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April 24, 2023

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

**RE: Jennifer Potora v. Pennsylvania-American Water Company
Docket No. C-2023-3039542**

Dear Secretary Chiavetta:

Enclosed for filing on behalf of Pennsylvania-American Water Company is its Preliminary Objections to the above-referenced Complaint. A copy has been served on the Complainant in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Very truly yours,

STEVENS & LEE



Michael A. Gruin

Enc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JENNIFER POTORA	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3039542
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

NOTICE TO PLEAD

To: *Jennifer Potora*

You are hereby notified to file a written response to the attached Preliminary Objections of Pennsylvania-American Water Company within ten (10) days from the date of service of this notice. If you do not file a written response denying or correcting the enclosed Preliminary Objections within ten (10) days of service, the facts set forth by Pennsylvania-American Water Company may be deemed to be true, thereby requiring no other proof, and judgment may be entered against you. All pleadings, such as responses to Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

You must also serve a copy of your response on the undersigned counsel for Pennsylvania-American Water Company. Failure to respond to the Preliminary Objections could result in the dismissal of your case.

STEVENS & LEE



Michael A. Gruin, (I.D. No. 78625)
17 N. 2nd St., 16th Fl
Harrisburg, PA 17101
Tel. (717) 255-7365
Fax (610) 988-0852
COUNSEL FOR PENNSYLVANIA
AMERICAN WATER COMPANY

DATE: April 24, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JENNIFER POTORA	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3039542
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

**PRELIMINARY OBJECTIONS OF RESPONDENT,
PENNSYLVANIA-AMERICAN WATER COMPANY**

AND NOW, Pennsylvania-American Water Company (“PAWC” or “Company”), by and through its attorneys Stevens & Lee, P.C., hereby files these Preliminary Objections requesting dismissal of the Complaint of Jennifer Potora (hereinafter “Complainant”). As set forth below, the Complaint should be dismissed pursuant to 52 Pa. Code § 5.101(a)(5) because the Commission has barred the Complainant from filing any further informal or formal Complaints against PAWC, due to her repeated abuses of the Commission’s processes.

I. INTRODUCTION

1. On April 3, 2023, the Company was served with a notice of the Formal Complaint (“Complaint”) filed by the Complainant against the Company. A copy of the Formal Complaint is attached hereto as Exhibit 1 and incorporated herein by reference.

2. The Commission’s Rules of Administrative Practice and Procedure permit the filing of Preliminary Objections. See, 52 Pa. Code Section 5.101. Pursuant to 52 Pa. Code § 5.101(a)(5), a formal complaint may be dismissed for lack of capacity to sue.

3. The Company's Preliminary Objection requests the dismissal of the Formal Complaint for lack of capacity to sue under 52 Pa. Code § 5.101(a)(5).

4. The Complainant lacks the capacity to sue because the Commission barred the Complainant from filing any further complaints against PAWC until she has paid her current outstanding balance in full, due to her repeated abuses of the Commission's processes by filing complaints to avoid payment of utility bills, requesting continuances of hearings, and failing to appear at hearings. See the Commission's August 8, 2019 Order in *Potora v. Pennsylvania American Water Company*, Docket No. C-2017-2627863 ("the 2017 Potora Complaint case").

5. In 2017 Potora Complaint case, Ms. Potora made the same allegations that she is making in her current complaint, i.e., that PAWC was threatening to shut off her water service and that her bills were too high and that her meter was not functioning properly. See the Commission's Order entered August 8, 2019 in the 2017 Potora Complaint case, at p. 2.

6. In the 2017 Potora Complaint case, the presiding Administrative Law Judge ("ALJ") noted in his December 3, 2018 Initial Decision that Ms. Potora had requested and received three continuances of the scheduled hearing date, and when her fourth last minute request was denied, she failed to appear for the hearing. See Initial Decision in the 2017 Potora Complaint case, attached hereto as Exhibit 2.

