

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kiana Jones	:	
	:	
v.	:	C-2018-3003195
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision grants PECO Energy Company’s Motion to Dismiss the formal Complaint (Complaint) of Kiana Jones with prejudice because she failed to appear and prosecute the case.

HISTORY OF THE PROCEEDING

On July 5, 2018, Kiana Jones (Ms. Jones or Complainant) filed a formal Complaint (Complaint) against PECO Energy Company (PECO or Respondent) alleging that the utility is threatening to shut off her electric service and there are incorrect charges on her bills from PECO. As relief, the Complainant requests that the Commission investigate the matter on her behalf.

On July 25, 2018, PECO filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

A Corrected Hearing Notice dated August 13, 2018, notified the parties that an initial hearing was scheduled in this matter for Tuesday, October 2, 2018, at 10:00 a.m. A Prehearing Order dated September 10, 2018, reminded the parties of the date and time of the scheduled hearing, informed them of the procedures applicable to this proceeding, and directed the submission of documents prior to the hearing.

Due to a conflict in my schedule, the October 2, 2018 hearing was rescheduled for October 24, 2018. A Hearing Cancellation/Reschedule Notice dated August 31, 2018, notified the parties that an initial hearing was scheduled in this matter for Wednesday, October 24, 2018, at 10:00 a.m.

The hearing convened as scheduled on October 24, 2018. Shawane Lee, Esq. appeared representing PECO. Neither Complainant nor a counsel for the Complainant appeared at the hearing. The hearing convened at approximately 10:23 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 was closed upon receipt of the hearing transcript on December 10, 2018.

FINDINGS OF FACT

1. The Complainant is Kiana Jones, whose mailing address is 107 S. 4th Street, 1st Floor, Darby, PA 19023.
2. The Respondent is PECO Energy Company.
3. On July 5, 2018, Ms. Jones filed a Complaint against PECO alleging that the utility is threatening to shut off her electric service and there are incorrect charges on her bills from PECO.

4. As relief, the Complainant requests that the Commission investigate the matter on her behalf.

5. On July 25, 2018, the Respondent filed an Answer denying the material allegations of the Complaint.

6. A Corrected Hearing Notice dated August 13, 2018, notified the parties that an initial hearing was scheduled in this matter for Tuesday, October 2, 2018, at 10:00 a.m.

7. A Prehearing Order was issued on September 10, 2018, reminding 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. A Hearing Cancellation/Reschedule Notice dated August 31, 2018, notified the parties that an initial hearing was rescheduled in this matter for Wednesday, October 24, 2018, at 10:00 a.m.

9. None of the documents mailed to Complainant at the address provided in her Complaint were returned to the Commission by the United States Postal Service as undeliverable.

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 her formal Complaint, Ms. Jones alleged that PECO is threatening to shut off her electric service and there are incorrect charges on her bills from the Respondent. As relief, the Complainant requests that the Commission investigate the matter on her 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 Corrected Hearing Notice, a Prehearing Order, and a Hearing Cancellation/Reschedule Notice were mailed to Ms. Jones at the address listed on her formal Complaint form. None of these documents 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 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. *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. Jones's Complaint will be dismissed with prejudice. 52 Pa.Code § 5.245(a); *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, Kiana Jones had the burden of proof. 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. Ms. Jones 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 PECO Energy Company to dismiss the formal Complaint of Kiana Jones at Docket No. C-2018-3003195 is granted.

2. That the formal Complaint filed by Kiana Jones against PECO Energy Company at Docket No. C-2018-3003195 is dismissed with prejudice for failure to prosecute.

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

Date: March 4, 2019

_____/s/
Eranda Vero
Administrative Law Judge