

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Avram Yushan	:	
	:	
v.	:	C-2018-2641029
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Complaint of Avram Yushan against PPL Electric Utilities Corporation because he failed to appear for his hearing and prosecute his Complaint.

HISTORY OF THE PROCEEDING

On January 4, 2018, Avram Yushan (Mr. Yushan or Complainant) filed a formal Complaint (Complaint) against PPL Electric Utilities Corporation (PPL or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant placed a checkmark in the box indicating “Other” and alleged fraud, conspiracy, inaccuracy, and incompetence.

On January 25, 2018, PPL filed an Answer with New Matter and notice to plead attached. In its Answer, PPL avers that the same parties to this proceeding, Mr. Yushan and

PPL, already litigated the issues raised in this Complaint in a prior complaint proceeding.¹ PPL attached a copy of the Commission's Order to its answer and new matter.

The Complainant did not file a response to PPL's New Matter.

On March 1, 2018, a Hearing Notice was issued notifying the parties that a call-in telephonic hearing was scheduled for April 26, 2018. The Hearing Notice warned in bold and underline: "**At the above date and time, you must call into the hearing. If you fail to do so, your case will be dismissed. You will not be called by the Administrative Law Judge.**"

The Hearing Notice was sent to the Complainant via first-class mail at the address provided in his Complaint.

On March 8, 2018, the Hearing Notice was returned to the Commission with notes written on the envelope stating on the front: "Wrong person," "Stop sending these junks to this address!!," and "Return to sender."

The hearing convened as scheduled on April 26, 2018. Kimberly Krupka, Esquire, appeared on behalf of PPL Electric Utilities Corporation and was prepared to proceed. After the Complainant was given an additional ten minutes to call in, the hearing proceeded in his absence.

Counsel for PPL noted for the record that she had sent the Complainant two packages by Federal Express, each with cover letters reminding him that there was a hearing on April 26, 2018, and both were returned unopened with notes indicating Mr. Yushan would not accept any communications from Attorney Krupka. Accordingly, Counsel for PPL moved to dismiss the Complaint with prejudice for lack of prosecution. That Motion is granted pursuant to the ordering paragraphs below.

¹ *Avram Yushan v. PPL Electric Utilities Corporation, Docket No. C-2014-2399855 (Opinion and Order entered October 23, 2014).*

The record was closed on May 10, 2018, upon receipt of the transcript.

FINDINGS OF FACT

1. The Complainant is Avram Yushan, who listed his mailing address as 2507 Tremont Ave., Egg Harbor Township, New Jersey 08234.
2. The Respondent is PPL Electric Utilities Corporation.
3. On January 4, 2018, Mr. Yushan filed a formal Complaint against PPL with the PUC.
4. On January 25, 2018, PPL filed an Answer with New Matter to the Complaint.
5. By Hearing Notice dated March 1, 2018, the Commission scheduled this matter for a telephonic call-in hearing on April 26, 2018, at 10:00 a.m.
6. The Hearing Notice was sent to the Complainant via first-class mail to the address provided in his Complaint.
7. On March 8, 2018, the Hearing Notice was returned to the Commission with notes written on the envelope stating on the front: "Wrong person," "Stop sending these junks to this address!!," and "Return to sender."
8. The Complainant failed to appear at the scheduled hearing.
9. The Complainant did not settle or withdraw his Complaint.

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 Hearing Notice was sent to the Complainant via first-class mail at the address provided in his Complaint. On March 8, 2018, the Hearing Notice was returned to the Commission with notes written on the envelope stating on the front: “Wrong person,” “Stop sending these junks to this address!!,” and “Return to sender.” Additionally, Counsel for PPL sent the Complainant two packages by Federal Express, each with cover letters reminding him that there was a hearing on April 26, 2018, and both were returned unopened with notes indicating Mr. Yushan would not accept any communications from Attorney Krupka.

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. *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. *Jefferson v. UGI Utilities, Inc.*, 1995 Pa. PUC LEXIS 159.

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. 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 parties and the subject matter of this proceeding. 66 Pa.C.S.A. § 701.
2. The Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S. § 332(a).
3. 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).
4. By failing to appear for the hearing and proffer any evidence to support the Complaint, the Complainant has failed to meet his burden of proving that he is entitled to the relief he 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 formal Complaint of Avram Yushan at Docket No. C-2018-2641029 is granted;
2. That the Complaint of Avram Yushan against PPL Electric Utilities Corporation at Docket No. C-2018-2641029 is dismissed with prejudice; and

3. That the docket at Docket No. C-2018-2641029 be marked closed.

Date: June 19, 2018

/s/

F. Joseph Brady

Administrative Law Judge