7. The 2017 Potora case was the Complainant's third complaint against PAWC in two years, and the ALJ observed that the Complainant's conduct in that case was similar to her conduct in the other complaint proceedings concerning other utilities in which the Complainant failed to appear at hearings after receiving multiple continuances. See Initial Decision in the 2017 Potora Complaint case at 7 (citing *Potora v. UGI Penn*

Natural Gas, Inc., Docket No. C-2016-2574107 (Final Order entered July 7, 2017); *Potora v. UGI Utilities, Inc.*, Docket No. C-2016-2575793 (Final Order entered May 14, 2018) and *Potora v. UGI Penn Natural Gas, Inc.*, Docket No. C-2018-3000028 (Final Order entered August 14, 2018).

8. The ALJ in the 2017 Potora Complaint case concluded that Complainant was filing complaints with the Commission to prevent or delay her utilities from terminating her service for non-payment.

9. The ALJ relied on various Commission decisions which, when paired with Ms. Potora's complaint filing history with the Commission, guided his findings that the Complainant had engaged in an abuse of process, including *Grossman v. Bell Telephone Company of Pennsylvania*, 67 Pa. PUC 714 (1988); *Manu v. The Bell Telephone Company of Pennsylvania*, Docket No. F-09029141 (Order entered May 4, 1994); *DiFilippo v. PECO Energy Company*, Docket No. C-20027116 (Final Order entered October 3, 2002); *Seidenstricker v. Metropolitan Edison Company*, Docket No. F 2008-2019388 (Order entered July 28, 2009); and *Thomas v. The Peoples Natural Gas Company*, Docket No. 2009-2102194 (Order entered June 17, 2010)).

10. The Commission upheld the Initial Decision in the 2017 Potora case in full, and in its August 8, 2019 Order ruled that "Jennifer Potora is precluded from filing further complaints with the Commission, either informal or formal, concerning the arrearages on her account for water service rendered by Pennsylvania-American Water Company until all arrearages are paid in full." See Commission's Final Order in the 2017 Potora Complaint case, attached hereto as Exhibit 3.

11. Despite the prohibition on the filing of any further complaints, the Complainant filed an informal complaint with the Bureau of Consumer Services ("BCS")

to prevent a termination of service for non-payment of arrearages, which was closed with no decision by the BCS on June 21, 2022 because of the Commission's directive from the 2017 Potora case.

12. The Complainant's instant complaint is nearly identical to her prior 3 Formal Complaints against PAWC, and is another obvious attempt to abuse the Commission's processes to delay termination of her water service for non-payment of arrearages.

13. In light of the Commission's clear Order in the 2017 Potora case, the Complainant is prohibited from filing any more formal complaints against PAWC regarding her arrearages, and therefore she lacks the capacity to sue and the Complaint should be dismissed with prejudice.

REQUEST FOR RELIEF

WHEREFORE, for all of the reasons stated herein, Respondent Pennsylvania-American Water Company respectfully requests that the Commission grant its Preliminary Objection and dismiss the Formal Complaint pursuant to 52 Pa. Code § 5.101(a)(4).

Respectfully submitted,
STEVENS & LEE



Michael A. Gruin, (I.D. No. 78625)
17 N. 2nd St., 16th Fl.
Harrisburg, PA 17101
Tel. (717) 255-7365
Fax (610) 988-0852
COUNSEL FOR PENNSYLVANIA
AMERICAN WATER COMPANY

DATE: April 24, 2023

EXHIBIT 1

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

Filing this form begins a legal proceeding and you will be a party to the case.
If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Jennifer Potarg

Street/P.O. Box 53 Academy Street Apt # _____

City Plymouth State Pa Zip 18651

County Luzerne

Telephone Number(s) Where We Can Contact You During the Day (required):

(570) 817-2175 (home) (570) 817-2175 (mobile)

E-mail Address (required): spotarg@icloud.com

Utility Account Number (from your bill) 210029634782

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

Pa American Water

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ELECTRIC
- GAS
- WATER
- STEAM HEAT
- STORM WATER
- WASTEWATER/SEWER
- TELEPHONE/TELECOMMUNICATIONS (local, long distance)
- MOTOR CARRIER (e.g. taxi, moving company, limousine)

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. **Your complaint may be dismissed without a hearing if you do not provide specific information.**

- The utility is threatening to shut off my service or has already shut off my service.
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
any I am disputing my charges this was a problem prior to COVID that PA arena with never had case of the meta being
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.
- Other (explain).

