

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Maurice Hankins	:	
	:	
v.	:	C-2020-3019004
	:	
Verde Energy USA Inc.	:	

INITIAL DECISION

Before
Christopher P. Pell
Administrative Law Judge

INTRODUCTION

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

HISTORY OF THE PROCEEDING

On February 18, 2020, Maurice Hankins (Complainant) filed a formal Complaint (Complaint) against Verde Energy USA Inc. (Verde Energy or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant placed a checkmark in the box marked “other” and wrote in “[d]id not sign for this company.” Under the “requested relief” section, the Complainant wrote in that “[t]he person that sign my name should be responsible for the bill and be brought up on charges.”

Notice of the Complaint was e-served on the Respondent on March 3, 2020. The Respondent never filed an Answer to the Complaint but did file a Certificate of Service with the Commission on March 27, 2020, demonstrating its attempt to reach out to the Complainant.

By Call-In Telephonic Hearing Notice dated May 7, 2020, a call-in telephonic hearing was scheduled for June 23, 2020 at 10:00 a.m., and the matter was assigned to me. The Hearing Notice advised the parties of the date and time of the scheduled hearing as well as how to call in for the hearing and warned in bold and underlined type: “**At the above date and time, you must call into the hearing. If you fail to do so, your case will be dismissed. You will not be called by the Presiding Officer.**”

I issued a Prehearing Order on May 7, 2020. The Prehearing Order advised the parties of the date and time of the hearing as well as how to call in for the hearing. The Prehearing Order also directed the parties to comply with various procedural requirements and directed that a request to change the scheduled hearing should be emailed to my legal assistant at least five days prior to the hearing date and state the agreement or opposition of the other party. It warned both parties of potentially serious consequences if they failed to obtain a continuance and failed to attend the hearing. It also explained that the Complainant bears the burden of proof to establish that the Respondent violated its tariff, the Public Utility Code, or a Commission Order or regulation, and that he is entitled to the relief requested in the Complaint.

The Prehearing Order further explained that Commission regulations required Verde Energy to be represented by an attorney licensed to practice law in the Commonwealth. The Order directed Verde Energy to have an attorney licensed to practice law in the Commonwealth enter an appearance on or before June 9, 2020. Verde Energy never had an attorney enter an appearance on its behalf.

The hearing convened as scheduled on June 23, 2020. Neither the Complainant nor Verde Energy called in for the scheduled hearing. No certificate of satisfaction was filed. The record closed on June 24, 2020 upon my receipt of the transcript.

FINDINGS OF FACT

1. The Complainant is Maurice Hankins.

2. The Respondent is Verde Energy USA Inc.
3. By Call-In Telephonic Hearing Notice dated May 7, 2020, a call-in telephonic hearing was scheduled for June 23, 2020 at 10:00 a.m.
4. The Hearing Notice was emailed to the Complainant at the email address he provided on his formal Complaint.
5. The Hearing Notice emailed to the Complainant was not returned as undeliverable.
6. The Complainant failed to call in for the June 23, 2020 hearing.
7. The Complainant has not contacted the Commission to explain his failure to appear for the hearing.
8. The Complainant did not settle or withdraw his Complaint.

DISCUSSION

Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa.Cmwlth. 1984). However, this due process requirement is satisfied when the parties are provided notice and the opportunity to appear and be heard. *Id.* The Complainant had adequate notice of the time and date of the hearing, yet he failed to appear or explain why he could not attend the hearing at the scheduled time. Therefore, it is appropriate to dismiss the complaint.

The Commission emailed notice of the June 23, 2020 hearing in this case to the Complainant on May 7, 2020 to the email address he provided in his Complaint.¹ This Notice informed the parties of the date and time of the hearing, as well as how to call in for the hearing. To my knowledge, this email was never returned to the sender, the scheduling staff for the Office of Administrative Law Judge (ALJ).

In addition, I issued a Prehearing Order dated May 7, 2020, which, *inter alia*, warned both parties of potentially serious consequences if they failed to obtain a continuance and failed to appear and participate in the hearing. The Prehearing Order, which was also emailed to the Complainant, was never returned as undeliverable. Accordingly, I must presume that this email, which was sent in the ordinary course of business, was received by the Complainant. *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Opinion and Order entered November 16, 2016); *Zirkel v. Philadelphia Gas Works*, Docket No. C-2016-2561176 (Opinion and Order entered January 27, 2017).

The Complainant did not call in for the scheduled hearing. Under the circumstances, it appears the Complainant had ample opportunity to appear and be heard in this proceeding, but voluntarily chose not to do so. Therefore, the due process rights of the Complainant have been fully protected. *Sentner v. Bell Tel. Co. of Pa.* Docket No. F-00161106 (Opinion and Order entered October 25, 1993); 52 Pa.Code § 5.245(a).

Finally, Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of any request for relief. As the party bringing this Complaint, the Complainant bears the burden of proving by a preponderance of the evidence that he is entitled to his requested relief. By failing to participate and proffer any evidence to support his Complaint, the Complainant has failed to meet his burden. Under these

¹ The Commission's offices were closed beginning on March 16, 2020, pursuant to an Executive Order issued by the Pennsylvania Deputy Secretary for Human Resources and Management due to the COVID-19 pandemic. However, the Commission has continued working remotely.

The hearing Notice, as well as the Prehearing Order, were sent to Complainant by email pursuant to the Commission's *Emergency Order re Suspension of Regulatory and Statutory deadlines, Modification to Filing and Service Requirements* at Docket No. M-2020-3019262 (Order entered March 20, 2020), which provides that service by the Commission on parties will be exclusively electronic during the pendency of the Proclamation of Disaster Emergency.

