

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Robert Strydio	:	
	:	
v.	:	C-2017-2633043
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
David A. Salapa
Administrative Law Judge

INTRODUCTION

This decision dismisses a complaint for failure of the customer to appear at the telephonic hearing and prosecute the complaint.

HISTORY OF THE PROCEEDING

On November 6, 2017, Robert Strydio (Complainant) filed a complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (Respondent). The complaint alleged that the Respondent was threatening to shut off the Complainant's service. The complaint also alleged that the Respondent's employees refused to respond to the Complainant's inquiries about his account. The complaint requested that the Commission order a payment arrangement for the Complainant.

The Respondent filed an answer on November 29, 2017. The answer admitted that the Respondent provided residential electric service to the Complainant at the address stated in the complaint. The answer admitted that the Respondent issued a service termination notice to

the Complainant. The answer alleged that the Commission had previously ordered a payment arrangement for the Complainant. The answer requested that the Commission deny the Complainant's complaint.

By notice dated December 15, 2017, the Commission scheduled this matter for a telephonic hearing on January 25, 2018, at 1:00 p.m. and assigned the case to me. I issued a prehearing order dated December 18, 2018, addressing, inter alia, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

I conducted a telephonic hearing on January 25, 2018, at 1:00 p.m. The Complainant failed to appear for that hearing. I attempted to call the Complainant at approximately 1:00 p.m. at the telephone number shown on the Complainant's complaint. I received a message that the Complainant was not available. I left a message on the Complainant's voice mail, identifying myself and the purpose of my call. I indicated that I would call the Complainant again in approximately ten minutes.

I then 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 he would be unable to participate in the telephonic hearing. My voice mail and email had no messages from the Complainant stating that he would be unable to participate in the hearing.

After verifying that the Complainant had not contacted OALJ in Harrisburg, I attempted to call the Complainant a second time at approximately 1:10 p.m. at the same telephone number I previously called. Again, I received a voice mail message indicating that the Complainant was not available. I left a message on the Complainant's voice mail, identifying myself and indicating that the hearing would proceed without the Complainant.

Upon commencement of the hearing, Graig M. Schultz, Esquire, counsel for the Respondent, moved to dismiss the complaint for failure to appear and prosecute. N.T. 6. I advised the Respondent that I would take its motion under advisement. N.T. 7.

The record closed on February 1, 2018, 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 Robert Strydio.
2. The Respondent in this case is PPL Electric Utilities Corporation.
3. On November 6, 2017, the Complainant filed a complaint with the Commission against the Respondent.
4. The Respondent filed an answer on November 29, 2017.
5. By notice dated December 15, 2017, the Commission scheduled this matter for a telephonic hearing on January 25, 2018, at 1:00 p.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 January 25, 2018 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 December 15, 2017, by regular first-class mail to the address stated on the complaint. To my knowledge this piece of mail was never returned to the sender, the scheduling staff for OALJ in Harrisburg.

In addition, I issued a prehearing order dated December 18, 2017, which, inter alia, directed the parties to notify me if the telephone numbers where they could be reached at the time of the hearing changed. This order, which was also mailed to the Complainant at the address stated on the complaint, was never returned. Accordingly, I must presume 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 he was not available at the telephone number listed on the telephonic hearing notice. The Complainant never notified me of another telephone number where he could be contacted for the hearing. 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 he is entitled to relief. By failing to appear and proffer any evidence to support his complaint, the Complainant has failed to meet this burden. The Complainant's failure to appear has caused the Commission and the Respondent to waste resources. 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 and proffer any evidence to support his complaint, the Complainant has failed to meet his burden of proving that he is entitled to the relief that he seeks from the Commission. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the oral motion of PPL Electric Utilities Corporation to dismiss the complaint filed by Robert Strydio at Docket No. C-2017-2633043 is granted.

2. That the complaint of Robert Strydio against PPL Electric Utilities Corporation at Docket No. C-2017-2633043 is dismissed with prejudice for failure to appear and prosecute.

3. That the docket at Docket No. C-2017-2633043 is marked closed.

Date: February 2, 2018

_____/s/
David A. Salapa
Administrative Law Judge