Replaced.

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. **Requested Relief**

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

I want a payment arrangement and prior to card my water meter has to be checked due to the amount of water being used. So I am disputing my bill.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. Protection From Abuse (PFA)/ Domestic Violence

Has a court granted you a “Protection From Abuse” order or any other order which provides clear evidence of domestic violence against you that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a “Protection From Abuse” order or any other order for your personal safety or welfare?

YES

NO

If your answer to the above question is “yes,” attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC’s Bureau of Consumer Services (BCS)?

YES

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. **Legal Representation**

If you are filing a Formal Complaint as an individual on your own behalf, you are **not** required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer **in this matter**, provide your lawyer's name, address, telephone number, and e-mail address, (all required contact information). Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are **required** to have a lawyer represent them at a hearing **and** to file any motions, answers, briefs or other legal pleadings.

9. **Verification and Signature**

You must sign your complaint. Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. If you do not sign the Formal Complaint, the PUC **will not accept it**.

Verification:

I Jennifer Poyang, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Jennifer Poyang _____ 4/13/23 _____
(Signature of Complainant) (Date)

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept it**.

10. **How to File Your Formal Complaint**

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, priority mail, or overnight delivery to this address and retain the tracking information as proof of submission:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

If you are appealing a BCS decision: follow the directions in the cover letter you received from the Secretary's Bureau with the formal complaint form. **ONLY** Formal complaints appealing a BCS decision can be filed by fax, email or overnight delivery to meet filing deadlines. **All other formal complaints MUST be eFiled or mailed.**

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.
Please know that your complaint form and the utility's answer will not be published to the PUC's website. Once your complaint case moves to the Office of Administrative Law Judge, any filings you make should be marked confidential if you do not want them published to the website.



PENNSYLVANIA AMERICAN WATER

AMERICAN WATER, PO BOX 2798, CAMDEN, NJ 08101

For Service To: 53 ACADEMY ST SSL
PLYMOUTH, PA 18651-2101

Account Number	1024-210029634782
Pay Before	04/03/2023
Total Due	768.36

03/22/2023



003537 1 AV 0.468 03540/003540/005649 11 02 VC29V8 002

JENNIFER POTORA
53 ACADEMY ST
PLYMOUTH PA 18651-2101

TIME SENSITIVE NOTICE:

To ensure timely receipt of your payment, please use one of the payment options noted below. Do not mail your payment.

due

4/13

IMPORTANT: 10 DAY SHUT OFF NOTICE

Please read and take the steps needed to avoid your service from being shut off.

PAY THIS AMOUNT	\$768.36	PRIOR TO	04/03/2023
PAY THIS AMOUNT	\$3,504.09	ON OR AFTER	04/03/2023

Payment on your Water account is overdue. If payment is not received, your service may be shut off on or after 04/03/2023. You can prevent termination of water service by paying the amount printed above. Please use one of our convenient payment options listed below to ensure your payment is applied to your account immediately.

TO STOP THE SHUT OFF, YOU MUST PAY THE AMOUNT OVERDUE OR YOU MUST CALL US AT 1-855-669-8753 IF:

PARA DETENER EL CIERRE, usted debe pagar la cantidad vencida O Usted debe llamar al 1-855-669-8753, si usted tiene alguna pregunta o necesita más información.

1. You cannot pay the overdue amount and would like to discuss your eligibility to enter into a payment arrangement.
2. You dispute the overdue amount or have a question regarding your bill.

