

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lawrence Rice	:	
	:	
v.	:	F-2015-2499502
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Dennis J. Buckley
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Complaint for failure to comply with an Order issued by an Administrative Law Judge.

HISTORY OF THE PROCEEDING

On August 11, 2015, Lawrence Rice (Complainant), filed a formal Complaint against PECO Energy Company (PECO or Respondent). That Complaint was a timely appeal from a determination by the Commission's Bureau of Consumer Services (BCS) at Case No. 3343914. In the formal Complaint, Mr. Rice asked that his name be put on the electric bill for service at 196 Highland Drive, Lincoln University, Pennsylvania, and requested a payment arrangement.

On September 10, 2015, PECO filed an Answer to the Complaint. In its Answer, PECO contended that a person named Ruth Horn resided at the service address with

Complainant and that the occupants of the residence had accrued \$14,239.22 in arrearages, at least part of which is composed of Customer Assistance Program (CAP) arrearages. Ms. Horn's name was on the account during this time. PECO further contended that earlier attempts by Complainant to have his name placed on the account had been rejected due to alleged failure by the Complainant to provide necessary documentation.

On September 21, 2015, a hearing notice was issued setting November 24, 2015, as the date for a telephonic hearing in this case.

On September 30, 2015, I issued a standard form prehearing Order.

On November 24, 2015, a telephonic hearing was held pursuant to notice, originating from the Commission's office in Harrisburg, Pennsylvania. Complainant appeared and provided testimony. PECO was represented by Shawane L. Lee, Esquire. PECO presented the testimony of Dana McCollum, a Regulatory Assessor working for PECO. PECO offered ten exhibits that were received into the record: PECO Exhibit No. 1, an Account History; PECO Exhibit No. 2, a Service Denial Notice; PECO Exhibit No. 3, a Partial Denial Letter; PECO Exhibit No. 4, a Lease Agreement; PECO Exhibit No. 5, an Identification and Birth Certificate; PECO Exhibit No. 6, a Financial History; PECO Exhibit No. 7, a Case Detail Report; PECO Exhibit No. 8, a BCS Decision Report; PECO Exhibit No. 9, Rules and Regulations; and, PECO Exhibit No. 10, a CAP History.

On December 14, 2015, a transcript of 35 pages was filed along with the exhibits received into evidence. However, the record was left open pending the outcome of settlement discussions between the parties. Neither party subsequently advised the presiding office of the outcome of their discussions.

On January 3, 2017, in response to an inquiry from the presiding officer, counsel for PECO advised by e-mail that Complainant had discontinued service on June 15, 2016, that Complainant had moved, and that he no longer wishes to pursue the original formal Complaint.

On January 5, 2017, the presiding officer issued an Order requiring that Complainant file a written Petition to Withdraw his Complaint by no later than January 26, 2017, or, alternatively, that if Complainant wished that the record be closed and an adjudication of the case on its merits be prepared, then Complainant was ordered to notify the Secretary of the Commission of that, in writing, by January 26, 2017.

No communication from the Complainant was received by the Secretary's Office as of the close of business on January 26, 2017.

As of the date of this Decision, the record in this case is closed, and the Complaint is dismissed for failure to comply with the Order issued by an Administrative Law Judge

FINDINGS OF FACT

1. Complainant is Lawrence Rice, 196 Highland Drive, Lincoln University, Pennsylvania.
2. Respondent is PECO Energy Company, a jurisdictional public utility providing electric distribution service in the Commonwealth of Pennsylvania.
3. On August 11, 2015, Complainant filed a formal Complaint seeking a Commission-ordered payment arrangement.
4. On September 10, 2015, Respondent filed an Answer to the Complaint.
5. At hearing on November 24, 2015, Complainant stated that he lived at the service address and accepted responsibility for the arrearage on the electric bill. Tr. at 5-6.
6. Complainant requested a payment arrangement and that his name be put on the account. Complaint at ¶ 4.

7. Because of the poor payment history on the account, PECO had declined to grant a payment arrangement. Tr. at 32.

8. PECO agreed to work with Complainant to prevent termination of the account for nonpayment. Tr. at 33-34.

9. Neither party subsequently advised the presiding officer of the outcome of their discussions.

10. On January 3, 2017, in response to an inquiry from the presiding officer, counsel for PECO advised that Complainant had discontinued service on June 15, 2016, that Complainant had moved, and that he no longer wished to pursue the original formal Complaint.

