

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tanya Reph Mack	:	
	:	
v.	:	C-2018-3002133
	:	
PPL Electric Utilities Corporation	:	

**INITIAL DECISION**

Before  
Benjamin J. Myers  
Administrative Law Judge

**INTRODUCTION**

This decision dismisses the complaint filed in this matter for failure of the Complainant to appear for the hearing and prosecute the complaint.

**HISTORY OF THE PROCEEDING**

On May 23, 2018, Tanya Reph Mack (Complainant) filed a complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (Respondent). The complaint alleges that the Complainant needs a more affordable payment arrangement as a result of having one income.

On June 12, 2018, the Respondent filed an answer to the complaint. The answer admitted or denied the various averments of the complaint but specifically denied that the Complainant was eligible for a more advantageous payment arrangement than the one already provided to the Complainant.

By notice dated June 18, 2018, the Commission scheduled this matter for an initial telephonic hearing on August 9, 2018 at 10:00 a.m. and assigned the case to me. A prehearing order was issued on June 19, 2018, addressing, inter alia, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

On August 6, 2018, the Office of Administrative Law Judge (OALJ) received correspondence from the Complainant requesting a continuance of the August 9, 2018 hearing. The Respondent did not object to this request.

By notice dated August 7, 2018, the August 9, 2018 initial telephonic hearing was cancelled and rescheduled for October 4, 2018.

The telephonic hearing was conducted on October 4, 2018 as scheduled. The Complainant failed to participate in the hearing. Additional time was given for the Complainant to call into the conference number to participate in the hearing; however, the Complainant never made contact.

Upon commencement of the hearing, Graig Schultz, Esquire, counsel for the Respondent, moved to dismiss the complaint for failure to appear and prosecute. The Respondent was advised that its motion would be taken under advisement.

The record closed on October 4, 2018, at the conclusion of the hearing. This decision grants the Respondent's motion to dismiss the complaint.

#### FINDINGS OF FACT

1. The Complainant in this case is Tanya Reph Mack.
2. The Respondent in this case is PPL Electric Utilities Corporation.

3. On May 23, 2018, the Complainant filed a complaint with the Commission against the Respondent.
4. The Respondent filed an answer to the complaint on June 12, 2018.
5. By notice dated June 18, 2018, the Commission scheduled this matter for an initial telephonic hearing on August 9, 2018 at 10:00 a.m.
6. This notice was sent to the Complainant by regular first-class mail to 3926 E Grant Street, Slatedale, PA 18079, the address stated on the complaint.
7. A prehearing order was issued to this same address on June 19, 2018 providing additional information to the parties regarding the hearing.
8. On August 6, 2018, the Complainant requested a continuance of the August 9, 2018 hearing.
9. The Respondent did not object to the continuance request and it was granted.
10. By notice dated August 7, 2018, the August 9, 2018 initial telephonic hearing was cancelled and rescheduled for October 4, 2018.
11. This notice was again sent to the Complainant's address stated on the complaint.
12. None of the correspondence sent to the Complainant was returned to the Office of Administrative Law Judge as being undeliverable by the postal authorities.
13. The Complainant failed to participate in the October 4, 2018 telephonic hearing.

## 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 telephonic hearing in this case to the Complainant on June 18, 2018, by regular first-class mail to the address stated on the complaint. This notice was never returned to OALJ as being undeliverable by the postal authorities.

A prehearing order was issued on June 19, 2018 which reminded the parties that they were to call into the conference telephone number provided to participate in the hearing. The prehearing order, which was also mailed to the Complainant at the address shown on the complaint, was never returned to OALJ as being undeliverable by the postal authorities.

A second notice was sent to the Complainant on August 7, 2018 which granted the Complainant's continuance request and rescheduled this matter for a telephonic hearing on October 4, 2018. This second notice was also mailed to the Complainant at the address shown on the complaint and was never returned to OALJ as being undeliverable by the postal authorities.

Given that none of the correspondence sent to the Complainant's address of record was ever returned as undeliverable, it must be presumed that this mail 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 call into the conference number on October 4, 2018 to participate in the hearing despite being given additional time to do so. 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 participate and proffer any evidence to support her complaint, the Complainant has failed to meet this burden. Under these circumstances, the complaint should be dismissed. 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 participate in 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).

