

GRIESING LAW^{LLC}

Angela M. Lorenz, Esquire
Direct: 215-501-7847
alorenz@griesinglaw.com

November 20, 2019

Administrative Law Judge Angela Jones
Pennsylvania Public Utility Commission
801 Market Street
Suite 4063
Philadelphia, PA 19107

RE: Agnes and Steve Atuahene v. PECO Energy Company
Docket No. C-2019-3012904

Dear Administrative Law Judge Jones:

Kindly recall that the undersigned represents Respondent, PECO Energy Company in the above-referenced matter. Respondent is in receipt of Mr. Atuahene's request for continuance of the November 22, 2019 hearing. Please be advised that PECO objects to this request.

The current complaint filed by Complainants is the most recent in a long line of similar filings. PECO submits that this request for continuance is a routine tactic used by Complainants to prevent PECO from collecting on the unpaid balance. Complainants are no strangers to the formal complaint process as is demonstrated by the attached decision of ALJ Williams. See Attached Decision of ALJ Cynthia Williams Fordham, dated 3/27/2014. In fact, there is a valid question as to whether the Complainants even have standing to bring the current complaint before the Commission. Per the attached ALJ Decision, Complainants are precluded from filing any further complaints until their current balance is paid in full. Currently, there is an unpaid balance on the account.¹ Accordingly, as a result of the Complainants' repeated abuse of the system, and consistent with the prior decision of ALJ Fordham, the Complainants should not be allowed to continue to take advantage of the PUC system. Respondent, therefore, respectfully submits that Your Honor deny Complainant's request for a continuance and direct the parties to proceed with the November 22, 2019 hearing as scheduled.

Respectfully,



Angela M. Lorenz, Esquire
Counsel for PECO Energy Co.,
Griesing Law, LLC

¹ In the interest of due process, Respondent did not file a Motion to Dismiss the instant matter, despite having a justified basis on which to do so.

Administrative Law Judge Angela Jones

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November 20, 2019

1880 John F. Kennedy Blvd.,
Suite 1800
Philadelphia, PA 19103

Enclosures

AML/

Cc: Mr. and Mrs. Steve and Agnes Atuahene
Elsa Leung, Regulatory Assessor/ PECO Energy

O'Neill, Leslie:(PECO)

From: eServe@pa.gov
Sent: Thursday, April 02, 2015 8:00 AM
To: Lee, Shawane L.:(PECO)
Cc: O'Neill, Leslie:(PECO)
Subject: PA PUC eServe Notice

Importance: High

Dear Shawane L Lee,

A(n) **Initial Decision** has been served in this proceeding. This document is docketed as **F-2014-2422759**. You may view this document at

F-2014-2422759 Steven Atauhene v PECO Energy Company ID

You are receiving this email because you are a(n) **Respondent** for this case and have agreed to be served electronically. By selecting electronic service (eService), you have agreed that this notification constitutes valid service. Electronic service of any and all documents will be in place of paper service.

Thank You,
Public Utility Commission
Commonwealth of Pennsylvania

** Please do not respond to this automatically generated email.*



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

April 2, 2015

F-2014-2422759

Steve Atuahene
v.
PECO Energy Company

TO ALL PARTIES:

Enclosed is a copy of the Initial Decision of the Office of Administrative Law Judge.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Your signed Exceptions to the decision, if any, must be: 1) **filed** with the Secretary of the Commission, **and** 2) mailed or hand-delivered to each party of record, **within twenty (20) days** of the date of this letter.

To file Exceptions with the Secretary of the Commission, you must mail or hand-deliver them as follows:

If using U.S. Postal Service:

Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

If using Overnight or Hand Delivery Service:

Secretary
Pa. Public Utility Commission
400 North Street
Commonwealth Keystone Building, 2nd Floor
Harrisburg, PA 17120

Or, instead of mailing or hand-delivering your Exceptions, you may electronically file them with the Secretary of the Commission. To do so, you need to establish an account on the Commission's eFiling system, which may be accessed at <http://www.puc.state.pa.us/efiling/default.aspx>. Please note that Exceptions sent to the Commission by fax or e-mail will **not** be accepted for filing.

In addition to filing your Exceptions with the Secretary of the Commission, a courtesy copy of your Exceptions should be e-mailed to the Commission's Office of Special Assistants (OSA) at ra-OSA@pa.gov. If the document is too large to e-mail, please mail or hand-deliver a copy on CD-ROM or DVD (or other data storage media), in Microsoft Word 2010 format or other compatible format to either address noted above.

