

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|------------------------|---|----------------|
| Imani Jackson | : | |
| | : | |
| v. | : | C-2019-3010056 |
| | : | |
| 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 Imani Jackson with prejudice because she failed to appear and prosecute the case.

HISTORY OF THE PROCEEDING

On May 20, 2019, Imani Jackson (Ms. Jackson or Complainant) filed a Complaint against Philadelphia Gas Works (Respondent or PGW) with the Pennsylvania Public Utility Commission (Commission) alleging that the utility is improperly holding her responsible for the outstanding balance accumulated by her father. As relief, Ms. Jackson seeks the Commission's assistance in limiting her responsibility to the portion of the outstanding balance accumulated when she resided at the service address and an affordable payment arrangement to retire that balance.

On June 10, 2019, Respondent filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated June 12, 2019, notified the parties that an initial hearing was scheduled in this matter for Tuesday, August 13, 2019, at 10:00 a.m.

A Prehearing Order was issued on June 26, 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 August 13, 2019. Graciela Christlieb, Esq., appeared representing PGW. Neither Complainant nor a counsel for the Complainant appeared at the hearing. The hearing reconvened at approximately 10:16 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 September 4, 2019.

FINDINGS OF FACT

1. The Complainant is Imani Jackson, whose mailing address is 8632 Providence Street, Philadelphia, PA 19150.
2. The Respondent is Philadelphia Gas Works.
3. On May 20, 2019, Ms. Jackson filed a Complaint against PGW alleging that the utility is improperly holding her responsible for the outstanding balance accumulated by her father.
4. As relief, Ms. Jackson seeks the Commission's assistance in limiting her responsibility to the portion of the outstanding balance accumulated when she resided at the service address and an affordable payment arrangement to retire that balance.

5. On June 10, 2019, the Respondent filed an Answer denying the material allegations of the Complaint.

6. A Hearing Notice dated June 12, 2019, notified the parties that an initial hearing was scheduled in this matter for Tuesday, August 13, 2019, at 10:00 a.m.

7. A Prehearing Order was issued on June 26, 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. The Hearing Notice and the Prehearing Order advised the parties that they may lose their case if they fail to appear at the scheduled hearing

9. 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.

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 this formal Complaint, Ms. Jackson alleged that PGW is improperly holding her responsible for the outstanding balance accumulated by her father. As relief, Ms. Jackson seeks the Commission's assistance in limiting her responsibility to the portion of the outstanding balance accumulated when she resided at the service address and an affordable payment arrangement to retire that balance.

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 Hearing Notice dated June 12, 2019, and a Prehearing Order dated June 26, 2019, were mailed to Ms. Jackson at the address listed on her formal Complaint form. Both documents advised the parties that they may lose their case if they fail to appear at the scheduled hearing. 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. *Berkowitz v. Mayflower Securities, Inc.*, 455 Pa. 531, 317 A.2d 584 (1974); *Meierdierck v. Miller*, 394 Pa. 484, 147 A.2d 406 (1959); *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. 1997); *Judge v. Celina Mutual Insurance Co.*, 303 Pa. Super. 221, 449 A.2d 658 (1982). 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. Jackson's Complaint will be dismissed with prejudice. 52 Pa.Code § 5.245(a); *Jackson 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, Imani Jackson 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); *Jackson v. UGI Utilities, Inc.*, 1995 Pa. PUC LEXIS 159.

5. Ms. Jackson 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 Philadelphia Gas Works to dismiss the formal Complaint of Imani Jackson at Docket No. C-2019-3010056 is granted.

2. That the formal Complaint filed by Imani Jackson against Philadelphia Gas Works at Docket No. C-2019-3010056 is dismissed with prejudice for failure to prosecute.

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

Date: November 12, 2019

_____/s/
Eranda Vero
Administrative Law Judge