

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Yvonne Santos	:	
	:	
v.	:	C-2017-2614618
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Darlene Davis Heep  
Administrative Law Judge

**INTRODUCTION**

This decision dismisses the Complaint for failure to prosecute because Complainant did not appear for the hearing.

**HISTORY OF THE PROCEEDING**

On July 12, 2017, Yvonne Santos (Ms. Santos or Complainant) filed a formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW), Respondent. In the Complaint, Ms. Santos sought a payment arrangement and checked a box on the Complaint Form stating that the utility is threatening to shut off her service or had already shut off her service.

On August 7, 2017, PGW filed an Answer denying all material allegations and stating that the Complainant had a balance of \$5,400.80.

On August 11, 2017, a Hearing Notice was issued setting an Initial Hearing for October 30, 2017 at 10:00 a.m. A Prehearing Order issued on August 15, 2017 reminded the parties of the hearing date and time. The Prehearing Order also informed the Complainant that the matter could be dismissed if she did not appear, that any requests for a continuance must be submitted in writing five days in advance and that a change of the hearing date would be granted only where good cause exists.

The hearing began on October 30, 2017 as scheduled. Counsel for PGW, Laureto Farinas, Esquire, appeared at the hearing with witnesses and was prepared to proceed. Complainant was not present. A 15-minute break was taken to allow the Complainant time to appear. The Complainant never appeared. Counsel for PGW moved that the matter be dismissed for failure to prosecute.

The record closed on November 20, 2017, upon receipt of the transcript. This decision grants the Respondent's Motion to Dismiss the Complaint.

#### FINDINGS OF FACT

1. The Complainant in this case is Yvonne Santos.
2. Philadelphia Gas Works is the Respondent.
3. On July 12, 2017, the Complainant filed this action.
4. The Respondent filed an Answer on August 7, 2017.
5. By Notice dated August 11, 2017, the Commission scheduled an initial hearing for October 30, 2017 at 10:00 a.m.
6. The Commission sent the Notice of the hearing to Ms. Santos by regular first-class mail to the address stated on the Complaint.

7. On August 15, 2017, a Prehearing Order was mailed to the Complainant, which reminded her of the hearing date, time and location and stated as follows:

**THIS CASE WILL BE DISMISSED IF THE CUSTOMER FAILS TO PARTICIPATE IN THE HEARING AND PRESENT EVIDENCE IN SUPPORT OF THE COMPLAINT.**

and

A request for a change of the scheduled hearing date must state the agreement or opposition of other parties, and must be submitted in writing no later than five (5) business days prior to the hearing. 52 Pa.Code § 1.15(b). Requests for changes of hearing dates must be sent to me and all parties of record.

...

Changes are granted only in rare situations where good cause exists.

8. All hearing notices and prehearing orders were sent by first-class mail.
9. None of the documents mailed to Complainant was returned as undeliverable.
10. The Complainant failed to appear for the October 30, 2017 hearing.
11. Complainant did not contact the Commission to request a continuance or to state that she could not attend the hearing.
12. Complainant has not contacted the Commission since the October 30, 2017 hearing date.

## 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.

Complainant received all notices by first-class mail and none of those notices was returned as undeliverable. Therefore, the due process requirement of notice was met.

Ms. Santos did not appear for the scheduled hearing and has not contacted the Commission since. Under these circumstances, the Complainant has had ample opportunity to appear and be heard in this proceeding, but did not 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 they are entitled to relief. By failing to appear and proffer any evidence to support her Complaint, the Complainant has failed to meet this burden. Therefore, 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 Philadelphia Gas Works to dismiss the Complaint filed by Yvonne Santos at Docket No. C-2017-2614618 is granted.

2. That the Complaint of Yvonne Santos against Philadelphia Gas Works at Docket No. C-2017-2614618 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. C-2017-2614618 is marked closed.

Date: December 11, 2017

/s/  
Darlene Davis Heep  
Administrative Law Judge