

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Roslyn Wrotten	:	
	:	
v.	:	F-2019-3008245
	:	
Philadelphia Gas Works	:	
(Complaint Appellant)	:	

INITIAL DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Initial Decision sustains the appeal of Philadelphia Gas Works from the Pennsylvania Public Utility Commission’s Bureau of Consumer Services’ decision at BCS Case No. 3607056 and vacates said decision with prejudice because Roslyn Wrotten failed to appear for her hearing and prosecute her informal Complaint.

HISTORY OF THE PROCEEDING

On April 24, 2018, Roslyn Wrotten (Ms. Wrotten or Complainant) filed an informal complaint against Philadelphia Gas Works (PGW or the Company) with the Commission's Bureau of Consumer Services (BCS), which was docketed at BCS Case No. 3607056. On December 28, 2018, the BCS issued a decision finding that PGW cannot require Ms. Wrotten to satisfy Customer Responsibility Program (CRP) arrears incurred by another resident before enrolling Ms. Wrotten in the CRP.

On February 21, 2019, PGW timely filed the present formal Complaint appealing the BCS decision. Specifically, PGW alleged that when Ms. Wrotten established service at the Service Address, she was already linked to the Service Address; therefore, she assumed the outstanding CRP arrears of the previous customer of record. As a result, PGW alleged that the BCS was wrong to remove the requirement that Ms. Wrotten pay off the outstanding CRP arrears in order to enroll in the CRP herself. As relief, PGW requested that the Commission overturn the BCS decision at BCS Case No. 3607056 and find that Ms. Wrotten is required to pay the outstanding CRP arrears in order to enroll in CRP.

Ms. Wrotten did not file an Answer.

By Hearing Notice¹ dated April 4, 2019, a hearing was scheduled for May 13, 2019, at 10:00 a.m., and assigned to the undersigned Administrative Law Judge (ALJ) as the presiding officer. 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 undersigned issued a Prehearing Order on April 10, 2019. 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

¹ Please note, on the Hearing Notice, this case is incorrectly captioned as “Philadelphia Gas Works v. Roslyn Wrotten.” This is an appeal from an informal decision by the Bureau of Consumer Services. 52 Pa. Code § 56.403(c) states:

(c) Captions. The parties to a review will be stated in the caption as they stood upon the record of the informal complaint proceeding. If the party requesting review is a utility, the phrase “Complaint Appellant” will be added after its name.

Accordingly, this Initial Decision includes an ordering paragraph that corrects the caption to read “Roslyn Wrotten v. Philadelphia Gas Works (Complaint Appellant).”

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.

The hearing convened on May 13, 2019, at 10:00 a.m., as scheduled. Counsel for PGW was present with a witness and was prepared to proceed. Ms. Wrotten was not present. Consistent with the practice of the undersigned, the hearing recessed for approximately 15 minutes to provide Ms. Wrotten with more time to appear. The hearing reconvened at approximately 10:16 a.m. and Ms. Wrotten was still absent. No witnesses were presented, and no exhibits were introduced into the record. Counsel for PGW moved to dismiss Ms. Wrotten's informal Complaint with prejudice for failure to prosecute and vacate the BCS decision at BCS Case No. 3607056.

The record closed on May 30, 2019, upon receipt of the transcript by the undersigned.

FINDINGS OF FACT

1. The Complainant is Roslyn Wrotten.
2. The Respondent and Complaint-Appellant is Philadelphia Gas Works, a jurisdictional public utility.
3. On April 24, 2018, Ms. Wrotten filed an informal complaint at BCS Case No. 3607056.
4. On December 28, 2018, the BCS issued a decision finding that PGW cannot require Ms. Wrotten to satisfy CRP arrears incurred by another customer of record before enrolling Ms. Wrotten in the CRP.
5. On February 21, 2019, PGW filed an appeal to the BCS' decision alleging that when Ms. Wrotten established service at the Service Address, she was already linked to the

Service Address and, therefore, she assumed the outstanding CRP arrears of the previous customer of record.

6. PGW requested that the Commission overturn the BCS decision at BCS Case No. 3607056 and find that Ms. Wrotten is required to pay the outstanding CRP arrears in order to enroll in CRP.

7. Ms. Wrotten did not file an Answer.

8. By Hearing Notice dated April 4, 2019, an initial hearing was scheduled for May 13, 2019, at 10:00 a.m.

9. The Hearing Notice advised the parties of the date, time, and location of the scheduled hearing and warned in 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. On April 10, 2019, 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.

11. All Hearing Notices and Orders were sent to the parties by regular first-class mail.

12. None of the documents mailed to Ms. Wrotten were returned as undeliverable.

13. Ms. Wrotten failed to appear at the May 13, 2019, 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.

On April 4, 2019, 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 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 April 10, 2019, 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 Ms. Wrotten 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).

Ms. Wrotten did not appear for the hearing and has not contacted the Commission since the date of the hearing to explain her failure to attend. Under these circumstances, Ms. Wrotten has had ample opportunity to appear and be heard in this proceeding. Therefore, the due process rights of Ms. Wrotten 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, a timely appeal from an informal decision of the BCS is reviewed *de novo*. 52 Pa. Code §§ 56.173(a). *De novo* means that there is no part of the record in the informal proceeding that can be relied upon in the formal proceeding.

In a *de novo* appeal from a decision of the BCS, the burden of proof remains with the party who filed the original informal complaint, except for legal or policy issues raised by the utility on appeal. *See* 52 Pa. Code § 56.173(f). Thus, as the party who filed the original informal complaint, Ms. Wrotten bears the burden of proving that she is entitled to the requested relief. *Id.* By failing to appear and proffer any evidence to support her Complaint, Ms. Wrotten has failed to meet this burden.

Based on the foregoing, the appeal of PGW shall be sustained and the decision of the BCS at Case No. 3607056 shall be vacated with prejudice.

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 parties to a review will be stated in the caption as they stood upon the record of the informal complaint proceeding. If the party requesting review is a utility, the phrase “Complaint Appellant” will be added after its name. 52 Pa. Code § 56.403(c).
3. 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).

4. 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).

5. A timely appeal from an informal decision of the BCS is reviewed *de novo*. 52 Pa. Code § 56.173(a).

6. In a *de novo* appeal from a decision of the BCS, the burden of proof remains with the party who filed the original informal complaint, except for legal or policy issues raised by the utility on appeal; thus, Ms. Wrotten bears the burden of proving that she is entitled to the requested relief. 52 Pa. Code § 56.173(f).

7. By failing to appear for the hearing and proffer any evidence to support the Complaint, the Ms. Wrotten 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 original caption of “Philadelphia Gas Works v. Roslyn Wrotten” at Docket No. F-2019-3008245 is hereby changed to “Roslyn Wrotten v. Philadelphia Gas Works (Complaint Appellant)” at the same Docket;

2. That the Complaint of Philadelphia Gas Works at Docket No. F-2019-3008245 is sustained.;

