Iris M. Mateo-Perez against PPL Electric Utilities Corporation at Docket No. F-2016-2551706 is dismissed with prejudice for failure of the Complainant to appear for the hearing and prosecute the Complaint.

3. That the docket at Docket No. F-2016-2551706 is marked closed.

Date: September 23, 2016

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Tiffany L. Tran  
Special Agent