

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

John Jensen	:	
	:	
v.	:	C-2018-3001682
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

This Initial Decision grants PECO Energy Company’s Motion to Dismiss the formal Complaint of John Jensen with prejudice because he failed to appear and prosecute the case.

HISTORY OF THE PROCEEDING

On May 7, 2018, John Jensen (Mr. Jensen or Complainant) filed a formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO or Respondent) alleging: (1) that the utility is threatening to shut off his electric service; (2) that he is unable to pay his electricity bills to PECO; and (3) that PECO is holding him responsible for the outstanding balance of the former account holder at the service address. As relief, Mr. Jensen requested that the Commission establish a payment arrangement on his behalf and direct the Respondent to provide continuous service to the Complainant.

On May 23, 2018, PECO filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated May 30, 2018, notified the parties that an in-person initial hearing was scheduled for Wednesday, July 25, 2018, at 10:00 a.m.

A Prehearing Order was issued on June 25, 2018, advising the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

The hearing convened as scheduled on July 25, 2018. Shawane L. Lee, Esq., appeared representing PECO Energy Company. Neither Complainant nor a counsel for the Complainant appeared at the hearing. The hearing reconvened at approximately 10:13 a.m. after I confirmed that the Complainant had not called, or otherwise shown good cause not to appear at the scheduled hearing.

Counsel for PECO moved to dismiss the Complaint with prejudice for lack of prosecution. That Motion is granted pursuant to the ordering paragraphs below.

The record in this matter closed upon receipt of my copy of the hearing transcript on August 23, 2018.

FINDINGS OF FACT

1. The Complainant is John Jensen.
2. The Respondent is PECO Energy Company.
3. On May 7, 2018, John Jensen filed a formal Complaint against PECO alleging: (1) that the utility is threatening to shut off his electric service; (2) that he is unable to pay his electricity bills to PECO; and (3) that PECO is holding him responsible for the outstanding balance of the former account holder at the service address.

4. As relief, Mr. Jensen requested that the Commission establish a payment arrangement on his behalf and direct the Respondent to provide continuous service to the Complainant.

5. On May 23, 2018, PECO filed an Answer denying the material allegations of the Complaint.

6. A Hearing Notice dated May 30, 2018, notified the parties that an initial hearing was scheduled for Wednesday, July 25, 2018, at 10:00 a.m., and assigned the matter to me.

7. A Prehearing Order was issued on June 25, 2018, advising the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

8. None of the documents mailed to the Complainant at the address provided on his Complaint was 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. Jensen alleged: (1) that the utility is threatening to shut off his electric service; (2) that he is unable to pay his electricity bills to PECO; and (3) that PECO is holding him responsible for the outstanding balance of the former account holder at the service address. As relief, Mr. Jensen requested that the Commission establish a payment

arrangement on his behalf and direct the Respondent to provide continuous service to the Complainant.

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. Jensen 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 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. Mr. Jensen's Complaint will be dismissed with prejudice. 52 Pa.Code § 5.245(a); *Jefferson v. UGI Utilities, Inc.*, 1995 Pa. PUC LEXIS 159; *El-Ayazra v. West Penn Power Company*, Docket No. F-2015-250-2509292 (Opinion and Order entered June 30, 2016).

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, John Jensen 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); *Jefferson v. UGI Utilities, Inc.*, 1995 Pa. PUC LEXIS 159.

5. Mr. Jensen has failed to meet his burden of proving that he is entitled to the relief he is seeking from the Commission. *El-Ayazra v. West Penn Power Company*, Docket No. F-2015-250-2509292 (Opinion and Order entered June 30, 2016).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of PECO Energy Company to dismiss the formal Complaint of John Jensen at Docket No. C-2018-3001682 is granted.

2. That the formal Complaint filed by John Jensen against PECO Energy Company at Docket No. C-2018-3001682 is dismissed with prejudice for failure to prosecute.

3. That the Secretary's Bureau should mark this matter closed.

Date: October 9, 2018

/s/
Eranda Vero
Administrative Law Judge