

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                        |   |                |
|------------------------|---|----------------|
| Stephanie Crummel      | : |                |
|                        | : |                |
| v.                     | : | F-2019-3012020 |
|                        | : |                |
| Duquesne Light Company | : |                |

**INITIAL DECISION**

Before  
Katrina L. Dunderdale  
Administrative Law Judge

**INTRODUCTION**

The undersigned grants Respondent’s oral Motion to Dismiss a Formal Complaint with prejudice because Complainant failed to appear at the initial hearing and prosecute the case.

**HISTORY OF THE PROCEEDING**

On July 30, 2019, Stephanie Crummel (Complainant or Ms. Crummel) filed a Formal Complaint against Duquesne Light Company (Respondent or Duquesne Light) with the Public Utility Commission (Commission) alleging there were incorrect charges on her bills and Respondent did not give her credit for all the payments made on the account. Ms. Crummel asked the Commission to verify how payments were credited to her account and figure out why her bills were so high.<sup>1</sup>

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<sup>1</sup> On December 10, 2019, the Presiding Officer issued the Interim Order Directing Complainant to Produce Protection From Abuse Order. Ms. Crummel’s original filing indicated both “yes” and “no” to whether there was a PFA Order in place. It was unclear if the PFA Order remained in effect. Ms. Crummel was directed to provide a true and correct copy of the Court-issued PFA Order that was currently in effect on or before January 7, 2020. Complainant did not respond to the Interim Order or provide a copy of a current PFA Order. At the hearing, the Presiding Officer indicated Complainant’s address would no longer be obscured on the Commission’s documents.

Respondent filed an Answer on August 26, 2019. Respondent denied all material allegations, averred the total account balance was \$2,444.15 and averred Respondent did not provide Complainant with electric service at the time of filing. Duquesne Light averred the charges on Complainant's billing statements are were correct and the Formal Complaint should be dismissed with prejudice.

On December 5, 2019, the Commission's Office of Administrative Law Judge nitial Call-In Telephonic Hearing on Thursday, January 23, 2020, at 10:00 a.m. and sent the Notice to Complainant and Respondent. On December 6, 2019, the Presiding Officer issued a Prehearing Order, which was mailed to both Parties and which specified how and when the Parties could request a continuance in writing.

The time and date of the hearing on January 23, 2020, was included in the hearing notice, dated December 5, 2019 and in the Prehearing Order, dated December 6, 2019. The hearing notice and Prehearing Order specified how to call into the hearing on the scheduled day and at the scheduled time. The hearing notice and the Prehearing Order stated in bold, underlined print that the case would be dismissed if Complainant failed to call into the hearing.

The Presiding Officer attempted to convene the telephonic hearing as scheduled on January 23, 2020, at 10:03 a.m. Complainant failed to appear for the hearing, but Duquesne Light was present and prepared to present its evidence along with the testimony of one witness: Lyndee Ramsey. Duquesne Light averred its last attempt to speak with Complainant prior to the hearing was on January 17, 2020 and two electronic mail messages were sent to Complainant on December 10, 2019 and December 13, 2019.

At 10:07 a.m., the Presiding Officer called a recess until 10:15 a.m. in order to ascertain if Ms. Crummel had called or sent any form of communication explaining her absence and/or requesting a continuance. The Presiding Officer went back on the record at 10:15 a.m., at which time Ms. Crummel continued to be absent. The Presiding Officer advised Respondent's counsel that Complainant had not contacted the Presiding Officer's office to request a continuance or explain her absence.

Counsel for Respondent made an oral Motion to Dismiss with prejudice due to Complainant's failure to appear to prosecute her complaint and for her failure to meet the burden of proof. Counsel averred Complainant's current account balance was \$2,444.15.

The Presiding Officer noted on the record the Motion to Dismiss would be taken under advisement. The hearing concluded at 10:19 a.m. The hearing record closed on January 23, 2020, upon the conclusion of the telephonic hearing.

### FINDINGS OF FACT

1. Complainant, Stephanie Crummel, listed her residence on the Formal Complaint as 6113 Carver Street, Pittsburgh, Pennsylvania 15206 (service address).
2. Respondent, Duquesne Light Company, is an electric distribution company which provided electric service at the service address in Complainant's name.
3. The hearing notice dated December 5, 2019, and the Prehearing Order dated December 6, 2019, were sent to the address provided by Stephanie Crummel in the Formal Complaint and were not returned as undeliverable.
4. Stephanie Crummel was not present and did not participate in the hearing.
5. Respondent was ready to proceed with its witness at the date and time scheduled for the hearing.
6. Complainant did not contact the Presiding Officer or the Commission to request a continuance.

