

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bayyedah Abdul-Aziz	:	
	:	
v.	:	F-2018-2641720
	:	
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 Bayyedah Abdul-Aziz with prejudice because she failed to appear and prosecute the case.

HISTORY OF THE PROCEEDING

On January 8, 2018, Bayyedah Abdul-Aziz (Ms. Abdul-Aziz or Complainant) filed a Complaint against Philadelphia Gas Works (Respondent or PGW) with the Pennsylvania Public Utility Commission (Commission) alleging: that the utility has shut off her gas service; that there are incorrect charges on her bills from PGW; that she has a reliability, safety or quality problem with her gas service; and that she is unable to pay her gas bills. As relief, Ms. Abdul-Aziz requests that the Commission order PGW to accept payment of an amount determined by the account holder, inspect the gas equipment for accuracy, “never shut off service to [an] account that is being paid into,” and issue a payment arrangement on her behalf. Complaint ¶ 4.

The Complaint was filed as a timely appeal of the Commission's Bureau of Consumer Services (BCS) decision, at BCS Case # 3565056.

On January 30, 2018, Respondent filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated February 8, 2018, notified the parties that an initial hearing was scheduled in this matter for Tuesday, April 3, 2018, at 10:00 a.m.

A Prehearing Order was issued on March 9, 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.

On March 19, 2018, the Prehearing Order was returned to the Commission by the United States Postal Service, with the notation "Return to sender. Abdul-Aziz Bayyannah, 7728 Fayette Street, Philadelphia, Pa 19150-2232."

On the morning of April 3, 2018, Ms. Abdul-Aziz informed the Commission via telephone that she did not intend to attend the scheduled hearing. When I tried to call her back, my call was answered by a voice message that informed me that Ms. Abdul-Aziz's voice mail was full and not accepting further messages.

The hearing convened as scheduled on April 3, 2018. Laureto Farinas, Esq., appeared representing PGW. Neither Complainant nor a counsel for the Complainant appeared at the 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 April 26, 2018, upon receipt of my copy of the hearing transcript.

FINDINGS OF FACT

1. The Complainant is Bayyedah Abdul-Aziz.
2. The Respondent is Philadelphia Gas Works.
3. On January 8, 2018, Ms. Abdul-Aziz filed a formal Complaint against PGW alleging: that the utility has shut off her gas service; that there are incorrect charges on her bills from PGW; that she has a reliability, safety or quality problem with her gas service; and that she is unable to pay her gas bills.
4. As relief, Ms. Abdul-Aziz requested that the Commission order PGW to accept payment of an amount determined by the account holder, inspect the gas equipment for accuracy, “never shut off service to [an] account that is being paid into,” and issue a payment arrangement on her behalf. Complaint ¶ 4.
5. On January 30, 2018, the Respondent filed an Answer denying the material allegations of the Complaint.
6. A Hearing Notice dated February 8, 2018, notified the parties that an initial hearing was scheduled in this matter for Tuesday, April 3, 2018, at 10:00 a.m.
7. A Prehearing Order issued on March 9, 2018, advised the parties of the proper procedure to obtain a continuance to reschedule the hearing date.
8. On March 19, 2018, the Prehearing Order was returned to the Commission by the United States Postal Service as undeliverable.
9. On April 3, 2018, Ms. Abdul-Aziz informed the Commission via telephone that she did not intend to attend the scheduled hearing.

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

11. 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. Abdul-Aziz alleged: that the utility has shut off her gas service; that there are incorrect charges on her bills from PGW; that she has a reliability, safety or quality problem with her gas service; and that she is unable to pay her gas bills. As relief, Ms. Abdul-Aziz requests that the Commission order PGW to accept payment of an amount determined by the account holder, inspect the gas equipment for accuracy, “never shut off service to [an] account that is being paid into,” and issue a payment arrangement on her behalf. Complaint ¶ 4. 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. Abdul-Aziz at the address listed on her formal Complaint form. The Prehearing Order was returned to the Commission as undeliverable by the post office. However, on the morning of the scheduled hearing, Ms. Abdul-Aziz informed the Commission via telephone that she did not intend to attend the scheduled hearing. She did not elaborate of the reasons behind her decision. In view of this communication, I concluded that Ms. Abdul-Aziz had actual 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 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. Ms. Abdul-Aziz'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, Bayyedah Abdul-Aziz 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. Abdul-Aziz has failed to meet her burden of proving that she is entitled to the relief sought from the Commission.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of Philadelphia Gas Works to dismiss the formal Complaint of Bayyedah Abdul-Aziz at Docket No. F-2018-2641720 is granted.
2. That the formal Complaint filed by Bayyedah Abdul-Aziz against Philadelphia Gas Works at Docket No. F-2018-2641720 is dismissed with prejudice for failure to prosecute.
3. That the Secretary's Bureau should mark this matter closed.

Date: July 3, 2018

/s/
Eranda Vero
Administrative Law Judge