Replies to Exceptions, if any, must be **filed** with the Secretary of the Commission and **served** on each party of record and the Commission's OSA, in the manner described above. **They are due within ten (10) days of the date when Exceptions are due.**

It is your responsibility to serve all the parties with your Exceptions and Replies to Exceptions. Failure to do so may render your filing unacceptable. A certificate of service (see format in 52 Pa. Code §1.58) shall be attached to the filed Exceptions or Replies to Exceptions.

Exceptions and Replies to Exceptions shall follow 52 Pa. Code §§5.533 and 5.535 particularly the 40-page limit for Exceptions and the 25-page limit for Replies to Exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)". Any reference to specific sections of the Administrative Law Judge's Initial Decision shall include the page number(s) of the cited section of the decision.

If no Exceptions are received, the decision of the Administrative Law Judge could become final without further Commission action. You will receive written notification if this occurs. However, even if no exceptions are received, the Commission may review and change the decision pursuant to Section 332(h) of the Public Utility Code, 66 Pa. C.S. § 332(h).

Very truly yours,

Rosemary Chiavetta
Secretary

JF
Enclosures
Certified Mail
Receipt Requested

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Steve Atuahene

v.

PECO Energy Company

:
:
:
:
:

F-2014-2422759

INITIAL DECISION

Before
Cynthia Williams Fordham
Administrative Law Judge

INTRODUCTION

The undersigned is granting the Respondent's Motion to Dismiss the complaint with prejudice because the Complainant failed to appear and prosecute the case.

HISTORY OF THE PROCEEDING

On May 19, 2014, Steve Atuahene ("Atuahene" or the "Complainant") filed a complaint with the Public Utility Commission ("Commission") against PECO Energy Company ("PECO" or "Respondent"), alleging, among other things, the following: 1) that the utility is threatening to shut off his service; 2) that he wants a payment arrangement; 3) that the Bureau of Consumer Services ("BCS") alleged that he defaulted on the payment arrangement established at #2916281; 3) that he did not default on the payment arrangement because he appealed the BCS decision; and 4) that even if he defaulted on the payment arrangement, he is entitled to another payment arrangement under section 1405.

On June 4, 2014, the Respondent filed an answer. The Respondent denied the material allegations in the complaint. The Respondent averred that in response to BCS complaint #002916281, BCS established a payment arrangement requiring the Complainant to pay \$59.00 a month for his budget bill and \$37.00 a month on the arrearage beginning in April 2012. The Respondent stated that the agreement defaulted on July 8, 2013. The Complainant filed another informal complaint on February 6, 2014, requesting a payment arrangement on the \$1,145.09 balance. BCS dismissed the complaint on April 7, 2014, pursuant to 66 Pa.C.S. § 1405(d). The Respondent stated that the Complainant is not entitled to a payment arrangement because he has not demonstrated a significant change in income.

By hearing notice dated June 24, 2014, this case was assigned to the undersigned and the hearing was scheduled for Tuesday, August 5, 2014 at 10:00 a.m.

A Prehearing Order, dated June 26, 2014, was sent to the parties.

The time, date and location of the August 5, 2014 hearing were included in the June 24, 2014 hearing notice and the June 26, 2014 Prehearing Order.

A hearing was held in this matter on August 5, 2014, in the Philadelphia Regional Office at 801 Market Street before Administrative Law Judge Cynthia Williams Fordham. The hearing was scheduled for 10:00 a.m. The Complainant, Steve Atuahene, did not appear (Tr. 4). Therefore, the hearing in this matter was started at 10:34 a.m. (Tr. 4). Shawane L. Lee, Esquire, represented PECO Energy Company. Elsa Leung, a regulatory assessor for the Respondent, was present but did not testify (Tr. 16). The Respondent's counsel moved to dismiss the complaint with prejudice for lack of prosecution (Tr. 7, 15).

The record consists of the pleadings and a 17-page transcript. The record in this case closed on August 28, 2014, when the transcript was received.

