

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Cierra Moon	:	
	:	
v.	:	F-2019-3013716
	:	
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 Cierra Moon with prejudice because she failed to appear and prosecute the case.

**HISTORY OF THE PROCEEDING**

On October 22, 2019, Cierra Moon (Ms. Moon or Complainant) filed a Complaint against Philadelphia Gas Works (Respondent or PGW) with the Pennsylvania Public Utility Commission (Commission) alleging that there are incorrect charges on her bill from PGW. As relief, Ms. Moon seeks the Commission’s assistance in obtaining a corrected bill from PGW.

On November 12, 2019, Respondent filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated November 21, 2019, notified the parties that an initial hearing was scheduled in this matter for Monday December 30, 2019, at 10:00 a.m.

Due to a conflict in my schedule, the December 30, 2019 hearing had to be rescheduled for a later date. A Hearing Cancellation/Reschedule Notice dated November 22, 2019, notified the parties that an initial hearing was rescheduled in this matter for Friday, January 10, 2020, at 10:00 a.m.

A Prehearing Order was issued on December 27, 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 January 10, 2020. 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. Tr. 3.

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 January 28, 2020.

#### FINDINGS OF FACT

1. The Complainant is Cierra Moon, whose mailing address is 1137 Herbert Street, Philadelphia, PA 19124.
2. The Respondent is Philadelphia Gas Works.

3. On October 22, 2019, Ms. Moon filed a Complaint against PGW alleging that there are incorrect charges on her bill from PGW.

4. As relief, Ms. Moon seeks the Commission's assistance in obtaining a corrected bill from PGW.

5. On November 12, 2019, the Respondent filed an Answer denying the material allegations of the Complaint.

6. A Hearing Notice dated November 22, 2019, notified the parties that an initial hearing was scheduled in this matter for Friday, January 10, 2020, at 10:00 a.m.

7. A Prehearing Order was issued on December 27, 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. 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.

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

### DISCUSSION

In this formal Complaint, Ms. Moon alleged that there are incorrect charges on her bill from PGW. As relief, Ms. Moon seeks the Commission's assistance in obtaining a corrected bill from PGW.

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 November 22, 2019, and a Prehearing Order dated December 27, 2019, were mailed to Ms. Moon 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. Moon's Complaint will be dismissed with prejudice. 52 Pa.Code § 5.245(a); *Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Opinion and Order entered December 26, 1995).

#### 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, Cierra Moon 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); *Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Opinion and Order entered December 26, 1995).

5. Ms. Moon has failed to meet her burden of proving that she is eligible to the relief sought from the Commission. 66 Pa.C.S.A. § 332(a).

#### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of Philadelphia Gas Works to dismiss the formal Complaint of Cierra Moon at Docket No. F-2019-3013716 is granted.

2. That the formal Complaint filed by Cierra Moon against Philadelphia Gas Works at Docket No. F-2019-3013716 is dismissed with prejudice for failure to prosecute.

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

Date: April 3, 2020

\_\_\_\_\_/s/  
Eranda Vero  
Administrative Law Judge