

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Christina Bennett

v.

PPL Electric Utilities Corporation

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C-2017-2600822

**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 April 26, 2017, Christina Bennett (Complainant) filed a complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (Respondent). The complaint alleges that her service had been shut off and that certain payments made by the Complainant were not properly credited to her account. The complaint further alleges that certain other monthly balances were added to her account and that she was therefore not given a correct remaining balance amount so she could properly make a payment on her account. The complaint requested that the Commission direct the Respondent to properly apply certain payment amounts to her account and correct her total outstanding account balance.

The Respondent filed an answer on May 16, 2017. The answer admitted that the Respondent provided service to the Complainant and that the Complainant had received a notice of shut-off due to lack of payment. However, Respondent argued that all payments made by the Complainant toward her outstanding balance were properly credited to her account. The answer requested that the Commission deny the complaint.

By notice dated May 22, 2017, the Commission scheduled this matter for an initial telephonic hearing on June 29, 2017 at 10:00 a.m. and assigned the case to me. A prehearing order was issued on May 24, 2017 addressing, *inter alia*, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

A telephonic hearing was conducted on June 29, 2017 at 10:00 a.m. The Complainant failed to appear for that hearing. The Complainant did not call the conference number shown on May 22, 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 they 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, Kimberly Krupka, Esquire, counsel for the Respondent, moved to dismiss the complaint for failure to appear and prosecute. N.T. 8. I advised the Respondent that I would take its motion under advisement. N.T. 8.

The record closed on July 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 Christina Bennett.

2. The Respondent in this case is PPL Electric Utilities Corporation.
3. On April 26, 2017, the Complainant filed a complaint with the Commission against the Respondent.
4. The Respondent filed an answer on May 16, 2017.
5. By notice dated May 22, 2017, the Commission scheduled this matter for an initial telephonic hearing on June 29, 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 as being undeliverable by the postal authorities.
8. The Complainant failed to appear at the June 29, 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.Cmwlt. 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 May 22, 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 Commission as being undeliverable by the postal authorities.

In addition, a prehearing order was issued on May 24, 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 May 22, 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.

