

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rasheed Gilliard

v.

Philadelphia Gas Works

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C-2022-3032724

**INITIAL DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the Formal Complaint of Rasheed Gilliard against Philadelphia Gas Works with prejudice because the Complainant failed to appear for the hearing and prosecute the Complaint.

**HISTORY OF THE PROCEEDING**

On June 1, 2022, Rasheed Gilliard (Complainant) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant placed checkmarks in the boxes indicating: “The utility is threatening to shut off my service or has already shut off my service;” “I would like a payment arrangement;” and “Incorrect charges are on my bill.”

On June 22, 2022, PGW filed an Answer to the Complaint. In its Answer, PGW either admitted or denied the various averments of the Complaint and requested that the Complaint be dismissed.

By Initial Call-In Telephonic Hearing Notice dated June 24, 2022, a telephonic hearing was scheduled for August 10, 2022, and the matter was assigned to me. The Notice advised the Complainant that he could lose the case for failure to participate in the hearing or present facts on the issues raised.

I issued a Prehearing Order on July 19, 2022. The Prehearing Order reminded the parties of the date and time of the hearing, directed the parties to comply with various procedural requirements, and advised that the Complainant could lose the case for failure to participate in the hearing or present facts on the issues raised.

On August 10, 2022, the hearing convened as scheduled. The Complainant appeared *pro se* and testified on his own behalf. The Respondent was represented by Graciela Christlieb, Esquire. At the outset of the hearing, I granted the Complainant a one-week continuance to afford him the opportunity to file a completed Customer Responsibility Program (CRP) application with all required documentation. I also advised Mr. Gilliard that if he failed to file a completed application, this matter would be relisted for a hearing.

On August 18, 2022, Attorney Christlieb advised me, via electronic mail, that Mr. Gilliard failed to file a completed CRP application with all required documentation. Accordingly, by Further Call-In Telephonic Hearing Notice dated August 18, 2022, a further telephonic hearing was scheduled for September 15, 2022.

On September 13, 2022, Mr. Gilliard contacted the Office of the Administrative Law Judge (OALJ) requesting a continuance because he could not appear for the hearing on September 15, 2022. Mr. Gilliard informed the OALJ that he would be available for a hearing on September 19, 2022, at 10:00 a.m. Pursuant thereto, I granted Mr. Gilliard's continuance request and on September 14, 2022, a Cancelled/Rescheduled Further Telephonic Hearing Notice was served rescheduling the telephonic hearing for September 19, 2022, at 10:00 a.m.

The further hearing convened on September 19, 2022, at 10:00 a.m., as scheduled. Counsel for the Respondent called in with a witness available to testify. The Complainant failed

to call in to the hearing. The Complainant was given an additional ten minutes to call and participate in the hearing but failed to do so.

No witnesses were presented, and no exhibits were introduced into the record. At the hearing, counsel for PGW moved that the Complaint be dismissed for lack of prosecution pursuant to 52 Pa. Code § 5.245. In accordance with Commission policy, I am granting the Motion.

The record closed on October 12, 2022, upon the filing of the transcript with the Commission.

### FINDINGS OF FACT

1. The Complainant is Rasheed Gilliard.
2. The Respondent is Philadelphia Gas Works.
3. On June 1, 2022, the Complainant filed a Complaint with the Commission against the Respondent.
4. On June 22, 2022, the Respondent filed an Answer to the Complaint.
5. By Initial Call-In Telephonic Hearing Notice dated June 24, 2022, a telephonic hearing was scheduled for August 10, 2022.
6. On July 19, 2022, a Prehearing Order was issued reminding the parties of the date and time of the scheduled hearing.
7. On August 10, 2022, the hearing convened as scheduled. Tr. 1-7.

8. At the outset of the August 10, 2022 hearing, the Complainant requested a one-week continuance to afford him the opportunity to file a completed CRP application with all required documentation. Tr. 5-6.

9. At the August 10, 2022 hearing, Complainant was advised that failure to complete the CRP application with all required documents would result in this matter being relisted for a hearing. Tr. 5-6.

10. On August 18, 2022, Attorney Christlieb advised the OALJ, via electronic mail, that Mr. Gilliard failed to file a completed CRP application with all required documentation.

11. By Further Call-In Telephonic Hearing Notice dated August 18, 2022, a further telephonic hearing was scheduled for September 15, 2022.

12. On September 13, 2022, Mr. Gilliard contacted the OALJ requesting a continuance because he could not appear for the hearing on September 15, 2022, and informed the OALJ that he would be available for a hearing on September 19, 2022, at 10:00 a.m.

