



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

ISSUED: JUNE 5, 2002

IN REPLY PLEASE
 REFER TO OUR FILE

C-20016634

TIMOTHY BISHOP
 1662 PARKLINE DRIVE
 PITTSBURGH PA 15227

BTL

DOCUMENT
 FOLDER

Timothy W. Bishop
 v.
 West Penn Power Company

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 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
 FG

JAMES T BOGGS SR ATTY
 WEST PENN POWER COMPANY
 800 CABIN HILL DRIVE
 GREENSBURG PA 15601-1689

ENTRY NO.: 0001
NAME: CLARK, PATRICIA J. DIRECTOR
ADDRESS1: 800 CABIN HILL DRIVE
ADDRESS2:
CITY: GREENSBURG STATE: PA ZIP: 15601
REPRESENTING: RESPONDENT TYPE

ENTRY NO.: 0002
NAME: TIMOTHY BISHOP
ADDRESS1: 1662 PARKLINE DRIVE
ADDRESS2:
CITY: PITTSBURGH STATE: PA ZIP: 15227
REPRESENTING: COMPLAINANT TYPE

ENTRY NO.: 0003
NAME: JAMES T BOGGS SENIOR ATTORNEY
ADDRESS1: 800 CABIN HILL DRIVE
ADDRESS2:
CITY: GREENSBURG STATE: PA ZIP: 15601-1689
REPRESENTING: RESPONDENT TYPE

RESPONDENT OR APPLICANT: WEST PENN POWER CO.
PARTY OR COMPLAINANT: BISHOP TIMOTHY W
[CU25] [] [C-20016634. [] [] [] [] PRINT- []

THIS IS THE LAST RECORD OF THIS CASE NUMBER

RCV | |FORM| |LTAI| |Col 4|Row 24|Page 1|T1

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FOLDER

TD 30/10

MAY 31 2002

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Timothy W. Bishop : Docket No.
 : C-20016634
 v. :
 :
 West Penn Power Company :

INITIAL DECISION

DOCKETED
JUN 08 2002

DOCUMENT
FOLDER

Before
Robert P. Meehan
Administrative Law Judge

This Initial Decision dismisses, with prejudice, the complaint of Timothy W. Bishop (Mr. Bishop), against West Penn Power Company (WPP) for the failure of Mr. Bishop to appear at the telephonic hearing and prosecute his complaint.

Mr. Bishop filed his complaint against WPP on December 5, 2001, alleging a "foreign load" billing and service dispute. The answer was filed on January 25, 2002. By letter dated April 12, 2002, the Commission informed the parties that the telephonic hearing in this case would be held on Friday, May 24, 2002, at 10:00 a.m. I issued a Prehearing Order in this case on April 18, 2002. The telephonic hearing was held, as scheduled. The efforts to contact Mr. Bishop at the time of the hearing were unsuccessful. WPP moved to dismiss the complaint for lack of prosecution.

The Commission satisfied the requirement of affording Mr. Bishop with administrative due process, by providing timely notice of the hearing on this complaint, and the opportunity to be heard. *Schneider v. PA PUC*, 479 A.2d 10 (Pa. Cmwlth. Ct. 1984). The Commission's letter of April 12, and my Prehearing Order of April 18, 2002, both of which informed the parties of the day, date and time of the telephonic hearing in this case, were mailed to Mr. Bishop at the address he provided on the formal complaint form. Neither the

Commission's letter nor my Order have been returned by the United States Postal Service. Accordingly, it is presumed that Mr. Bishop received both the Commission's notice of the hearing and my 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). 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 attempts to contact Mr. Bishop for the telephonic hearing were unsuccessful.

On Monday, May 20, 2002, at approximately 3:15 p.m., a person identifying himself as Timothy Bishop called the Pittsburgh Office of Administrative Law Judge to provide the telephone number at which he could be contacted for the May 24, 2002 hearing on his complaint. The caller provided the Docket Number of this proceeding to make sure this office knew the case he was calling about. Thus, it is clear that Timothy W. Bishop, in fact, received the Commission's April 12, 2002 hearing notice letter, or the Prehearing Order of April 18, 2002, or both.