## DISCUSSION

Pursuant to Section 332(a) of the Public Utility Code, 66 Pa.C.S.A. § 332(a), the burden of proof is on the proponent of a rule or order. In this proceeding, Ms. Crummel, as the Complainant, is the proponent of a rule or order. Therefore, Stephanie Crummel bears the burden of proving by a preponderance of the evidence that Respondent violated the Public Utility Code or a regulation or order of the Commission.<sup>2</sup> Ms. Crummel must show the utility is responsible or accountable for the problem described in the Complaint.<sup>3</sup> 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 provided with notice and the opportunity to appear and be heard.<sup>4</sup>

Ms. Crummel did not appear at the time scheduled for the hearing, and she did not participate in the hearing. The date, time and location of the hearing were listed in the hearing notice, dated December 5, 2019 and in the Prehearing Order, dated December 6, 2019.

The Office of Administrative Law Judge mailed both the hearing notice and the Prehearing Order to Complainant at the address Ms. Crummel provided in the Formal Complaint. Once notice of a hearing and the opportunity to be heard was provided, it was the responsibility of Ms. Crummel to appear and participate in the hearing.<sup>5</sup> If Ms. Crummel could not appear, for any reason, then it was the responsibility of Ms. Crummel to notify the Presiding Officer immediately about the impediment or dilemma.

Section 332(f) of the Public Utility Code, 66 Pa.C.S.A. § 332(f), provides in pertinent part:

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<sup>2</sup> *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

<sup>3</sup> *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. PUC 300 (1976).

<sup>4</sup> *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa.Cmwlth. 1984).

<sup>5</sup> *Sentner v. Bell Telephone Co. of Pennsylvania*, Docket No. F-00161106 (Order entered October 25, 1993); *Mumma v. PPL Electric Utilities Corporation*, Docket No. C-00014869 (Order entered January 24, 2002).

Any party who shall fail to be represented at a scheduled conference or hearing after being duly notified thereof, shall be deemed to have waived the opportunity to participate in such conference or hearing, and shall not be permitted thereafter to reopen the disposition of any matter accomplished thereat...

Since Ms. Crummel did not appear or participate in the hearing, despite receiving notice of the date and time of the hearing, the hearing was held in accordance with 66 Pa.C.S.A. § 332(f) and 52 Pa.Code § 5.245. Respondent's attorney moved to dismiss the Complaint with prejudice for failure to appear. Respondent's motion was taken under advisement.

The hearing record closed on January 23, 2020, pursuant to 52 Pa.Code § 5.431(a) and (b) which provides:

(a) The record will be closed at the conclusion of the hearing unless otherwise directed by the Presiding Officer or the Commission.

(b) After the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the Presiding Officer or the Commission upon motion.

In this proceeding, Ms. Crummel did not call into the hearing as specified in the hearing notice and Prehearing Order. The hearing notice and Prehearing Order clearly indicated Complainant was to call. These documents provided Complainant with the Commission's toll-free conference bridge number and PIN number. The hearing notice and Prehearing Order also provided an address where Ms. Crummel could reach the Presiding Officer if a continuance request and/or additional information was needed prior to the hearing. The hearing notice provided a telephone number and a facsimile number for the office of the Presiding Officer if Complainant needed to request a continuance.

Ms. Crummel did not contact the Presiding Officer or the Office of Administrative Law Judge to explain her absence or ask for a continuance. Complainant failed to take advantage of the opportunity provided in which to appear and prosecute the Formal

Complaint against Respondent by presenting evidence to support the allegations. As a result, Complainant failed to sustain the burden of proof. Accordingly, Respondent's oral Motion to Dismiss the Formal Complaint will be granted, and Ms. Crummel's Complaint will be dismissed in the Ordering Paragraphs below.<sup>6</sup>

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter in this proceeding. 66 Pa.C.S.A. § 701.

2. Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S.A. § 332(a).

3. The hearing record closed at the conclusion of the hearing on January 23, 2020. 52 Pa.Code § 5.431(a).

4. Complainant, by failing to appear at the scheduled hearing, waived the opportunity to participate in the hearing. 66 Pa.C.S.A. § 332(f).

5. Notice 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*, 455 Pa. 531, 317 A.2d 584 (1974); *Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review*, 645 A.2d 944 (Pa.Cmwlth. 1994).

6. Once notice of a hearing and the opportunity to be heard has been provided, it is the responsibility of the parties to appear and participate in the hearing. *Sentner v. Bell Telephone Co. of Pa.*, Docket No. F-00161106 (Order entered October 25, 1993).

7. Complainant failed to sustain the burden of proof. 66 Pa.C.S.A. § 332(a).

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<sup>6</sup> *Volgstadt v. UGI Penn Natural Gas*, Docket No. F-02266429 (Order entered September 12, 2008) and *Martin Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Order entered December 26, 1995); *El-Ayazra v. West Penn Power Company*, Docket No. F-2015-2509292 (Opinion and Order entered June 30, 2016).