13. By Cancelled/Rescheduled Further Telephonic Hearing Notice dated September 14, 2022, the further telephonic hearing was rescheduled for September 19, 2022, at 10:00 a.m.

14. All of the Hearing Notices and Prehearing Order were served electronically upon Complainant to the email address he provided to the Commission.

15. None of the Hearing Notices nor the Prehearing Order were returned as undeliverable to the Complainant.

16. All Hearing Notices and the Prehearing Order advised the Complainant that the Complaint may be dismissed if the Complainant did not call in to the hearing.

17. The further telephonic hearing began on September 19, 2022, at 10:10 a.m., to allow the Complainant an additional ten minutes to call in. Tr. 8-13.

18. The Complainant did not call in to the September 19, 2022 hearing.

19. Counsel for PGW was present and prepared to proceed at the September 19, 2022 hearing. Tr. 12.

### 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). The essential elements of due process in an administrative proceeding are notice and an opportunity to be heard. *J.P. v. Dep't of Human Servs.*, 150 A.3d 173 (Pa. Cmwlth. 2016).

The notice for the September 19, 2022, hearing was served via electronic mail on the Complainant at the email address that the Complainant provided to the Commission. The notice was not returned as undeliverable. Accordingly, I must presume that this notice, which was sent in the ordinary course of business, was received by the Complainant. *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Opinion and Order entered Jan. 27, 2017); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered Nov. 16, 2016).

As the Commission noted in *Strydio v. PPL Elec. Utils. Corp.*, "[o]nce notice of a hearing and the opportunity to be heard have been provided by the Commission, it is the responsibility of the parties to appear and participate in the hearing." *Strydio v. PPL Elec. Utils. Corp.*, Docket No. C-2017-263304, p. 6 (Opinion and Order entered July 18, 2018) (*citing*, *Mumma v. PPL Elec. Utils. Corp.*, Docket No. C-00014869 (Opinion and Order entered Jan. 24, 2002)); *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993). Additionally, all Hearing Notices and Prehearing Order advised the Complainant

that the case could be dismissed if the Complainant did not call in and participate in the hearing. The Complainant was notified of the scheduled telephonic hearing and did not appear.

In this case, the Complainant was in communication with the OALJ and specifically agreed to the date and time of the rescheduled further hearing. Nevertheless, the Complainant still 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 Oct. 25, 1993); 52 Pa. Code § 5.245(a). By failing to call in to the scheduled hearing, the Complainant has waived his opportunity to participate in the hearing. 52 Pa. Code § 5.245(a)(1); *Jefferson v. UGI Utils., Inc.*, 1995 Pa. PUC LEXIS 159 (Opinion and Order entered Dec. 26, 1995).

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. The Complainant was advised in the Hearing Notices and the Prehearing Order that the Complainant could lose the case for failure to participate in the hearing or present facts on the issues raised. By failing to appear and proffer any evidence to support the Complaint, the Complainant has failed to meet this burden. Because he failed to appear, the Complainant is not permitted to reopen the disposition of this matter. 52 Pa. Code § 5.245(a)(2). Consequently, the Complaint will be dismissed with prejudice. *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995); *El-Ayazra v. W. Penn Power Co.*, Docket No. F-2015-2509292 (Opinion and Order entered June 30, 2016); 52 Pa. Code § 5.245.

#### CONCLUSIONS OF LAW

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

2. The Complainant received notice of the hearing. *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Opinion and Order entered Jan. 27, 2017); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Opinion and Order entered Nov. 16, 2016).

3. The due process rights of the Complainant have been fully protected in this proceeding. *J.P. v. Dep't of Human Servs.*, 150 A.3d 173 (Pa. Cmwlth. 2016); *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993); 52 Pa. Code § 5.245(a).

4. As the party seeking affirmative relief from the Commission, the Complainant bears the burden of proof. 66 Pa.C.S. § 332(a).

5. The Complainant did not appear and participate in the hearing, did not present any evidence, and, therefore, has failed to meet the burden of proving that the Complainant is eligible for the relief sought from the Commission. 66 Pa.C.S. § 332(a).

#### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of Philadelphia Gas Works to dismiss the Formal Complaint of Rasheed Gilliard at *Rasheed Gilliard v. Philadelphia Gas Works*, Docket Number C-2022-3032724, is granted.

2. That the Formal Complaint of Rasheed Gilliard at *Rasheed Gilliard v. Philadelphia Gas Works*, Docket Number C-2022-3032724, is dismissed with prejudice.

