

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rebekah Craig

v.

PPL Electric Utilities Corporation

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F-2016-2577562

INITIAL DECISION

Before
Benjamin J. Myers
Administrative Law Judge

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 November 16, 2016, Rebekah Craig (Complainant) filed a complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (Respondent). The complaint alleges that the Complainant had been experiencing high electric bills for several months and believed this billing to therefore be incorrect. The complaint requested that the Commission initiate or order an investigation into her billing amounts as well as an investigation of her electric meter.

The Respondent filed an answer on December 19, 2016. The answer admitted that the Respondent provided electrical service to the Complainant's residence but denied that the

Complainant had been incorrectly or improperly overcharged for this service. The answer requested that the Commission deny the complaint.

By notice dated January 13, 2017, the Commission scheduled this matter for an initial telephonic hearing on February 28, 2017 at 10:00 a.m. and assigned the case to me. A prehearing order was issued on January 19, 2017 addressing, inter alia, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

A telephonic hearing was conducted on February 28, 2017 at 10:00 a.m. The Complainant failed to appear for that hearing. The Complainant did not call the conference number shown on the January 13, 2017 hearing notice at 10:00 a.m.

It was verified with the support staff for the Office of Administrative Law Judge (OALJ) in Harrisburg that the Complainant had not contacted that office to indicate that the Complainant would be unable to participate in the telephonic hearing. No voice mail or email messages were received from the Complainant stating that she would be unable to participate in the hearing. After verifying that the Complainant had not contacted OALJ in Harrisburg, the hearing commenced at approximately 10:00 a.m..

Upon commencement of the hearing, Craig M. Schultz, Esquire, counsel for the Respondent, moved to dismiss the complaint for failure to appear and prosecute. N.T. 7. I advised the Respondent that I would take its motion under advisement. N.T. 8.

The record closed on March 20, 2017, the date the transcript was filed with the Secretary's Bureau. This decision grants the Respondent's motion to dismiss the complaint.

FINDINGS OF FACT

1. The Complainant in this case is Rebekah Craig.

2. The Respondent in this case is PPL Electric Utilities Corporation.
3. On November 16, 2016, the Complainant filed a complaint with the Commission against the Respondent.
4. The Respondent filed an answer on December 19, 2016.
5. By notice dated January 13, 2017, the Commission scheduled this matter for an initial telephonic hearing on February 28, 2017 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 February 28, 2017 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 January 13, 2017, by regular first-class mail to the address stated on the

complaint. There is no evidence that this piece of mail was ever returned to the sender, the scheduling staff or OALJ.

In addition, a prehearing order was issued on January 19, 2017, which, inter alia, directed the parties to contact the toll free conference number shown on the hearing notice in order to participate in the hearing. The prehearing order, which was mailed to the Complainant at the address shown on the complaint, was never returned. Accordingly, it must be presumed 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 because she did not call the conference number shown on the January 13, 2017 hearing notice. 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 she is 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 Rebekah Craig at F-2016-2577562F-2016-2577562 is granted.

2. That the complaint of Rebekah Craig against PPL Electric Utilities Corporation at F-2016-2577562 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-2016-2577562 is marked closed.

Date: June 12, 2017

/s/
Benjamin J. Myers
Administrative Law Judge