

PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120

Esther Lenzner

v.

Philadelphia Gas Works

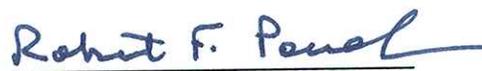
Public Meeting December 22, 2016
2491223-OSA
Docket No. F-2015-2491223

**JOINT STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR.
AND COMMISSIONER ROBERT F. POWELSON**

We agree with the Initial Decision to dismiss the above Formal Complaint with prejudice¹ for failure to prosecute and meet the burden of proof. While we are sympathetic to the Complainant, she did not present any information in her Exceptions supporting her explanation that a medical condition prevented her from attending the hearing.² Moreover, the Complainant was afforded due process as she was provided with proper notice and a meaningful opportunity to be heard regarding her Complaint. The Complainant was provided with written notice of the date, time, and place of the hearing (scheduled for February 19, 2016) and of the procedures for obtaining a continuance.³ We note that the February 2016 hearing was the second scheduled hearing in this matter and that the Complainant previously requested and received a continuance of the first scheduled hearing in November 2015. In our view, this shows that the Complainant understood the Commission's process for obtaining a continuance. However, the Complainant neither attended the February 2016 hearing nor requested a continuance of the hearing.

In short, we do not believe that the facts in this case warrant a departure from our practice of dismissing a Complaint with prejudice when the Complainant neither requests a continuance of the scheduled hearing nor makes a good-faith attempt to attend the hearing. Therefore, we would adopt the Initial Decision in its entirety to dismiss the Complaint with prejudice.


JOHN F. COLEMAN, JR.
COMMISSIONER


ROBERT F. POWELSON
COMMISSIONER

DATE: December 22, 2016

¹ A dismissal with prejudice precludes the Complainant from re-filing her Formal Complaint, while a dismissal without prejudice does not.

² The Complainant in her Exceptions alleges that she does not remember receiving the Hearing Notice and Prehearing Order informing of the hearing date in February 2016. The Complainant further alleges that she has a severe memory problem due to a fall in 2011 and medications she takes daily as a result of the fall. However, the Complainant provides no documentation as part of her Exceptions to verify this medical condition.

³ The relevant documents – the Hearing Notice and Prehearing Order – were mailed to the Complainant and were not returned to the Commission as undeliverable. Therefore, the documents are presumed to be received.