

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Carmita Snowden	:	
	:	
v.	:	F-2017-2611774
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

This Initial Decision grants PECO Energy Company’s Motion to Dismiss the Complaint of Carmita Snowden with prejudice because she failed to appear and prosecute the case.

HISTORY OF THE PROCEEDING

On June 20, 2017, Carmita Snowden (Ms. Snowden or Complainant) filed a formal Complaint (Complaint) against PECO Energy Company (Respondent or PECO) with the Pennsylvania Public Utility Commission (Commission) alleging that there are incorrect charges in her electricity bill from PECO for the period January 4, 2017 to February 3, 2017. As relief, Ms. Snowden requested that her account be reviewed and the error be corrected.

The Complaint is a timely appeal of the Commission’s Bureau of Consumer Services (BCS) decision at BCS Case No. 3514550, which denied the Complainant’s informal complaint.

On July 12, 2017, Respondent filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated July 24, 2017, notified the parties that an initial hearing was scheduled in this matter for Tuesday, August 29, 2017, at 9:30 a.m.

A Prehearing Order was issued on August 9, 2017, advising the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to the proceeding, and directing the submission of documents prior to the hearing.

The hearing convened as scheduled on August 29, 2017. Shawane Lee, Esq. appeared representing PECO Energy Company. Neither Complainant nor a counsel for the Complainant appeared at the hearing. The hearing convened at approximately 9:45 a.m. after I confirmed that the Complainant had not called, or otherwise shown good cause not to appear at the scheduled hearing.

Counsel for PECO moved to dismiss the Complaint with prejudice for lack of prosecution. That Motion is granted pursuant to the ordering paragraphs below.

The record was closed upon receipt of the hearing transcript on September 26, 2017.

FINDINGS OF FACT

1. The Complainant is Carmita Snowden, whose mailing address is 5542 Lansdowne Avenue, Apt. 1, Philadelphia, PA 19131.
2. The Respondent is PECO Energy Company.
3. On June 20, 2017, Ms. Snowden filed a formal Complaint against PECO alleging that there are incorrect charges in her electricity bill from PECO for the period January 4, 2017 to February 3, 2017.

4. As relief, Ms. Snowden requested that her account be reviewed and the error be corrected.

5. On July 12, 2017, the Respondent filed an Answer denying the material allegations of the Complaint.

6. A Hearing Notice dated July 24, 2017, notified the parties that an initial hearing was scheduled in this matter for Tuesday, August 29, 2017, at 10:00 a.m.

7. A Prehearing Order was issued on August 9, 2017, advising the parties of the proper procedure to obtain a continuance to reschedule the hearing date.

8. None of the documents mailed to Complainant at the address provided on her Complaint was returned to the Commission by the United States Postal Service as undeliverable.

9. The Complainant failed to appear at the scheduled hearing.

10. The Complainant did not settle or withdraw this Complaint prior to the scheduled hearing date or obtain a continuance.

DISCUSSION

In this formal Complaint, Ms. Snowden alleged that there are incorrect charges in her electricity bill from PECO for the period January 4, 2017 to February 3, 2017. As relief, Ms. Snowden requested that her account be reviewed and the error be corrected. As the party seeking affirmative relief from the Commission, the burden of proof rests on the Complainant. 66 Pa.C.S.A. § 332(a).

Administrative agencies, like the Public Utility Commission, are required to provide due process to the parties appearing before them. This requirement is satisfied when the

parties are afforded notice and the opportunity to appear and be heard. *Schneider v. Pa. Pub. Util. Comm'n.*, 479 A.2d 10 (Pa.Cmwlth. 1984). Notice mailed to a party's last known address and not returned by the post office is presumed to have been received. *Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review*, 645 A.2d 944 (Pa.Cmwlth. 1994).

A Hearing Notice and a Prehearing Order were mailed to Ms. Snowden at the address listed on her formal Complaint form. Neither document was returned to the Commission as undeliverable by the post office. Therefore, the Complainant was deemed to have received these documents and had sufficient notice of the day, date and time of the scheduled hearing. Neither the Complainant nor a representative licensed to practice law in this Commonwealth appeared at the hearing on her behalf. To date, there is no further information about the Complainant regarding this hearing. Her failure to appear is unexcused.

Once notice of a hearing and the opportunity to be heard has been provided, it is the responsibility of the parties to appear and participate in the hearing. *Craig Sentner v. Bell Telephone Co. of Pennsylvania*, Docket No. F-00161106 (Opinion and Order entered October 25, 1993). The Complainant waived the opportunity to participate in the hearing by failing to appear. Ms. Snowden's Complaint will be dismissed with prejudice. 52 Pa.Code § 5.245(a); *Martin W. Jefferson v. UGI Utilities, Inc.*, 1995 Pa. PUC LEXIS 159.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S.A. § 701.

2. As the Complainant, Carmita Snowden had the burden of proof and failed to carry that burden. 66 Pa.C.S.A. § 332(a).

3. Notice mailed to a party's last known address and not returned by the post office is presumed to have been received. *Chartiers Industrial and Commercial Development*

Authority v. Allegheny County Board of Property Assessment Appeals and Review, 645 A.2d 944 (Pa.Cmwlth. 1994).

4. By failing to appear and be heard on this Complaint, Complainant waived the opportunity to participate in the hearing. 52 Pa.Code § 5.245(a); *Martin W. Jefferson v. UGI Utilities, Inc.*, 1995 Pa. PUC LEXIS 159.

5. Ms. Snowden has failed to meet her burden of proving that she is entitled to the relief she is seeking from the Commission.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of PECO Energy Company to dismiss the formal Complaint of Carmita Snowden at Docket No. F-2017-2611774 is granted.
2. That the Complaint filed by Carmita Snowden against PECO Energy Company at Docket No. F-2017-2611774 is dismissed with prejudice for failure to prosecute.
3. That the Secretary's Bureau should mark this matter closed.

Date: December 19, 2017

_____/s/
Eranda Vero
Administrative Law Judge