MEDICAL EMERGENCY NOTICE

Let us know if someone living in your home is seriously ill or has a medical condition that will be aggravated by the cessation of service. We will not shut off your service during such illness provided you:

- (a) Have a licensed physician, nurse practitioner or physician's assistant certify by in writing that such illness exists and that it may be aggravated if your service is stopped; and
- (b) Make some equitable arrangement to pay the company your current bills for service.
- (c) Contact us by calling the following number: 1-855-669-8753 or writing to us at: Pennsylvania American Water, PO Box 2798, Camden, NJ 08101.
- (d) Have your licensed physician, nurse practitioner or physician's assistant send a signed written document to the utility within 3 days certifying that a customer or member of the customer's household is seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition.

If someone living in your home is seriously ill or has a medical condition that will be aggravated by the cessation of service, you have the right to make a verbal declaration of a medical emergency, which will delay termination of service for at least 3 days while you seek to obtain a medical certificate.

It is our sincere goal to work with you to correct this situation before further action becomes necessary. Please respond immediately so that we can assist you as best as possible. If you do not respond to this notice and your service is disconnected, any installment plan may be considered in default and you may be required to pay the full amount due and a service charge of \$30.00 before service is reconnected.

CONVENIENT PAYMENT OPTIONS



Pay your bill online:
www.amwater.com/myaccount



Pay by Phone: 855-748-6066
24 hours a day, seven days a week
TTY/TDD FOR THE HEARING
IMPAIRED: 711 (and then
reference Customer Service
number listed above)



Pay in person: for a list of approved payment locations, visit www.amwater.com/myaccount



Customer Service: M-F 7am to 7pm Emergency: 24/7: 1-855-669-8753 www.pennsylvaniaamwater.com

1024-P-003540/005649 VC29V8 ETM1C00001

(VC29V8 003540010200



PENNSYLVANIA AMERICAN WATER CUSTOMER SERVICE

1-800-565-7292

HOURS: M-F, 7am-7pm ▪ Emergencies: 24/7

TTY/TDD FOR THE HEARING IMPAIRED: 711 (and then reference Customer Service number listed above)

Esto es un aviso importante sobre su servicio de agua/alcantarilla. Para la ayuda de la traducción, por favor llamas a Pennsylvania American Water al número 1-800-565-7292.

ADDRESS, EMAIL OR PHONE NUMBER CHANGE REQUEST

Please let us know if we need to update your contact information in our records. NOTE: If you are moving or need to make a name change, please contact our customer service center at the phone number listed on the front of this notice. Updates to your contact information can also be made through our online self-service tool, **MyWater**. Access MyWater by visiting amwater.com/mywater.

CUSTOMER ASSISTANCE PROGRAMS

If you're experiencing financial hardship, please reach out to us. We may be able to assist. Here are some of the programs we offer to help keep your life flowing:

FINANCIAL ASSISTANCE

Through our H2O Help to Others Program™, we offer financial assistance to customers who qualify, including:

- Grants up to \$500
- Discounts on the water/wastewater bill

To qualify for a grant, customers must have annual household incomes at or below 200 percent of the Federal Poverty guidelines and applicants must have made a sincere effort to pay their bill. To qualify for the water and/or wastewater discount program, customers must have annual incomes at or below 150 percent of the Federal Poverty guidelines. For a monthly income guidelines chart or to learn more, visit pennsylvaniaamwater.com. Under Customer Service & Billing, select Customer Assistance Programs.

INSTALLMENT PLANS

You may be eligible for an installment plan to extend the time you have to pay a past due balance. Installment plans vary based on your past due amount and the information you provide to us about your ability to pay. We collect this information, including household income and number of people in your household, to determine what options we can provide to you.

BUDGET BILLING

Budget billing is a free service that is available to eligible residential customers. The program makes managing your cash flow easier by providing predictable monthly payments and avoiding unplanned seasonal spikes that may be difficult to pay.

