

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                     |   |                |
|---------------------|---|----------------|
| Mary Ellen Cameron  | : |                |
|                     | : |                |
| v.                  | : | C-2017-2637820 |
|                     | : |                |
| PECO Energy Company | : |                |

**INITIAL DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the formal Complaint of Mary Ellen Cameron against PECO Energy Company because she failed to appear for her hearing and prosecute her Complaint.

**HISTORY OF THE PROCEEDING**

On December 11, 2017, Mary Ellen Cameron (Complainant) filed a formal Complaint (Complaint) against PECO Energy Company (PECO or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant placed checkmarks in the boxes indicating “The utility is threatening to shut off my service or has already shut off my service,” and “I would like a payment agreement.”

On December 14, 2017, PECO filed an Answer to the Complaint. In its Answer, PECO denies all material allegations of fact in the Complaint. PECO avers that on September 29, 2017, the Commission issued a Level 1 payment agreement to the Complainant on her

\$9,898.63 balance. PECO further avers that the Complainant defaulted on the agreement on November 13, 2017, and therefore, she is not entitled to another payment agreement. PECO requests that the Commission dismiss the Complaint.

By Hearing Notice dated January 16, 2018, a hearing was scheduled for February 15, 2018, and the matter was assigned to Deputy Chief Administrative Law Judge Christopher Pell.

Judge Pell issued a Prehearing Order on January 16, 2018. The Prehearing Order directed the parties to comply with various procedural requirements and directed that a request to change the scheduled hearing date should be sent to the ALJ at least five days prior to the hearing date, be in writing and state the agreement or opposition of the other party. It warned both parties of potentially serious consequences if they failed to obtain a continuance and failed to attend the hearing. It also explained that the Complainant bears the burden of proof to establish that the Respondent violated its tariff, the Public Utility Code, or a Commission Order or regulation, and that she is entitled to the relief requested in the Complaint.

By Hearing Cancellation/Reschedule Notice dated March 6, 2018, the hearing was rescheduled for May 7, 2018 at 1:00 p.m.

By Hearing Notice Change dated May 2, 2018, the hearing was reassigned to me.

All of the Hearing Notices advised the parties of the location, date and time of the scheduled hearing and warned in italicized type: “*Attention: You may lose the case if you do not come to this hearing and present facts on the issues raised.*”

The hearing began on May 7, 2018, at 1:00 p.m. as scheduled. Counsel for PECO was present with a witness and was prepared to proceed. The Complainant was not present.

No witnesses were presented, and no exhibits were introduced into the record. Respondent’s Counsel moved that the Complaint be dismissed with prejudice for lack of

prosecution pursuant to 52 Pa. Code § 5.245. In accordance with Commission policy, I am granting the Motion.

The record closed on May 30, 2018, upon my receipt of the transcript.

#### FINDINGS OF FACT

1. The Complainant in this case is Mary Ellen Cameron.
2. The Respondent in this case is PECO Energy Company.
3. On December 11, 2017, the Complainant filed a Complaint with the Commission against the Respondent.
4. The Respondent filed an Answer on December 14, 2017.
5. By Hearing Notice dated January 16, 2018, a hearing was scheduled for February 15, 2018.
6. By Hearing Cancellation/Reschedule Notice dated March 6, 2018, the hearing was rescheduled for May 7, 2018 at 1:00 p.m.
7. The Commission sent all Hearing Notices to the Complainant by regular first-class mail to the address stated on the Complaint.
8. The Commission's Hearing Notices were never returned to the sender.
9. The Complainant failed to appear at the May 7, 2018 hearing.
10. The Complainant did not settle or withdraw her 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 Commission sent notice of the initial hearing in this case to the Complainant on March 6, 2018, 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 the Office of Administrative Law Judge (OALJ) in Harrisburg.

In addition, the Commission sent a prehearing order dated January 16, 2018, which, *inter alia*, warned both parties of potentially serious consequences if they failed to obtain a continuance and failed to attend the hearing. The prehearing order, which was mailed to the Complainant at the address shown 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 hearing and has not contacted the Commission. Under these circumstances, the Complainant has had ample opportunity to appear and be heard in this proceeding. 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. 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 PECO Energy Company to dismiss the Complaint filed by Mary Ellen Cameron at Docket No. C-2017-2637820 is granted;

2. That the Complaint of Mary Ellen Cameron against PECO Energy Company at Docket No. C-2017-2637820 is dismissed with prejudice; and

3. That the docket at Docket No. C-2017-2637820 be marked closed.

Date: June 28, 2018

\_\_\_\_\_/s/  
F. Joseph Brady  
Administrative Law Judge