FINDINGS OF FACT

1. The Complainant is Steve Atuahene, 7000 Woodbine Avenue, Philadelphia, PA 19151.
2. The Respondent in this proceeding is PECO Energy Company.
3. The hearing notice that the Commission sent to the Complainant on June 24, 2014, was not returned to the Commission (Tr. 5, 6).
4. The Prehearing Order that was sent to the Complainant's address on June 26, 2014, was not returned to the Commission (Tr. 5, 6).
5. The Complainant called the Philadelphia Regional Office on the morning of August 5, 2014, to request a continuance. The Complainant was advised to contact the Respondent's counsel to see if she objected to the continuance (Tr. 6).
6. The Complainant did not contact the Respondent's counsel on August 5, 2014 (Tr. 6).
7. The Respondent's counsel objected to the Complainant's continuance request (Tr. 7-12).
8. The Complainant did not participate in the August 5, 2014 hearing (Tr. 4, 6, 15).

DISCUSSION

Pursuant to Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), the burden of proof is on the proponent of a rule or order. In this proceeding, the Complainant is the proponent of a rule or order. Therefore, the Complainant bears the burden of proving by a preponderance of the evidence that the Respondent has violated the Public Utility Code or a

regulation or order of the Commission. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). The Complainant must show that the utility is responsible or accountable for the problem described in the complaint. *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. PUC 300 (1976).

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).

The Complainant did not participate in the August 5, 2014 hearing. The date, time and location of the hearing were in the hearing notice, dated June 24, 2014, and in the Prehearing Order, dated June 26, 2014 (Tr. 5, 6).

The hearing notice and the Prehearing Order were mailed to the Complainant at the address on his complaint. This creates a rebuttable presumption that the Complainant received the documents. *Berkowitz v. Mayflower Securities*, 455 Pa. 531, 317 A.2d 584 (1974). The U.S. Postal Service did not return the documents to the Commission. *Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review*, 645 A.2d 944 (Pa. Cmwlth. 1994). 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 Pennsylvania*, Docket No. F-00161106 (Order entered October 25, 1993).

Furthermore, at 8:45 a.m. on the day of the hearing, the Complainant called the Philadelphia Regional Office to request a continuance. This confirms that he had notice of the hearing. My legal assistant advised him to call counsel for the Respondent to see if she objected to the continuance (Tr. 6). When the Complainant did not call back by 9:00 a.m., my legal assistant called the Complainant to tell him to appear at the hearing. No one answered and the Complainant's voicemail box was full (Tr. 6).

When Ms. Lee arrived for the hearing, she said that the Complainant did not contact her concerning a continuance (Tr. 6).

The Complainant did not call the Philadelphia Regional office after he was told to contact the Respondent's counsel.

Ms. Lee objected to the continuance because the Complainant uses the formal complaint process to prevent the Respondent from collecting on his unpaid utility bills (Tr. 7). She noted that in the past the Complainant has filed complaints, requested a continuance at the last minute and failed to appear at the hearing.

To support her objection, Ms. Lee provided the following history. This complaint started on February 28, 2012, when Mr. Atuahene filed an informal complaint with the Bureau of Consumer Services at #2916281 (Tr. 7, 8). In that informal complaint, Mr. Atuahene requested a payment agreement and he was granted a payment agreement by the BCS, at level two. That agreement initially defaulted on April 9, 2012. Subsequently, Mr. Atuahene filed a formal complaint at No. C-2012-2299868 on April 20, 2012. The case was assigned to Administrative Law Judge ("ALJ") Vero. PECO filed answer to the complaint and PECO filed a Motion to Dismiss the formal complaint on May 17, 2012. The basis for PECO's Motion to Dismiss was the case *Agnes Manu and Steven Atuahene v. AT&T Communications, Philadelphia Electric Company and Bell Telephone Company* at Docket Nos. F-09029141, C-00935014, C-00934970, C-009113621 and C-00924554, (Final Order entered May 4, 1994). In that case, the multiple formal complaints were consolidated against numerous utility companies. The Commission determined that Mr. Atuahene was banned from filing any further formal complaints because he was abusing the process. Essentially, Mr. Atuahene was abusing the formal complaint process in order to avoid paying his utility bills to multiple companies (Tr. 8, 9). Therefore, PECO filed a Motion to Dismiss Mr. Atuahene's complaint at C-2012-2299868 based on that decision. ALJ Vero dismissed PECO's Motion to Dismiss and the case proceeded. The case was scheduled for hearing on July 2, 2012. On June 25, 2012, Mr. Atuahene requested a continuance. He claimed that he could not appear at that hearing because he had a trial in his case with the City of Philadelphia. ALJ Vero granted Mr. Atuahene's continuance request and rescheduled the hearing

for August 31, 2012. On August 23, 2012, Mr. Atuahene requested a second continuance of the case, claiming that he was recovering from surgery. ALJ Vero granted Mr. Atuahene's continuance request and a hearing was scheduled to take place September 26, 2012. On September 25, 2012, Mr. Atuahene contacted PECO and stated that he wished to resolve the complaint and that PECO could file a certificate of satisfaction (Tr. 10). PECO filed a certificate of satisfaction.

