

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rachel Honore	:	
	:	
v.	:	C-2023-3043022
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Formal Complaint of Rachel Honore against Philadelphia Gas Works because she failed to comply with the presiding officer’s order.

HISTORY OF THE PROCEEDING

On September 14, 2023, Rachel Honore (Complainant), filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW or Company or Respondent). In the Formal Complaint, the Complainant checked the box labeled “Other.” The Complainant then typed “lower payments.” In the relief requested, the Complainant again typed "lower payments.”

On October 4, 2023,¹ the Company filed a Preliminary Objection to the Complaint. In the filing, the Company asserts that the Complainant failed to state a basis upon which the relief that is requested can be obtained.

¹ The Formal Complaint was served by the Secretary’s Bureau on September 14, 2023.

The Company's Preliminary Objections contained a Notice to Plead, requiring Complainant to file a response within ten days of service. The Complainant did not file any response to the Preliminary Objection.

On November 1, 2023, the Commission issued a Motion Judge Assignment Notice, assigning this proceeding to me.

On December 1, 2023, I issued an Interim Order which indicated that the Complainant was to file an Amended Complaint no later than December 11, 2023.

The December 1, 2023, Interim Order was eServed on the Complainant.²

On January 26, 2024, PGW filed a Motion to Dismiss the Complaint as the Complainant had failed to file an Amended Complaint by December 11, 2023. The Motion contained a Notice to Plead which indicated that the Complainant had 20 days to file a response. The Complainant's response to the Motion was due no later than February 15, 2024. As of the date of this decision, the Complainant has not filed a response to the Motion to Dismiss, nor has she filed an Amended Complaint.

The record closed on February 15, 2024 when the Complainant's response to the Motion to Dismiss was due.

FINDINGS OF FACT

1. The Complainant in this case is Rachel Honore.
2. The Respondent is Philadelphia Gas Works.

² On her Complaint form, the Complainant selected the eFiling/eService method of communication indicating her choice to receive all hearing notices, orders, and related documents regarding this matter via eService to the email address she provided and registered with the Commission.

3. On September 14, 2023, Ms. Honore filed a Complaint with the Commission against the Respondent.
4. Complainant elected to receive all hearing notices, orders, and related documents regarding this matter via eService to the email address she registered with the Commission.
5. On October 4, 2023, the Respondent filed Preliminary Objections to the Complaint.
6. On November 1, 2023, the Commission assigned the matter to the undersigned as Motion Judge.
7. On December 1, 2023, an Interim Order was issued which indicated that the Complainant was to file an Amended Complaint no later than December 11, 2023.
8. The December 1, 2023 Interim Order was served on Complainant via eService to the email address she registered with the Commission.
9. On January 26, 2024, PGW filed a Motion to Dismiss the Complaint.
10. The Complainant had until February 15, 2024 to file a response to the Motion to Dismiss.
11. The Complainant did not file a response to the Preliminary Objections.
12. The Complainant did not file an Amended Complaint.
13. The Complainant did not respond to the Motion to Dismiss.

14. The Complainant has not contacted the Commission to explain why she has failed to respond to the Interim Order.

DISCUSSION

As the party seeking affirmative relief from the Commission, the burden of proof rests on the Complainant. 66 Pa.C.S. § 332(a). “Burden of proof” means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

The Commission has held that parties must comply with the orders of an administrative law judge, and a complainant’s failure to do so is a sufficient basis to support dismissal of the matter. *Snyderville Cmty. Dev. Corp. v. Phila. Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006); *Treffinger v. PPL Elec. Utils. Corp.*, Docket No. C-20027978 (Opinion and Order entered Mar. 3, 2003).

Complainant violated the Interim Order dated December 1, 2023 which directed her to file an Amended Complaint in this matter no later than December 11, 2023.³ There is no indication that the Complainant has filed an Amended Complaint or responded to the Motion to Dismiss that was issued in this case.

Respondent and Complainant have due process rights that must be protected. “Among the requirements of due process are notice and an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal” *Hess v. Pa. Pub. Util. Comm’n*, 107 A.3d 246, 266

³ The Formal Complaint, as filed, lacked specificity such that the Respondent was unable to form a suitable answer or response. Accordingly, in denying Respondent’s preliminary objection to dismiss the Complaint, my December 1, 2023 Interim Order directed the Complainant to file an amended complaint which sets forth additional facts consistent with the instructions provided on the Commission’s formal complaint form and in support of the Complainant’s allegations against Philadelphia Gas Works.

(Pa. Cmwlth. 2014). Complainant has had opportunities to comply with the Interim Order issued in this proceeding and file an Amended Complaint in this matter but has failed to take advantage of these opportunities. To proceed with this matter in these circumstances would result in the denial of Respondent's due process rights.⁴

A hearing in this matter is not necessary or appropriate and is not in the public interest. Accordingly, the Complaint will be dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of this Complaint. 66 Pa.C.S. § 701.
2. The Commission has held that parties must comply with the orders of an administrative law judge, and a complainant's failure to do so is a sufficient basis to support dismissal of the matter. *Snyderville Cmty. Dev. Corp. v. Phila. Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006); *Treffinger v. PPL Elec. Utils. Corp.*, Docket No. C-20027978 (Opinion and Order entered Mar. 3, 2003).
3. "Due process of law requires notice to be given to the respondent so that [it] may adequately prepare [its] defense in such cases." *J.P. v. Dep't of Human Servs.*, 150 A.3d 173, 176, (Pa. Cmwlth. 2003) (citing *Straw v. Pa. Human Rels. Comm'n*, 308 A.2d 619, 621 (Pa. Cmwlth. 1973)).
4. That the Complainant failed to comply with the interim order dated December 1, 2023.

⁴ "Due process of law requires notice to be given to the respondent so that [it] may adequately prepare [its] defense in such cases." *J.P. v. Dep't of Human Servs.*, 150 A.3d 173, 176, (Pa. Cmwlth. 2003) (citing *Straw v. Pa. Human Rels. Comm'n*, 308 A.2d 619, 621 (Pa. Cmwlth. 1973)).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of Philadelphia Gas Works to dismiss the Formal Complaint filed by Rachel Honore at Docket No. C-2023-3043022 is granted.
2. That the Formal Complaint of Rachel Honore in Rachel Honore v. Philadelphia Gas Works at Docket No. C-2023-3043022 is dismissed.
3. That Docket No. C-2023-3043022 be marked closed.

Date: May 13, 2024

/s/
Marta Guhl
Administrative Law Judge