

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rhyeshona Strickland	:	
	:	
v.	:	C-2019-3009391
	:	
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 Rhyeshona Strickland with prejudice because she failed to appear for the scheduled hearing and prosecute the case.

**HISTORY OF THE PROCEEDING**

On April 16, 2019, Rhyeshona Strickland (Ms. Strickland 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 unauthorized usage of gas at her residence. As relief, Ms. Strickland sought the Commission’s assistance in removing any charges related to the unauthorized usage of gas and in restoring gas service at her residence.

On May 15, 2019, Respondent filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated May 22, 2019, notified the parties that an initial hearing was scheduled in this matter for Thursday, June 27, 2019, at 10:00 a.m.

A Prehearing Order was issued on June 5, 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 the day of the hearing, the parties were offered the opportunity to engage in settlement discussions, at the conclusion of which the parties made a joint request to continue the hearing in order to allow further discovery on the matter. Their request was granted and by Hearing Notice dated September 9, 2019, the parties were notified that the initial hearing in this matter was rescheduled for Thursday, October 24, 2019, at 10:00 a.m.

A second Prehearing Order was issued on September 13, 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 October 24, 2019. Laureto Farinas, Esq., appeared representing PGW. Neither Complainant nor a counsel for the Complainant appeared at the hearing. The hearing reconvened at approximately 10:22 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 November 7, 2019.

## FINDINGS OF FACT

1. The Complainant is Rhyeshona Strickland, whose mailing address is 808 Kenmore Road, Philadelphia, PA 19151.

2. The Respondent is Philadelphia Gas Works.

3. On April 16, 2019, Ms. Strickland filed a Complaint against PGW alleging that the utility is improperly holding her responsible for unauthorized usage of gas at her residence.

4. As relief, Ms. Strickland seeks the Commission's assistance in removing any charges related to the unauthorized usage of gas and in restoring gas service at her residence.

5. On May 15, 2019, the Respondent filed an Answer denying the material allegations of the Complaint.

6. A Hearing Notice dated May 22, 2019, notified the parties that an initial hearing was scheduled in this matter for Thursday, June 27, 2019, at 10:00 a.m.

7. A Prehearing Order was issued on June 5, 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 June 27, 2019, the parties made a joint request to continue the hearing in order to allow further discovery on the matter.

9. A Hearing Notice dated September 9, 2019, notified the parties that the initial hearing was rescheduled for Thursday, October 24, 2019, at 10:00 a.m.

10. A second Prehearing Order was issued on September 13, 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. The Hearing Notices and the Prehearing Orders advised the parties that they may lose their case if they fail to appear at the scheduled hearing

12. 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.

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

14. 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. Strickland alleged that PGW was improperly holding her responsible for unauthorized usage of gas at her residence. As relief, Ms. Strickland sought the Commission's assistance in removing any charges related to the unauthorized usage of gas and in restoring gas service at her residence.

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 September 9, 2019, and a Prehearing Order dated September 13, 2019, were mailed to Ms. Strickland at the address listed on her formal Complaint form.<sup>1</sup> 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. Strickland's Complaint will be dismissed with prejudice. 52 Pa.Code § 5.245(a); *Strickland 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.

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<sup>1</sup> A prior Hearing Notice dated May 22, 2019, and a Prehearing Order dated June 5, 2019, mailed to the same address, were received by Ms. Strickland as evidenced by her appearance for the June 27, 2019 hearing.

2. As the Complainant, Rhyeshona Strickland 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); *Strickland v. UGI Utilities, Inc.*, 1995 Pa. PUC LEXIS 159.

5. Ms. Strickland 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 Rhyeshona Strickland at Docket No. C-2019-3009391 is granted.

2. That the formal Complaint filed by Rhyeshona Strickland against Philadelphia Gas Works at Docket No. C-2019-3009391 is dismissed with prejudice for failure to prosecute.

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

Date: January 23, 2020

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Eranda Vero  
Administrative Law Judge