On September 26, 2012, the day of the hearing, Mr. Atuahene objected to the certificate of satisfaction and said that he wished to withdraw his complaint instead. PECO objected to Mr. Atuahene withdrawing his complaint because he had a history of filing formal complaints to suspend collection activity on his account. ALJ Vero denied Mr. Atuahene's request to withdraw his complaint and the hearing proceeded on September 26, 2012 as scheduled. Mr. Atuahene represented himself.

On February 22, 2013, ALJ Vero issued an Initial Decision denying Mr. Atuahene's formal complaint. Mr. Atuahene filed a motion for an extension of time to file exceptions to ALJ Vero's decision on April 3, 2013. The Commission granted his request. On April 26, 2013, Mr. Atuahene filed another motion for an extension of time to file his exceptions. The Commission granted Mr. Atuahene an additional week to file exceptions. Mr. Atuahene did not file exceptions within the time period described by the Commission. However, on May 15, 2013 he filed exceptions (Tr. 11). The Commission treated the exceptions as a Petition for Reconsideration of ALJ Vero's Initial Decision. On November 14, 2013, the Commission issued an Opinion and Order upholding ALJ Vero's Initial Decision.

Ms. Lee stated that, on February 6, 2014, Mr. Atuahene filed another informal complaint with BCS at #3186698. In that informal complaint, he requested a payment agreement. On April 7, 2014, the Bureau of Consumer Services dismissed Mr. Atuahene's request for a payment agreement pursuant to 1405(d) since he previously defaulted on the payment agreement issued at BCS #2916281(Tr. 12).

Consequently, PECO's position is that the request for a continuance is in bad faith and is an effort to extend the collection process on his account. Therefore, Ms. Lee requested that the Motion for a Continuance be denied and that the complaint be dismissed for failure to prosecute with prejudice (Tr. 12).

Prior to the hearing, the undersigned looked to see if the Complainant had filed other complaints because the Complainant said that he did not default on the BCS decision since he appealed it (Tr. 6). The undersigned found two cases, the Complainant's case against PECO at Docket C-2012-2299868 (ALJ Vero) and the Complainant's case against the Philadelphia Gas Works ("PGW") at Docket No. F-2013-2389261(ALJ Pell). ALJ Pell did grant at least one continuance in that matter and at least another one was requested. The Complainant did not attend the hearing before ALJ Pell. The Complainant filed exceptions to ALJ Pell's decision (Tr. 7).

In his Initial Decision, ALJ Pell provided a history of the Complainant's continuance requests and previous complaints. The following is an excerpt from that decision.

Additionally, I discovered that the complainant has a history of similar behavior before this Commission. In her February 22, 2013 Initial Decision in the matter of *Steve Atuahene v. PECO Energy Company*, Docket No. C-2012-2299868, Administrative Law Judge (ALJ) Eranda Vero addressed the complainant's last minute attempt to withdraw his Complaint in that case as follows:

According to PECO's attorney, the Complainant has a history of filing formal complaints with the Commission in an effort to suspend collection activity on his account only to choose not to prosecute the complaint when a hearing is scheduled. He then re-files the complaint at a later date to suspend again the collection on his account. In support of Respondent's objection, Ms. Lee highlighted the history of three prior proceedings (Docket Nos. C-00913621, C-009224554, C-00935245) before the Commission involving Mr. Atuahene and PECO. PECO argued that by requesting two continuances and now withdrawing the Complaint, Mr. Atuahene was exhibiting the same pattern of behavior he had in former cases. PECO argued that granting the Complainant's

request for withdrawal of the Complaint in light of these circumstances would be prejudicial to PECO.