EASY PAYMENT OPTIONS

- **Online:** Visit www.amwater.com/billpay.
- **By phone:** 24/7 at 1-855-748-6066.
- **In person:** To find an authorized payment location near you, visit us online at pennsylvaniaamwater.com. See Customer Service & Billing or call.

Want to avoid late payments in the future? Consider enrolling in Auto Pay. Enroll in Auto Pay, and your bill will be paid on time, every time. Each month, payments are automatically deducted from your checking or savings account on the due date. No stamps required.

MANAGE YOUR ACCOUNT ONLINE WITH MYWATER

MyWater is a fast and easy way to access and manage your account online. Here are a few things you can do through MyWater:

- View and pay your bill
- Sign up for our Auto Pay and Paperless Billing programs.
- Check your account balance.
- Update your contact information.
- Sign up to receive emergency and non-urgent alerts by email, phone and text.
- View your water use history. (See in which months you use the most water to help determine ways you can save water and money.)

WATER SAVING TIPS AND TOOLS

We offer tips and tools to help customers save water and money:

- **Leak Detection Kit** to help identify common and not-so-common household leaks.
- **Conservation Tips**
- **Water Use Calculator**, which allows you to input water use information specific to your household and offers tips on where you can save water and energy based on that information.

Visit pennsylvaniaamwater.com. Under Water Information, select Detecting Leaks and Wise Water Use.



EXHIBIT 2

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jennifer Patora	:	
	:	
v.	:	C-2017-2627873
	:	
Pennsylvania-American Water Company	:	

INITIAL DECISION

Before
David A. Salapa
Administrative Law Judge

INTRODUCTION

This decision dismisses a complaint for failure of the customer to appear at the telephonic hearing and prosecute the complaint and bars the customer from filing any further complaints against the utility until she pays the outstanding balance on her account.

HISTORY OF THE PROCEEDING

On October 5, 2017, Jennifer Patora (Complainant) filed a complaint with the Pennsylvania Public Utility Commission (Commission) against Pennsylvania-American Water Company (Respondent). The complaint alleges that the Respondent is attempting to shut off the Complainant's water service. The complaint also asserts that the Complainant's bills are too high and that the Complainant's meter is not functioning properly. The complaint requests that the Commission direct the Respondent to test the Complainant's meter.

The Respondent filed an answer on October 25, 2017. The answer admits that the Respondent provides water service to the Complainant at the address shown on the complaint.

The answer also admits that the Respondent has issued a termination notice to the Complainant for nonpayment.

The answer denies that the Complainant's meter is inaccurate and denies that the Complainant's bills are incorrect. The answer asserts that the Respondent has scheduled a test of the Complainant's meter. The answer requests that the Commission dismiss the Complainant's complaint.

By notice dated May 17, 2018, the Commission scheduled this matter for a telephonic hearing on July 3, 2018, at 10:00 a.m. and assigned the case to me. I issued a prehearing order dated May 18, 2018, addressing, inter alia, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

On June 28, 2018, the Complainant emailed me to request a continuance. The email stated that there had been a death in the Complainant's family and that the Complainant would not be available for the July 3, 2018 hearing. The Respondent did not object to the Complainant's continuance request.

Since the Respondent did not oppose the continuance request, I granted the Complainant's request and by notice dated July 2, 2018, the Commission scheduled this matter for a telephonic hearing on July 20, 2018, at 10:00 a.m.

On July 7, 2018, the Complainant emailed me to request a continuance. The email stated that the Complainant would be on a flight returning to Pennsylvania at the time of the hearing and would not have access to a telephone.

Counsel for the Respondent responded by email on July 13, 2018. Counsel pointed out that the Complainant had not made a payment on her account since August 2017.

I granted the Complainant's request and by notice dated August 10, 2018, the Commission scheduled this matter for a telephonic hearing on August 27, 2018, at 10:00 a.m.