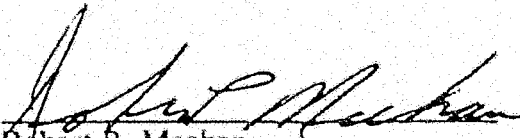
The telephone number provided by the caller to contact Mr. Bishop for the hearing on May 24, 2002, was 412-207-4852. My call to that number, at approximately 10:00 a.m., was met with a recorded announcement that I had reached that number and to leave a message after the tone. I left my name, position and telephone number and requested that Mr. Bishop return my call by 10:15 a.m. I then placed a call to the telephone number Mr. Bishop had provided on the formal complaint form as his home telephone number, 412-207-4868. This call was also met with a recorded announcement that a message be left. I again identified myself and left a telephone number and requested a return call by 10:15 a.m. At this point I informed counsel for WPP of my efforts to contact Mr. Bishop and that we would be waiting until 10:15 a.m. for Mr. Bishop to return my calls.

At approximately 10:17 a.m., on Friday, May 24, 2002, as I had not received a return call from Mr. Bishop, I again contacted counsel for WPP and informed him of Mr. Bishop's failure to appear for the hearing. WPP then moved for the dismissal of the complaint for the failure of Mr. Bishop to prosecute his complaint.

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. Accordingly, I grant the motion of WPP and dismiss the complaint of Mr. Bishop, with prejudice, for his failure to be present at the hearing and prosecute the complaint.

In consideration of the foregoing, IT IS ORDERED THAT: The complaint of Timothy W. Bishop against West Penn Power Company, at Docket No. C-20016634, is dismissed, with prejudice, for the failure to prosecute the complaint.

Date: May 24, 2002


Robert P. Meehan
Administrative Law Judge

DOCKETED
JUN 20 2002

Case Identification: C-20016634; Timothy W. Bishop
West Penn Power Company

DOCUMENT

Initial Decision By: ALJ Robert P. Meehan

Deadline for Return to OSA: June 19, 2002

RECEIVED
2002 JUN 20 11:35
SECRETARY'S BUREAU

This decision has not been reviewed by OSA.

RECEIVED

JUN 20 2002

* * * * *

OFFICE OF SPECIAL ASSISTANTS

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Ben Thomas

Commissioner

June 19 2002

Date

Act 294

Case Identification:

C-20016634; Timothy W. Bishop
v. West Penn Power Company

Initial Decision By:

ALJ Robert P. Meehan

Deadline for Return to OSA:

June 19, 2002

This decision has not been reviewed by OSA.

RECEIVED

JUN 11 2002

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OFFICE OF SPECIAL ASSISTANTS

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Robert L. Brown
Commissioner

6/11/02
Date

Act 294

Case Identification: C-20016634; Timothy W. Bishop
v. West Penn Power Company

Initial Decision By: ALJ Robert P. Meehan

Deadline for Return to OSA: June 19, 2002

This decision has not been reviewed by OSA.

RECEIVED

JUN 19 2002

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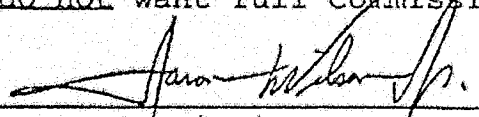
OFFICE OF SPECIAL ASSISTANTS

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.



Commissioner

6/19/02 mcl

Date

Act 294

Case Identification:

C-20016634; Timothy W. Bishop
v. West Penn Power Company

Initial Decision By:

ALJ Robert P. Meehan

Deadline for Return to OSA:

June 19, 2002

This decision has not been reviewed by OSA.

RECEIVED

JUN 17 2002

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OFFICE OF SPECIAL ASSISTANTS

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Terrance J. Fitzgerald

Commissioner

6-14-02

Date

Act 294

Case Identification:

C-20016634; Timothy W. Bishop
v. West Penn Power Company

Initial Decision By:

ALJ Robert P. Meehan

Deadline for Return to OSA:

June 19, 2002

This decision has not been reviewed by OSA.

RECEIVED

JUN 17 2002

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OFFICE OF SPECIAL ASSISTANTS

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Kim Fitzgibbon

Commissioner

6/17/02

Date

DATE: July 2, 2002

SUBJECT: C-20016634

TO: Office of Administrative Law Judge
Susan Hoffner

FROM: James J. McNulty
Secretary
nvl

REP

TIMOTHY W. BISHOP

VS

WEST PENN POWER COMPANY

The Initial Decision has been served upon all parties of interest.

Neither exceptions nor requests for review from the Commissioners have been received by the Commission. This matter is referred to your office for whatever action you deem necessary.

cc: Office of Special Assistants

DOCKETED
JUL 02 2002

P.S. Please note that exceptions or reply exceptions may come in timely with certificates of mailings. A second memo will not be released for these exceptions.

DOCUMENT
FOLDER