

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Susan Bollinger

v.

PPL Electric Utilities Corporation

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F-2019-3007059

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 January 10, 2019, Susan Bollinger (Complainant) filed a complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (Respondent). The complaint alleges that a mix up occurred at her apartment with respect to her electric meter. As a result, she did not receive an electric bill for a period of several months after moving there. After the mix up was rectified, she then received a large electric bill for that period of time and felt that she should not owe the outstanding balance for her account.

On January 31, 2019 the Respondent filed an answer to the complaint. The answer admitted or denied the various averments of the complaint. The Respondent admitted that an issue with the Complainant's account had occurred because a meter had not been

assigned to her account when she moved which prevented her from initially receiving a bill. However, the Respondent indicated that once the issue had been resolved the Complainant had been offered a payment agreement for her outstanding balance.

By notice dated February 1, 2019 the Commission scheduled this matter for an initial telephonic hearing on March 11, 2019 at 10:00 a.m. and assigned the case to me. A prehearing order was issued on February 5, 2019, addressing, inter alia, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

None of the correspondence sent to the Complainant by the Office of Administrative Law Judge was returned as undeliverable by the postal authorities.

The telephonic hearing was conducted as scheduled on March 11, 2019. 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 March 11, 2019, at the conclusion of the hearing. The Complainant has had no communication with the Office of Administrative Law Judge subsequent to the hearing in this matter. This decision grants the Respondent's motion to dismiss the complaint.

FINDINGS OF FACT

1. The Complainant in this case is Susan Bollinger.

2. The Respondent in this case is PPL Electric Utilities Corporation.
3. The Complainant's service address is 171 Main Street, Second Floor, Parryville, Pennsylvania.
4. On January 10, 2019, the Complainant filed a complaint with the Commission against the Respondent.
5. The Respondent filed an answer to the complaint on January 31, 2019.
6. By notice dated February 1, 2019 the Commission scheduled this matter for an initial telephonic hearing on March 11, 2019 at 10:00 a.m.
7. This notice was sent to the Complainant's correct address of record and was not returned as undeliverable by the postal authorities.
8. On February 5, 2019 a prehearing order was issued to the Complainant at this same address and was not returned as undeliverable by the postal authorities.
9. The Complainant failed to participate in the March 11, 2019 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 February 1, 2019 by regular first-class mail to the Complainant's address of

record. This notice was never returned to the Commission as being undeliverable by the postal authorities.

A prehearing order was issued on February 5, 2019 which provided the parties with information on how to participate in a hearing by telephone. The prehearing order, which was again mailed to the Complainant at her address of record, was never returned 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., 449 A.2d 658 (Pa.Super. 1982).

The Complainant did not call into the conference number on March 11, 2019 to participate in the hearing despite being given additional time to do so. The Complainant has had a full and fair opportunity to appear and be heard in this proceeding; however, she has chosen not to do so. 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).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion of PPL Electric Utilities Corporation to dismiss the complaint for failure to prosecute is granted.

2. That the complaint of Susan Bollinger against PPL Electric Utilities Corporation at Docket No. F-2019-3007059 is dismissed for failure of the Complainant to appear for the hearing and prosecute the complaint.

3. That the docket at Docket No. F-2019-3007059 is marked closed.

Date: May 1, 2019

/s/
Benjamin J. Myers
Administrative Law Judge