11. On January 5, 2017, the presiding officer issued an Order requiring that Complainant file a written Petition to Withdraw his Complaint by no later than January 26, 2017, or, alternatively that if Complainant wished that the record be closed and an adjudication of the case on its merits be prepared, then Complainant was ordered to notify the Secretary of the Commission of that, in writing, by January 26, 2017.

12. No communication from the Complainant was received by the Secretary's Office as of the close of business on January 26, 2017.

DISCUSSION

This case began as a formal Complaint timely appealing a determination by the Commission's BCS. Complainant sought to have his name put on a residential service account and requested a payment arrangement. Complainant also alleged health problems as a basis for a payment agreement.¹ At hearing, the Complainant stated that he was not contesting his responsibility for the account and the substantial arrearage that had accrued over many years. In fact, Complainant accepted responsibility as an occupant at the service address (and again asked

¹ Tr. at 27-28.

that his name be put on the bill) although another person's name was on the bill.² PECO's position was that the account was and is not eligible for a payment arrangement due to a poor payment history on the account.³

PECO made it clear from the outset that although the account was mixed CAP and non-CAP arrearages, the poor payment history on the account supported PECO's requirement that Complainant pay \$3,000 as a condition precedent to being able to re-apply for CAP. Tr. at 32.

However, at the time of the hearing, Complainant's *primary* concern was that service was at risk of termination unless the sum of \$487.80 was paid. Tr. at 24. This was the practical genesis of the formal Complaint. Tr. at 27. PECO suggested that customer assistance might be available to secure that amount and to prevent termination. Tr. at 24-25. At the conclusion of the hearing, the parties agreed to work to secure that funding to prevent termination and to advise the presiding officer of the outcome.

Although the presiding officer was not apprised of the outcome, it would appear that the discussions were at least to some measure successful. On January 3, 2017, in response to my inquiry, counsel for PECO advised me by e-mail: that Complainant had discontinued service on June 15, 2016, that Complainant had moved, and that he no longer wished to pursue the original formal Complaint. PECO asked Complainant's daughter, the source of the foregoing information, to have Complainant contact the PUC to formally withdraw his Complaint.

On January 5, 2017, I issued an Order requiring that Complainant file a written Petition to Withdraw his Complaint by no later than January 26, 2017. If, however, Complainant wished that the record be closed and an adjudication of the case on its merits be prepared, then Complainant was ordered to notify the Secretary of the Commission, in writing, by January 26,

² At the time of the hearing, the balance on the account was comprised of CAP and non-CAP arrears. Tr. at 14. The name on the account was that of Ruth Horn, a co-tenant with Complainant at the residence. Complainant wanted his name on the account, contending the Ms. Horn no longer resided there. This would trigger a payment agreement requiring an initial payment of 20 percent of the total arrearage. Tr. 15, 18-19.

³ PECO presented evidence of that poor payment history that Complainant did not contest. Tr. 25-26; PECO Exhibit No. 1.

2017. I stated in the Order that as Complainant is not an attorney, a simple letter stating his intentions would suffice.

The Order sent by United States mail to Complainant has not been returned. Complainant has not responded to the Order.

A presiding officer's orders must be complied with, and a lack of compliance presents a sufficient basis to dismiss a complaint. *Treffinger v. PPL Electric Utilities Corp.*, Docket No. C-20027978 (Order entered March 3, 2003); *Snyderville Community Development Corp. v. PGW*, Docket No. C-20055032 (Order entered July 31, 2006); *Application of Black Diamond Cab Co.*, Docket No. A-00122566 (Order entered December 1, 1966).

As Complainant has not complied with the Order of January 5, 2017, the Complaint will be dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties in this proceeding. 66 Pa. C.S. § 701.

2. As the party seeking affirmative relief from the Commission, Complainants bear the burden of proof. 66 Pa. C.S. § 332(a).

3. The failure to comply with the order issued by an Administrative Law Judge constitutes grounds for dismissal of the complaint. *Snyderville Community Development Corporation v. Verizon Pennsylvania, Inc.*, Docket No. C-20055032 (Opinion and Order adopted June 22, 2006, entered July 31, 2006).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the record in this case is closed.
2. That the Complaint of Lawrence Rice, filed on August 11, 2015, at Docket No. F-2015-2499502, is dismissed.
3. That the docket in this case be marked closed.

Date: March 24, 2017

/s/
Dennis J. Buckley
Administrative Law Judge