On August 22, 2018, the Complainant emailed me to request a continuance. The email stated that the Complainant had a medical appointment scheduled for August 27, 2018, the same day as the telephonic hearing. In response, I requested that the Complainant provide a note from her doctor confirming the time and date of her appointment.

On August 24, 2018, the Complainant emailed me a copy of a note from her doctor indicating that she had an appointment on August 27, 2018 at 10:15 a.m.

I granted the Complainant's request and by notice dated August 29, 2018, the Commission scheduled this matter for a telephonic hearing on November 14, 2018, at 10:00 a.m.

At 6:00 a.m. on November 14, 2018, the Complainant emailed me stating she was sick and had no voice. Attached to the email was a note from her doctor stating that he had seen the Complainant on November 13, 2018 and that she had a sinus infection and laryngitis. N.T. 4-5. The email requested a continuance of the November 14, 2018 hearing.

I responded by email that the hearing would not be continued. Before granting a further continuance, I wished to ascertain whether the Complainant was physically unable to participate in the telephonic hearing. N.T. 5.

I conducted a telephonic hearing on November 14, 2018, at 10:00 a.m. The Complainant failed to appear for that hearing. The Complainant failed to call the conference number set forth in the August 29, 2018 hearing notice at 10:00 a.m.

I waited approximately ten minutes to allow the Complainant time to call the conference number. Upon commencement of the hearing, Michael A. Gruin, Esquire, counsel for the Respondent, moved to dismiss the complaint for failure to appear and prosecute. N.T. 6-8.

Mr. Gruin also requested that I bar the Complainant from filing any further complaints against the Respondent until she had paid her outstanding balance. N.T. 6-8. Mr.

Gruin indicated that the Complainant had made only one payment on her account since August 2017 and had broken at least six appointments the Respondent had made with her to test her meter. N.T. 7-8.

Mr. Gruin also referenced other complaints filed by the Complainant against other utilities where she had failed to appear at a hearing after receiving numerous continuances. N.T. 6-7. I advised the Respondent that I would take its motion under advisement. N.T. 8.

The record closed on November 27, 2018, the date the transcript was filed with the Secretary's Bureau. This decision grants the Respondent's motion to dismiss the complaint and bars the Respondent from filing any further complaints against the Respondent until she pays the outstanding balance on her account.

FINDINGS OF FACT

1. The Complainant in this case is Jennifer Patora.
2. The Respondent in this case is Pennsylvania-American Water Company.
3. On October 5, 2017, the Complainant filed a complaint with the Commission against the Respondent.
4. The Respondent filed an answer on October 25, 2017.
5. By notice dated August 29, 2018, the Commission scheduled this matter for a telephonic hearing on November 14, 2018, at 10:00 a.m.
6. The Commission sent notice of the telephonic hearing in this case to the Complainant by regular first-class mail to the address stated on the complaint.
7. The Commission's hearing notice was never returned to the sender.

8. The Complainant failed to appear at the November 14, 2018 telephonic hearing.

9 The Complainant did not settle or withdraw the matter.

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). This due process requirement is satisfied, however, when the administrative agency provides the parties notice and the opportunity to be heard.

The Commission sent notice of the telephonic hearing in this case to the Complainant on August 29, 2018, by regular first-class mail to the Complainant's address. To my knowledge this piece of mail was never returned to the sender, the scheduling staff for OALJ in Harrisburg.

In addition, I issued a prehearing order dated May 18, 2018, which, inter alia, directed the parties to call the conference number shown on the hearing notice at the date and time of the hearing and warned that if a party failed to call the conference number, the hearing would proceed without that party. This order, which was also mailed to the Complainant at the address stated on the complaint, was never returned. Accordingly, I must presume that this mail, which was sent in the ordinary course of business, was received by the Complainant. Berkowitz v. Mayflower Securities, 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 Mutual Insurance Co., 449 A.2d 658 (Pa.Super. 1982).

