

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|------------------------|---|----------------|
| Darius N. Vernon | : | |
| | : | |
| v. | : | C-2018-3001176 |
| | : | |
| Philadelphia Gas Works | : | |

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision grants Philadelphia Gas Works’ Motion to Dismiss the formal Complaint (Complaint) of Darius N. Vernon with prejudice because he failed to appear and prosecute the case.

HISTORY OF THE PROCEEDING

On April 13, 2018, Darius N. Vernon (Mr. Vernon or Complainant) filed a Complaint against Philadelphia Gas Works (Respondent or PGW) with the Pennsylvania Public Utility Commission (Commission) alleging that the utility is threatening to shut off his gas service, and that he is unable to pay his gas bills to PGW. As relief, Mr. Vernon requested that the Commission establish a payment arrangement on his behalf.

On May 7, 2018, Respondent filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated May 11, 2018, notified the parties that an initial hearing was scheduled in this matter for Thursday, June 14, 2018, at 9:30 a.m.

A Prehearing Order was issued on May 22, 2018, 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 June 14, 2018. Laureto Farinas, Esq., appeared representing PGW. Neither Complainant nor a counsel for the Complainant appeared at the hearing. The hearing convened after I confirmed that the Complainant had not called, or otherwise shown good cause not to appear at the scheduled hearing.

Counsel for PGW 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 on June 15, 2018.

FINDINGS OF FACT

1. The Complainant is Darius N. Vernon, whose mailing address is 314 W. Nedro Avenue, Philadelphia, PA 19120.
2. The Respondent is Philadelphia Gas Works.
3. On April 13, 2018, Mr. Vernon filed a formal Complaint against PGW alleging that the utility is threatening to shut off his gas service, and that he is unable to pay his gas bills to PGW.
4. As relief, Mr. Vernon requested that the Commission establish a payment arrangement on his behalf.

5. On May 7, 2018, the Respondent filed an Answer denying the material allegations of the Complaint.

6. A Hearing Notice dated May 11, 2018, notified the parties that an initial hearing was scheduled in this matter for Thursday, June 14, 2018, at 9:30 a.m.

7. A Prehearing Order issued on May 22, 2018, advised 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 in his Complaint were 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, Mr. Vernon alleged that PGW is threatening to shut off his gas service, and that he is unable to pay his gas bills to the utility. As relief, Mr. Vernon requested that the Commission establish a payment arrangement on his behalf. 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 Mr. Vernon at the address listed on his 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 his behalf. To date, there is no further information about the Complainant regarding this hearing. His failure to appear is unexcused.

Once notice of a hearing and the opportunity to be heard have 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. Mr. Vernon'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, Darius N. Vernon 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).

