

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tonya Lee Brown	:	
	:	
v.	:	C-2024-3050408
	:	
Duquesne Light Company	:	

INITIAL DECISION

Before
Mary D. Long
Administrative Law Judge

INTRODUCTION

A customer filed a complaint requesting a payment arrangement. This decision dismisses the complaint because the Commission lacks jurisdiction to order a payment arrangement where the customer has filed a bankruptcy petition and is subject to the jurisdiction of the United States Bankruptcy Court. Further the customer failed to appear at a hearing to raise any issues over which the Commission has jurisdiction.

HISTORY OF THE PROCEEDINGS

Tonya Lee Brown (Complainant) filed a Formal Complaint on July 30, 2024, contending that Duquesne Light Company (Duquesne Light) denied her application for the customer assistance program (CAP) and requesting a payment arrangement. Duquesne Light filed an answer on August 19, 2024, denying the material allegations of

the Complaint. By notice dated August 21, 2024, a hearing was scheduled for November 7, 2024.

In the ensuing months both parties requested continuances of the scheduled hearings. On February 17, 2025, Ms. Brown requested a continuance, explaining that she wanted a continuance until her petition for bankruptcy was confirmed. Duquesne Light did not object. I granted the request and directed a status report by April 4, 2025. I granted a further continuance as requested by the parties on April 8, 2025.

As directed by the April 8, 2025, Interim Order, counsel for Duquesne Light filed a status report on July 8, 2025. According to Duquesne Light, the Complainant's bankruptcy proceeding remains pending, Duquesne Light has removed the pre-bankruptcy balance from the Complainant's account, and the Complainant does not currently have a past due balance with the Company. The Complainant requested an additional continuance. The Company opposed the continuance and instead requested a prehearing conference.

By interim order entered July 10, 2025, I denied the request for a further continuance and prehearing conference and directed that a hearing be scheduled. A hearing by telephone was scheduled to take place on October 7, 2025, and I issued a prehearing order which explained the procedures for hearing.

As required by the prehearing order, Duquesne Light served proposed exhibits on me and the Complainant on September 30, 2025. Included in the exhibits was a copy of the Complainant's bankruptcy documents filed with the U.S. Bankruptcy Court in the Western District of Pennsylvania. The same day the Complainant emailed me and counsel for Duquesne Light requesting a continuance because her bankruptcy is still pending. Duquesne Light opposed the continuance. By email on October 1, 2025, I directed the Parties to appear as scheduled on October 7, 2025.

On Monday, October 6, 2025, the Complainant emailed that she would not appear at the hearing scheduled for October 7, 2025, alleging for the first time that October 7, 2025, was a religious holiday. Noting that the hearing had been scheduled since July 10, 2025, I informed the Parties that the hearing would proceed as scheduled.

The hearing convened on October 7, 2025. The Complainant did not appear. Megan Rulli, Esquire, appeared on behalf of Duquesne Light. Following a discussion of the Commission's jurisdiction to award the Complainant a payment arrangement given her active bankruptcy proceeding, I directed Duquesne Light to file a motion to dismiss, including a notice to plead, by October 14, 2025.

Duquesne Light filed a motion to dismiss on October 14, 2025. The motion included a notice to plead which informed the Complainant that she was required to file a response within 20 days. The Complainant did not file a response, and the motion is therefore unopposed. As set forth below, the motion will be granted, and the complaint will be dismissed.

FINDINGS OF FACT

1. The Complainant, Tonya Lee Brown, resides at 540 Burton Drive, Pittsburgh, Pennsylvania. Complaint.
2. The Complainant receives electricity service from Duquesne Light, a jurisdictional public utility. Answer.
3. The Complainant filed a Formal Complaint against Duquesne Light Company on July 30, 2024.

4. The Complainant filed for protection under Chapter 13 of the United States Bankruptcy Code on February 3, 2025, at Case No. 25-20265-JAD. Motion, Appendices A through C.

5. On June 4, 2025, the petition was converted to a Chapter 7 proceeding. Motion, Appendices A through C.

6. On July 10, 2025, a Call-In Telephone Hearing Notice was served on Complainant scheduling a telephonic hearing on October 7, 2025, at 10:00 a.m.

7. On July 10, 2025, a Prehearing Order was served on the Complainant which included the date and time of the hearing and providing additional information to the parties regarding the hearing.

8. Both the Hearing Notice and Prehearing Order were served on the Complainant by eService to the email address the Complainant provided to and registered with the Commission.

