

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Victor Ruffin

v.

Philadelphia Gas Works

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C-2023-3042219

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Formal Complaint of Victor Ruffin against Philadelphia Gas Works because he failed to comply with the presiding officer's orders.

HISTORY OF THE PROCEEDING

On July 26, 2023, Victor Ruffin (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 indicated that he was billed for unpaid usage at a property he purchased in 2007 but did not enter until 2013. He also indicated that PGW had placed a lien on the property.

On September 6, 2023¹, the Company filed an Answer with New Matter, which denied the material allegations of the Complaint. The Company also filed a Preliminary Objection to the Complaint. In the filing, the Company asserts that the Commission lacks jurisdiction over the Complainant.

On October 5, 2023, the Company filed a Motion for Judgement on the Pleadings, again alleging that the Commission lacked jurisdiction in this matter.

On November 8, 2023, the Commission issued a Motion Judge Assignment Notice, assigning this proceeding to me.

On December 8, 2023, I issued an Interim Order which granted the Preliminary Objections in part, dismissed the Motion for Judgement on the Pleadings and instructed the Complainant to file an Amended Complaint no later than December 22, 2023.

On January 23, 2024,² PGW filed a Motion to Dismiss the Complaint as the Complainant had failed to file an Amended Complaint by December 22, 2023.

After the Motion to Dismiss, the Complainant contacted my office on multiple occasions to request procedural information about filing with the Commission.³ Due to the fact that the Complainant is acting *pro se* in this matter and was having issues with understanding how to file with the Commission, and because he was frequently communicating with my legal assistant, out of an abundance of caution I allowed

¹ The Formal Complaint was served by the Secretary's Bureau on August 15, 2023.

² The Company did not serve me with a copy of the Motion to Dismiss.

³ Information was provided to the Complainant over the telephone by my office, which included the address for the Secretary's Bureau and how to file a response or Amended Complaint.

additional time for the Complainant to file a response to the Motion to Dismiss and an Amended Complaint. However, despite the additional time allowed, the Complainant did not file an Amended Complaint or response to the Motion to Dismiss.

When it became evident that the Complainant did not intend to file an Amended Complaint as he had indicated when he contacted my office, on December 20, 2024, I issued an Interim Order which gave the Complainant a final opportunity, until December 30, 2024, to file an Amended Complaint or response to PGW's Motion to Dismiss. I informed the Complainant that if he failed to file an amended complaint or a response to PGW's Motion to Dismiss, I would close the record effective January 6, 2025.⁴

There is no indication in the records that the Interim Order was returned as undeliverable.

As of the date of this Decision, the Complainant has not filed an Amended Complaint, response to the Motion to Dismiss or contacted my office in any way.

The record closed on January 6, 2025.

FINDINGS OF FACT

1. The Complainant in this case is Victor Ruffin.
2. The Respondent is Philadelphia Gas Works.

⁴ A Corrected Interim Order was issued on March 26, 2025, correcting the record closing date from December 31, 2024, to January 6, 2025.

3. On July 26, 2023, the Complainant filed a Complaint with the Commission against the Respondent.

4. On September 5, 2023, the Respondent filed an Answer and New Matter to the Complaint.

5. On September 5, 2023, the Respondent also filed Preliminary Objections to the Complaint.

6. On October 5, 2023, the Respondent filed a Motion for Judgement on the Pleadings.

7. On November 8, 2023, the Commission assigned the matter to the undersigned as Motion Judge.

8. On December 8, 2023, an Interim Order was issued which indicated that the Complainant was to file an Amended Complaint no later than December 22, 2023.

9. On January 23, 2024, PGW filed a Motion to Dismiss the Complaint.

10. The Complainant contacted the presiding officer's office on a number of occasions to request information on how to file an Amended Complaint and response to the Motion to Dismiss.

11. On December 20, 2024, via Interim Order, the Complainant was provided with a final opportunity to file an Amended Complaint or response to the Motion to Dismiss by December 30, 2024.

12. The Complainant did not file a response to the Preliminary Objections.
13. The Complainant did not respond to the Motion for Judgement on the Pleadings.
14. The Complainant did not file an Amended Complaint as directed in the December 20, 2024 Interim Order.
15. The Complainant did not respond to the Motion to Dismiss.
16. The Complainant has not contacted the Commission to explain why he has failed to respond to the Interim Order dated December 20, 2024.

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).

The Complainant failed to adhere to the Interim Order dated December 8, 2023, which directed him to file an Amended Complaint in this matter no later than December 22, 2023. The Complainant has not served the presiding officer with an Amended Complaint. Further, there is no record that he filed an Amended Complaint.

I do note that the Complainant did reach out to obtain procedural information on how to file with the Commission on several occasions, and in deference to the fact that the Complainant was *pro se*, each time I allowed the Complainant additional time to file with the Commission.⁵ There was nothing to indicate that the Respondent would be prejudiced by allowing the Complainant additional time to file an Amended Complaint.⁶ Despite these additional opportunities, the Complainant failed to file an Amended Complaint.

When it became evident that the Complainant had not filed an amended complaint as I previously directed, I issued another Interim Order on December 20, 2024. This Interim Order provided the Complainant with a final opportunity to file an Amended Complaint by December 30, 2024. As of the date of this Decision, the Complainant has failed to file an Amended Complaint or respond to the Preliminary Objections, Motion for Judgment on the Pleadings, or Motion to Dismiss.

The Respondent and the Complainant have due process rights that must be protected. The Complainant has been provided with more than sufficient opportunity to

⁵ “The Commission or presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party. These liberal construction provisions apply with particularity in proceedings involving *pro se* litigants.” 52 Pa. Code §§ 1.2(c), (d).

⁶ “The Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties.” 52 Pa. Code §§ 1.2(a).

comply with the Interim Orders issued in this proceeding and file an Amended Complaint in this matter. The Complainant failed to take advantage of these opportunities. To proceed further with this matter in these circumstances would result in the denial of Respondent's due process rights.⁷

A hearing in this matter is not necessary or appropriate and is not in the public interest. 66 Pa.C.S. § 331(a). 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).

⁷ “[A]djudicatory action cannot be validly taken by any tribunal, whether judicial or administrative, except upon a hearing wherein each party shall have opportunity to know of the claims of his opponent, to hear the evidence introduced against him, to cross-examine witnesses, to introduce evidence in his own behalf, and to make argument.” Pa. State Athletic Comm’n v. Bratton, 112 A.2d 422, 425 (Pa. Super. 1955). Further, “[t]he Commission, as an administrative body, is bound by the due process provisions of constitutional law and by the principles of common fairness. 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 (Pa. Cwlth. 2014) (citing Shenandoah Suburban Bus Lines, Inc., 46 A.2d 26 (Pa. Super. 1946) (internal citations omitted)).

3. The Commission’s regulations specify certain sanctions that are available when a party fails to comply with an order of the Commission “as is just.” 52 Pa. Code § 5.372(a).

4. The presiding officer may dismiss a matter without a hearing, if is not necessary or appropriate and is not in the public interest. 66 Pa.C.S. § 331(a).

5. The due process rights of Complainant have been fully protected in this proceeding. *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993); 52 Pa. Code § 5.245(a).

6. That the Complainant failed to comply with the interim orders dated December 8, 2023 and December 20, 2024.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of Philadelphia Gas Works to dismiss the Formal Complaint filed by Victor Ruffin at Docket No. C-2023-3042219 is granted.

2. That the Formal Complaint of Victor Ruffin in *Victor Ruffin v. Philadelphia Gas Works* at Docket No. C-2023-3042219 is dismissed.