My review of the history of proceedings before the Commission at Docket Nos. C-00913621, C-009224554, C-00935245 revealed that, similar to the present case, they were marked by repeated requests for continuance of the hearings, failure to appear at the hearings or refusal to put on evidence, and, in the case of the complaint at Docket No. C-00913621, repeated requests to withdraw the complaint.

Initial Decision at 4.¹

ALJ Vero's decision prompted me to further research Commission decisions and orders to see if there were any other similar cases involving the complainant. My research led me to another decision issued by ALJ Vero involving the same service address, *Agnes Manu v. Philadelphia Gas Works*, Docket No. F-2010-2191737. According to ALJ Vero's history of the proceeding, Agnes Manu requested a continuance of the first scheduled hearing because her husband's ill health prevented her from conducting discovery. While noting that the complainant had 14 months to prepare for the hearing, ALJ Vero granted the complainant a 30-day continuance.² The hearing in that matter was rescheduled a second time at both parties' request. Two days before the twice-rescheduled hearing was to be held, Agnes Manu filed a "Praecipe to Discontinued Without Prejudice" which the ALJ treated as a Petition For Leave To Withdraw the Complaint. ALJ Vero denied the complainant's Petition and attempted to notify her by phone that her request had been denied. The complainant did not answer her phone, and her voicemail was not accepting additional messages.³ ALJ Vero proceeded with the hearing, which was conducted in the complainant's absence.

In her decision, ALJ Vero noted that PGW was suspicious that a relationship exists between Agnes Manu and Steve Atuahene:

PGW's witness, Ms. Susan Kelly, testified that Complainant was a customer of PGW and the ratepayer of record for the Service Address from October 4, 2002, to August 21, 2011. The Service Address consists of a 17,200 square feet parcel, 3,683 square feet of which constitute Complainant's residence.

¹ The Commission denied the Complainant's Petition for Reconsideration of ALJ Vero's Initial Decision during the November 13, 2014 Public Meeting. *Steve Atuahene v. PECO Energy Company*, Docket No. C-2012-2299868, Commission Opinion and Order entered November 14, 2013.

² *Agnes Manu v. Philadelphia Gas Works*, Docket No. F-2010-2191737, Initial Decision at 2-3.

³ *Id.* at 5.

Complainant has a poor payment history with PGW, characterized by many late, partial or missed payments. She has already received and defaulted on one Commission-issued payment arrangement, BCS Case No. 2683694. Complainant's account with PGW was finalized on October 21, 2011, with an outstanding balance of \$6,363.78.

On October 12, 2011, Steve F. Atuahene applied to have gas service at the Service Address in his name. During the application process, Mr. Atuahene presented to PGW that he had been a tenant at the Service Address since January of 2009, but was only recently made responsible for paying for gas service at the residence through an addendum to his lease. On October 20, 2011, gas service at the Service Address was placed in the name of Mr. Atuahene. Mr. Atuahene's payment history with PGW is poor. Tr. 21. He has made only one payment of \$293.00 to his account with Respondent, recorded on March 19, 2012. Tr. 21. As of the day of the hearing, Mr. Atuahene had accumulated a balance of \$1,859.86. Tr. 21.

PGW suspects that Mr. Atuahene is not only the tenant, but also the husband of Ms. Manu. Tr. 20-21. PGW believes that Ms. Manu and Mr. Atuahene are abusing the system by playing a "name game" with Respondent, where "a member of the family steps in when a bill gets too high and takes over the account, thereby [unlawfully] relieving the family of the payment of the first bill, and then starts afresh." Tr. 27.⁴

PGW's assertion prompted ALJ Vero to look further into Commission records to ascertain whether the complainant, Ms. Manu, had any history with the Commission. ALJ Vero discovered that Ms. Manu and Mr. Atuahene do, in fact, have a history before this Commission:

My research of Commission orders revealed a 1994 Final Order in the matter of *Agnes Manu, Stephen Atuahene a/k/a Stephen Frempong, Stephen Atuahene-Frempong, Benjamin Atuahene a/k/a Benjamin Atuahene-Frempong et. al, d/b/a F.A. Investment Group, Inc. vs. AT&T Communications of Pennsylvania, Inc.; the Bell Telephone Company of Pennsylvania, Inc.; & Philadelphia Electric Company, Inc.*, Docket Nos. F-09029141; C-00935014; C-00934970; C-009113621; C-00924554 (Final Order entered May 4, 1994), 1994 Pa. PUC LEXIS 25, in which the Commission took

