

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Yasmeen Pringle	:	
	:	
v.	:	C-2018-3002823
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the Complaint of Yasmeen Pringle against Philadelphia Gas Works because she failed to appear for her hearing and prosecute her Complaint.

**HISTORY OF THE PROCEEDING**

On June 13, 2018, Yasmeen Pringle (Complainant) filed a formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant placed checkmarks in 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 July 11, 2018, PGW filed an Answer denying all material allegations of fact in the Complaint. Further, PGW avers it terminated service to the Complainant on June 14, 2018 for defaulting on a payment agreement.

By Hearing Notice dated July 18, 2018, a hearing was scheduled for September 19, 2018, at 10:00 a.m., and the matter was assigned to me.

I issued a Prehearing Order on July 24, 2018. The Prehearing Order directed the parties to comply with various procedural requirements and directed that a request to change the scheduled hearing should be sent to me 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.

Due to administrative reasons, the September 19, 2018 hearing needed to be rescheduled. By Hearing Notice dated September 10, 2018, the hearing was rescheduled for November 5, 2018, at 10:00 a.m. The Hearing Notice 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 November 5, 2018, at 10:17 a.m., after affording the Complainant additional time to appear. Counsel for PGW 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. Counsel for PGW 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 December 13, 2018, upon my receipt of the transcript.

## FINDINGS OF FACT

1. The Complainant is Yasmeen Pringle.
2. The Respondent is Philadelphia Gas Works.
3. On June 13, 2018, the Complainant filed a Complaint with the Commission against the Respondent.
4. On July 11, 2018, the Respondent filed an Answer to the Complaint.
5. By Hearing Notice dated July 18, 2018, a hearing was scheduled for September 19, 2018 at 10:00 a.m.
6. On July 24, 2018, a Prehearing Order was sent to all parties containing, *inter alia*, a warning of potentially serious consequences if they failed to obtain a continuance and failed to attend the hearing.
7. Due to administrative reasons, the September 19, 2018 hearing needed to be rescheduled.
8. By Hearing Notice dated September 10, 2018, the hearing was rescheduled for November 5, 2018, at 10:00 a.m.
9. The Hearing Notice 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.*”
10. The Hearing Notices and the Prehearing Order were sent to the Complainant by regular first-class mail.

11. None of the documents mailed to the Complainant were returned as undeliverable.
12. The Complainant failed to appear at the November 5, 2018 hearing.
13. 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.

On September 10, 2018, the Commission sent notice of the initial hearing in this case to the Complainant by regular first-class mail. The Hearing Notice 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.*” In addition, I issued a Prehearing Order on July 24, 2018, which, *inter alia*, warned both parties of potentially serious consequences if they failed to obtain a continuance and failed to attend the hearing. To my knowledge, none of the documents mailed to the Complainant were returned as undeliverable. 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.*, 449 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. Notice properly mailed to a party's last known address and not returned by the post office is presumed to have been received. *Berkowitz v. Mayflower Securities, Inc.*, 317 A.2d 584 (Pa. 1974); *Meirerdierck v. Miller*, 147 A.2d 406 (Pa. 1959); *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. 1997); *Judge v. Celina Mutual Insurance Co.*, 449 A.2d 658 (Pa. Super. 1982).
3. 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).
4. 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 Philadelphia Gas Works to dismiss the Complaint filed by Yasmeen Pringle at Docket No. C-2018-3002823 is granted;
2. That the Complaint of Yasmeen Pringle against Philadelphia Gas Works at Docket No. C-2018-3002823 is dismissed with prejudice; and
3. That Docket No. C-2018-3002823 be marked closed.

Date: January 16, 2019

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/s/  
F. Joseph Brady  
Administrative Law Judge