9. Both the Hearing Notice and Prehearing Order provided the Complainant with the toll-free bridge telephone number and PIN to call and participate in the hearing, and, *inter alia*, the procedure for requesting a continuance and the possible consequences of failing to appear at the hearing.

10. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

11. The Complainant failed to appear and participate in the scheduled telephone hearing on October 7, 2025.

12. The disposition of the Complainant's bankruptcy petition is ongoing. Motion, Appendices A through C.

DISCUSSION

Section 701 of the Public Utility Code (Code), provides that any person may complain, in writing, about any act or thing done or not done by a public utility which violates any laws which the Commission has the authority to administer, or any regulation or order of the Commission.¹ A person who wants the Commission to do something to resolve their complaint has the burden of proof.²

Duquesne Light moves to dismiss the Complaint because the Complainant's bankruptcy petition deprives the Commission of jurisdiction and because the Complainant failed to appear at the hearing scheduled for her benefit. The Complainant did not respond to the motion.

In every matter before the Commission, we must decide initially whether the Commission has jurisdiction over the Parties and subject matter at dispute. The Commission must act within, and cannot exceed, its jurisdiction.³

Pursuant to 28 U.S.C. § 1334, federal district courts (and their bankruptcy courts) have jurisdiction over all civil proceedings arising under Title 11, and the bankruptcy court has exclusive jurisdiction of all property of the debtor:

¹ 66 Pa.C.S. § 701.

² 66 Pa.C.S. § 332(a).

³ *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa. Super. 1945).

(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

* * *

The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction – of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.^[4]

Generally any bankruptcy petition filed pursuant to the United States Bankruptcy Code will operate as a stay and bars either the commencement or continuation of a judicial or administrative proceeding against the debtor where the proceeding was commenced prior to the start of the bankruptcy proceeding or to recover a claim against the debtor that arose before the commencement of the bankruptcy proceeding.⁵ The Commission has previously ruled that, pursuant to this provision, the Commission lacks jurisdiction over arrearages for utility services that accrued prior to the filing of a bankruptcy petition.⁶

According to the bankruptcy court docket, the Complainant filed a Chapter 13 bankruptcy petition on February 3, 2025, after she filed her complaint with the Commission on July 30, 2024. At this point, the arrearage at issue in the Complaint fell under the exclusive jurisdiction of the bankruptcy court. On June 4, 2025, the petition was converted to a Chapter 7 proceeding. Under Chapter 7, the Complainant's property

⁴ 28 U.S.C. § 1334.

⁵ 11 U.S.C. § 362(a)(1).

⁶ *Cooper v. PECO Energy Co.*, Docket No. F-01952102 (Order entered Jan. 12, 2006); *Stempo v. Metro. Edison Co.*, Docket No. C-2010-2200864 (Order entered July 19, 2012).

will be liquidated and distributed to creditors. It does not appear that that process has concluded. According to Duquesne Light, a substantive order on this Complaint could affect the disposition of the income or the assets of the Complainant, including the pre-petition arrears from her Duquesne Light account, which are under the control and jurisdiction of the bankruptcy court. As this matter remains in the purview of the bankruptcy court, the Commission has no jurisdiction.

Further, the Complainant did not appear at the hearing to raise any other issues she may have related to her Complaint. Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them.⁷ The fundamental tenets of due process are notice and an opportunity to be heard.⁸ However, the right to due process is not absolute.⁹ The Commonwealth Court has consistently held that where a party fails to avail themselves of the opportunity to be heard without good cause, the proceeding may be dismissed and there is no violation of due process.¹⁰

The Complainant received adequate notice of the date and time of the hearing. The Complainant elected to receive service by eService by registering her email address with the Commission.¹¹ She also received service by email and by First-Class

⁷ *Pa. Bankers Assn v. Pa. Dept. of Banking*, 965 A.2d 956 (Pa. 2008) (Pa. Bankers Ass'n); *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

⁸ *Pa. Bankers Ass'n*.

⁹ *Goetz v. Dept. of Env't Res.*, 613 A.2d 65 (Pa. Cmwlth. 1992).

¹⁰ *See Fountain Cap. Fund, Inc. v. Pa. Sec. Comm'n*, 948 A.2d 208 (Pa. Cmwlth. 2008), and the cases cited therein.

¹¹ In her Complaint, Complainant selected email service as her preferred method of service of Commission documents. Complaint ¶ 9. However, Complainant also registered for eService by creating an eFiling account when she filed her Complaint. When Complainant registered for an eFiling account she agreed to the following terms and conditions:

I agree that I will accept electronic service in the Commission proceeding in which I am a party of record.