⁴ *Id.* at 12.

administrative notice of the fact that “**Stephen Atuahene a/k/a Stephen Frempong, Stephen Atuahene-Frempong is the spouse of Agnes Manu.** See August, I.D. Furthermore, Benjamin Atuahene is the son of Stephen Atuahene and Agnes Manu. All three individuals reside at 7000 Woodbine Street in the City of Philadelphia.” (Emphasis added). The Commission sustained the Initial Decision of the Chief Administrative Law Judge Allison K. Turner who determined that a “scheme” of an “apparently ongoing” nature was operating from Complainants' address [7000 Woodbine Avenue, Philadelphia, PA 19151] for the purpose of obtaining utility services without payment (March 1993 Order at 4-7). Chief ALJ Turner concluded that Complainant “should be precluded from filing any additional complaints” because of the “serious abuse of the Commission’s process” that has taken place in this case. (March 1993 Order at 4-7).

In response to Ms. Manu’s filed exceptions alleging, *inter alia*, that Chief ALJ Turner abused discretion by wrongfully concluding that a familial relationship existed between Agnes Manu, Stephen Atuahene a/k/a Stephen Frempong, Stephen Atuahene-Frempong, and Benjamin Atuahene a/k/a Benjamin Atuahene-Frempong, the Commission held that

[N]otwithstanding the Chief Administrative Law Judge's determination of a familial relationship, we would reach the same result and affirm the holdings of the ALJ if the improper scheme were perpetrated by strangers or non-familial persons. Therefore, the existence or lack of existence of a family relationship is not essential to our conclusion that Agnes Manu, Stephen Atuahene, and Benjamin Atuahene are acting in concert.⁵

Steve Atuahene v PGW, F-2013-2389261 Initial Decision at 7-11.

ALJ Pell indicated that the filing of multiple complaints on the same issue constitutes an abuse of process that warrants preclusion from filing a further informal and formal complaint involving the same issue as in this case until the Complainant's current balance is paid in full. By Order entered January 14, 2015, the Commission adopted ALJ Pell’s decision and stated that, due to abuse of process, the Complainant Steve Atuahene is precluded from filing any informal or formal complaints with the Pennsylvania Public Utility Commission regarding the

⁵ *Id.* at 13-14.

subject matter of the instant Complaint until such time as his current balance with Philadelphia Gas Works is paid in full.

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

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 the Complainant did not participate in the hearing, the hearing was held in accordance with 66 Pa.C.S. § 332(f) and 52 Pa.Code § 5.245 and the record was closed.

The Complainant failed to sustain his burden of proof. The Complainant failed to present evidence to support his allegations.

The Respondent's attorney moved to dismiss the complaint with prejudice for failure to prosecute (Tr. 5, 6). The Respondent's motion to dismiss the formal complaint is granted.

Furthermore, the Respondent's attorney objected to the Complainant's actions and noted that this is an abuse of process, especially since the Complainant has previously been banned from filing complaints with the Commission. The undersigned agrees with the Respondent's attorney and the previous ALJs that the filing of multiple complaints on the same issue constitutes an abuse of process that warrants preclusion from filing a further informal and formal complaint involving the same issue as in this case until such time as the Complainant's current balance is paid in full.

Accordingly, the complaint in this matter will be dismissed in its entirety with prejudice. *Volgstadt v. UGI Penn Natural Gas, Inc.*, 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).

CONCLUSIONS OF LAW

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

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

3. The Complainant, by failing to be represented at the scheduled hearing, waived the opportunity to participate in the hearing. 66 Pa.C.S. § 332(f).

4. 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).

5. 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 Pennsylvania*, Docket No. F-00161106 (Order entered October 25, 1993).

6. The Complainant failed to sustain his burden of proof.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the complaint filed by Steve Atuahene against PECO Energy Company at Docket No. F-2014-2422759 is dismissed with prejudice.
2. That the Respondent's Motion to Dismiss is granted.
3. That, due to abuse of process, the Complainant Steve Atuahene is precluded from filing any informal or formal complaints with the Pennsylvania Public Utility Commission regarding the subject matter of the instant complaint until such time as his current balance with PECO Energy Company is paid in full; and
4. That this case be marked closed.

Date: March 27, 2014

/s/
Cynthia Williams Fordham
Administrative Law Judge