

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Valerie Hobson	:	
	:	
v.	:	C-2020-3019013
	:	
Duquesne Light Company	:	

**INITIAL DECISION**

Before  
Mary D. Long  
Administrative Law Judge

A Formal Complaint filed by a customer of an electric distribution company is dismissed because the Complainant failed to appear for the hearing without good cause.

**HISTORY OF PROCEEDINGS**

On March 2, 2020, Valerie Hobson (Complainant) filed a Formal Complaint against Duquesne Light Company (Duquesne Light). She checked the boxes on the Formal Complaint form noting that her service was going to be terminated; she wanted a payment arrangement; incorrect charges on her bill; and a reliability or quality problem with her utility service. She did not provide any detail on these allegations but noted later in the form that she was low income and could not afford the payment required by Duquesne Light.

Duquesne Light filed an Answer on March 20, 2020, which denied the material allegations of the Complaint. Duquesne Light also noted that the Complainant had already received a Commission-ordered payment arrangement and was not eligible for a further payment arrangement.<sup>1</sup>

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<sup>1</sup> See Docket F-2018-3003220.

By hearing notice dated May 1, 2020, the Complaint was assigned to me and scheduled for a telephonic hearing on June 17, 2020, at 10:00 a.m. I issued a prehearing order on May 6, 2020, which also provided the date and time of the hearing as well as other procedural requirements related to hearings, including instructions for requesting a continuance if the hearing date and time were not convenient.

The hearing convened as scheduled. The Complainant did not appear. Attorney Emily Farah appeared along with one witnesses on behalf of the Company. Ms. Farah made a motion to dismiss for failure to appear, which was taken under advisement. The record closed at the conclusion of the hearing.

#### FINDINGS OF FACT

1. The Complainant is Valerie Hobson.
2. The Respondent is Duquesne Light Company, a jurisdictional public utility.
3. The Complainant did not call the conference number at 10:00 a.m. on June 17, 2020, to participate in the scheduled evidentiary hearing.
4. The Complainant did not contact the Commission to explain her failure to appear for the hearing.
5. The hearing notice and prehearing order were e-mailed to the Complainant to the address provided on the Formal Complaint form.
6. Neither of the emails containing the hearing notice nor the prehearing order were returned as undeliverable.

## DISCUSSION

Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them.<sup>2</sup> However, this due process requirement is satisfied when the parties are provided notice and the opportunity to appear and be heard.<sup>3</sup> The Complainant had adequate notice of the time and date of the hearing, yet she failed to appear or explain why she could not attend the hearing at the scheduled time. Therefore, it is appropriate to dismiss the Complaint.

A hearing notice and prehearing order were sent to the Complainant. Paragraph 10 of the prehearing order informed the Complainant that if she failed to appear for the hearing she could lose her case.<sup>4</sup> The prehearing order also provided instructions for contacting the Commission to request a change of the scheduled hearing date. The hearing notice and the prehearing order were emailed to the Complainant<sup>5</sup> and neither were returned as undeliverable. Further, counsel for Duquesne Light served copies of its proposed exhibits on June 8, 2020. The certificate of service notes that these exhibits were provided to the Complainant by first-class mail as well as by email. The Complainant is deemed to have received these documents and to have had sufficient notice of the Commission's procedures and notice of the call-in procedure, date and time of the scheduled hearing.<sup>6</sup>

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

<sup>3</sup> *Id.*

<sup>4</sup> *See also*, 52 Pa.Code § 5.245.

<sup>5</sup> *See Emergency Order re Suspension of Regulatory and Statutory Deadlines, Modification to Filing and Service Requirements*, Docket No. M-2020-3019262, p. 4 (March 20, 2020) (the Commission directed that service by the Commission on parties will be exclusively electronic during the pendency of the Governor's Proclamation of Disaster Emergency)

<sup>6</sup> *See Berkowitz v. Mayflower Securities, Inc.*, 455 Pa. 531, 317 A.2d 584 (1974); *Chartiers Industrial and Commercial Dev. Auth. v. Allegheny County Bd. of Property Assessment Appeals and Rev.*, 645 A.2d 944 (Pa.Cmwlt. 1994); *Geary v. Verizon Pennsylvania Inc.*, Docket No. C-2009-2118625 (Commission Opinion and Order entered September 16, 2010)( notice mailed to a party's last known address and not returned by the post office is presumed to have been received).

Section 332(a) of the Public Utility Code<sup>7</sup> places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, Complainant has the burden of demonstrating that the facts alleged in her Complaint are true and that she is entitled to the relief that she requested. By not appearing for the scheduled hearing to present evidence, the Complainant failed to meet this burden of proof. Consequently, the Complaint must be dismissed.

In conclusion, the Complainant was notified of the scheduled hearing call-in procedure, date and time, as well as how to contact the Office of Administrative Law Judge, but failed to appear without explanation. Under these circumstances, the Complainant had ample opportunity to appear and be heard in this proceeding, but voluntarily chose not to do so. The due process rights of the Complainant have been fully protected. However, due to the unusual circumstances caused by the Covid-19 state of emergency and modified Commission procedures, the Complaint is dismissed without prejudice.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of the dispute. 66 Pa.C.S. § 701.
2. The due process rights of the Complainant have been fully protected. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa.Cmwlt. 1984).
3. By failing to appear at the scheduled hearing, the Complainant has waived her claims and has failed to sustain her burden of proof. 66 Pa.C.S. § 332; 52 Pa.Code § 5.245.

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<sup>7</sup> 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion to dismiss the Complaint of Valerie Hobson at Docket C-2020-3019013, is granted.
2. That the Complaint of Valerie Hobson at Docket C-2020-3019013, is dismissed without prejudice.
3. That this docket be marked closed and discontinued.

Date: July 2, 2020

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Mary D. Long  
Administrative Law Judge