

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kenyatta Jefferson	:	
	:	
v.	:	C-2019-3010444
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision grants Philadelphia Gas Works’ Motion to Dismiss the formal Complaint (Complaint) of Kenyatta Jefferson with prejudice because she failed to appear for the hearing and prosecute the case.

HISTORY OF THE PROCEEDING

On June 6, 2019, Kenyatta Jefferson (Ms. Jefferson or Complainant) filed a Complaint against Philadelphia Gas Works (Respondent or PGW) with the Pennsylvania Public Utility Commission (Commission) alleging that the utility is threatening to shut off her gas service, that the utility is charging her for services she did not use, and that she is unable to make payments on her current payment arrangement. As relief, Ms. Jefferson requested that the Commission establish a more affordable payment arrangement on her behalf.

On July 1, 2019, Respondent filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated July 15, 2019, notified the parties that an initial hearing was scheduled in this matter for Friday, August 16, 2019, at 10:00 a.m. and the matter was assigned to Administrative Law Judge Francis Brady.

A Prehearing Order was issued on July 17, 2019, advising the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to the proceeding, and directing the submission of documents prior to the hearing.

On July 24, 2019, the Respondent filed a Motion for Continuance in order to have more time to pursue a possible settlement. Counsel for PGW, Graciela Christlieb, Esq., represented that the Complainant, Kenyatta Jefferson, had no objection to this request.

An Order dated July 25, 2019, granted the Respondent's Motion for Continuance of the scheduled hearing.

By Hearing Reschedule/Judge Change Notice the evidentiary hearing was rescheduled for September 19, 2019, at 10:00 a.m. and the matter was assigned to me.

A second Prehearing Order was issued on September 6, 2019, advising the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to the proceeding, and directing the submission of documents prior to the hearing.

The hearing convened as scheduled on September 19, 2019. Graciela Christlieb, Esq., appeared representing PGW. Neither Complainant nor a counsel for the Complainant appeared at the hearing. The hearing reconvened at approximately 10:30 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 PGW 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 October 2, 2019.

FINDINGS OF FACT

1. The Complainant is Kenyatta Jefferson, whose mailing address is 3819 Patrician Drive, Philadelphia, PA 19154.
2. The Respondent is Philadelphia Gas Works.
3. On June 6, 2019, Ms. Jefferson filed a Complaint against PGW alleging that the utility is threatening to shut off her gas service, that the utility is charging her for services she did not use, and that she is unable to make payments on her current payment arrangement.
4. As relief, Ms. Jefferson requested that the Commission establish a more affordable payment arrangement on her behalf.
5. On July 1, 2019, the Respondent filed an Answer denying the material allegations of the Complaint.
6. A Hearing Notice dated July 15, 2019, notified the parties that an initial hearing was scheduled in this matter for Friday, August 16, 2019, at 10:00 a.m.
7. A Prehearing Order was issued on July 17, 2019, advising the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to the proceeding, and directing the submission of documents prior to the hearing.
8. On July 24, 2019, the Respondent requested and was granted a continuance of the scheduled hearing for good cause shown.

9. A Hearing Reschedule/Judge Change Notice dated July 31, 2019, notified the parties that the new hearing was rescheduled to take place on September 19, 2019, at 10:00 a.m., and that the matter was assigned to me.

10. A second Prehearing Order was issued on September 6, 2019, advising the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to the proceeding, and directing the submission of documents prior to the hearing.

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

12. The Complainant failed to appear at the scheduled hearing.

13. The Complainant did not settle or withdraw this Complaint prior to the scheduled hearing date or obtain a continuance.

DISCUSSION

In this formal Complaint, Ms. Jefferson alleged that the utility is threatening to shut off her gas service, that the utility is charging her for services she did not use, and that she is unable to make payments on her current payment arrangement. As relief, Ms. Jefferson requested that the Commission establish a more affordable payment arrangement 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.Cmwlt. 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 Hearing Notice dated July 15, 2019, a Prehearing Order dated July 17, 2019, an Order dated July 25, 2019, a Hearing Reschedule/Judge Change Notice dated July 31, 2019, and a second Prehearing Order dated September 6, 2019, were all mailed to Ms. Jefferson 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. Jefferson'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, Kenyatta Jefferson had the burden of proof and failed to carry that burden. 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. Jefferson has failed to meet her burden of proving that she is eligible to the relief sought from the Commission.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of Philadelphia Gas Works to dismiss the formal Complaint of Kenyatta Jefferson at Docket No. C-2019-3010444 is granted.

2. That the formal Complaint filed by Kenyatta Jefferson against Philadelphia Gas Works at Docket No. C-2019-3010444 is dismissed with prejudice for failure to prosecute.

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

Date: October 10, 2019

_____/s/_____
Eranda Vero
Administrative Law Judge