Mail. Commission records do not indicate that service to Complainant was unsuccessful. Accordingly, the Commission presumes that she received the hearing notice and order that the Commission eServed in connection with the hearing.¹²

The Complainant also had notice of the consequences if she did not appear and participate in the hearing. The Hearing Notice stated as follows:

FAILURE TO APPEAR: You may lose the case if you do not take part in this hearing and present evidence on the issue(s) raised. Your case may be dismissed “with prejudice” which means that you will be barred from filing another complaint raising the same claim(s) and issue(s) presented in the dismissed complaint.

CONTINUANCES. You may request a continuance of the hearing if you have a good reason. All continuances will be granted only for good cause. To request a continuance, you

By creating this account, notification of filings via electronic mail shall constitute valid service of Commission documents. I understand that such electronic service of any and all documents will be substituted for service by mail. I agree to be served via email with all subsequent filings. I agree that email notices will be sent on the same day the document is posted.

By clicking on the ‘Create Account’ button below, [I am] agreeing to all the Terms and Agreements listed above.

eFiling Registration Page,
<https://efiling.puc.pa.gov/Accounts/Create?accountType=I>
(last visited Jan. 2, 2025).

¹² *Hu v. PECO Energy Co.*, Docket No. C 2019-3012075 (Order entered Dec. 19, 2019); *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered Apr. 7, 2017); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered Jan. 31, 2017); *see also Berkowitz v. Mayflower Sec., Inc.*, 317 A.2d 584 (Pa. 1974); *Meierdierck v. Miller*, 147 A.2d 406 (Pa. 1959); *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. 1997); *Judge v. Celina Mut. Ins. Co.*, 449 A.2d 658 (Pa. Super. 1982)(First-class Mail); and *Skow v. Metro. Edison Co.*, Docket No. F-2023-3042228 (Final Order entered May 7, 2024).

must submit a written request (a “motion”) at least five (5) days before the hearing. Your motion should include: 1) The case name, number, and hearing date; 2) The reason for the request; and 3) Whether the other party agrees (or if you do not know).

The Complainant was clearly aware of the date and time of the hearing. I denied her request for a continuance, in part, because several continuances had already been granted.¹³ The Complainant’s notification that she would not appear due to a religious observance was not raised until the day before the hearing. She did not take the opportunity to explain the nature of the religious observance by responding to Duquesne Light’s motion to dismiss. She could have raised this conflict when she received the hearing notice in July 2025. I do not find her claim credible.

Section 332(a) of the Public Utility Code places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, the Complainant has the burden of demonstrating that the facts alleged in the Complaint are true and that she is entitled to the relief that she requested. By not appearing for the scheduled hearing to present evidence or make any claims that the Commission had jurisdiction to adjudicate, the Complainant failed to meet this burden of proof. Consequently, the Complaint must be dismissed.

In conclusion, the Complainant was notified of the scheduled hearing call-in procedure, date and time, as well as how to contact the Office of Administrative Law Judge but failed to appear without a credible excuse. Under these circumstances, the Complainant had ample opportunity to appear and be heard in this proceeding but voluntarily chose not to do so. The due process rights of the Complainant have been fully protected.

¹³ See *Steadwell v. Unemployment Comp. Bd. of Rev.*, 463 A.2d 1298 (Pa. Cmwlth. 1983) (a party is not entitled to never-ending continuances).

CONCLUSIONS OF LAW

1. The Commission does not have jurisdiction in this dispute. 11 U.S.C. § 362(a)(i).

2. The Commission is required to provide due process to the parties appearing before them; this due process requirement is satisfied when the parties are provided notice and the opportunity to be heard. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

3. Notice electronically served to a party with no notification that service failed is presumed received. *Skow v. Metro. Edison Co.*, Docket No. F-2023-3042228 (Final Order entered May 7, 2024); *Hu v. PECO Energy Co.*, Docket No. C-2019-3012075 (Order entered Dec. 19, 2019); *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered Apr. 7, 2017); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered Jan. 31, 2017).

4. The Commission provided adequate due process to the parties. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion to dismiss the Formal Complaint of Tonya Lee Brown, Docket No. C-2024-3050408, by Duquesne Light Company, is granted.
2. That the Formal Complaint of Tonya Lee Brown v. Duquesne Light Company, Docket No. C-2024-3050408, is dismissed.
3. That the Secretary mark the docket closed.

Date: December 3, 2025

/s/
Mary D. Long
Administrative Law Judge