The Complainant did not appear for the scheduled hearing because she did not call the conference number listed on the telephonic hearing notice. On the morning of the hearing, the Complainant requested a continuance of the hearing. Given the lateness of the Complainant's request, I refused to grant the request so that I could ascertain whether the

Complainant was physically unable to participate in the telephonic hearing. Under these 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 Telephone Co. of Pa., Docket No. F-00161106 (Opinion and Order entered October 25, 1993); 52 Pa.Code § 5.245(a).

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. As the party bringing this complaint, the Complainant bears the burden of proving by a preponderance of the evidence that she is entitled to relief. By failing to appear and proffer any evidence to support her complaint, the Complainant has failed to meet this burden. The Complainant's failure to appear has caused the Commission and the Respondent to waste resources. Under these circumstances, the complaint should be dismissed with prejudice. Jefferson v. UGI Utilities, Inc., Docket No. Z-00269892 (Opinion and Order entered December 26, 1995); El-Ayazra v. West Penn Power Company, Docket No. F-2015-2509292 (Opinion and Order entered June 30, 2016); Anderson v. PECO Energy Co., Docket No. F-2017-2614241 (Opinion and Order entered July 18, 2018); Strydio v. PPL Electric Utilities Corporation, Docket No. C-2017-2633043 (Opinion and Order entered July 18, 2018); 52 Pa.Code § 5.245.

Turning to the Respondent's request to bar the Complainant from filing any further complaints against the Respondent, the Commission has determined that using its processes to avoid termination and avoid paying for utility service is an abuse of the Commission's administrative processes and will not be countenanced. The Commission has previously barred consumer complainants from filing further complaints with the Commission in order to protect the interests of other ratepayers. Seidenstricker v. Metropolitan Edison Co., Docket No. F-2008-2019388 (Order entered July 28, 2009), Thomas v. Peoples Natural Gas Co., Docket No. C-2009-2102194 (Order entered June 17, 2010), Mazza v. PECO Energy Co., Docket No. C-2012-2318472 (Order entered April 23, 2014).

Here the Complainant has requested and received three continuances. When her fourth last minute request for a continuance was denied, she failed to appear at the hearing. Her

conduct in this proceeding is similar to her conduct in other complaint proceedings concerning other utilities.

In Potora v. UGI Penn Natural Gas, Inc., Docket No. C-2016-2574107 (Final Order entered July 7, 2017); Potora v. UGI Utilities, Inc., Docket No. C-2016-2575793 (Final Order entered May 14, 2018) and Potora v. UGI Penn Natural Gas, Inc., Docket No. C-2018-3000028 (Final Order entered August 14, 2018), the Complainant failed to appear at hearings after receiving numerous continuances. This conduct indicates that the Complainant is simply filing complaints with the Commission to prevent or delay her utilities from terminating her service for non-payment.

The conclusion that the Complainant is filing complaints with the Commission to prevent or delay her utilities from terminating her service for non-payment is supported by the circumstances in this case. Counsel for the Respondent represented at the November 14, 2018 hearing that the Complainant had only made one payment on her account since August 2017. Furthermore, counsel for the Respondent represented that the Complainant had cancelled at least six appointments she had made with the Respondent to allow the Respondent to test her meter. The Complainant's conduct concerning the meter test supports the conclusion that the Complainant is acting in bad faith and using the Commission's processes for improper purposes.

Recently, in Potora v. UGI Penn Natural Gas, Inc., Docket No. C-2018-3003485 (Initial Decision served September 27, 2018), Deputy Chief Administrative Law Judge (DCALJ) Joel H. Cheskis granted the utility's motion for judgment on the pleadings and dismissed the Complainant's complaint because the Complainant's complaint constituted an abuse of the Commission's process. In addition to dismissing the Complainant's complaint, DCALJ Cheskis precluded the Complainant from filing further complaints against the utility until she paid her outstanding balance.

In dismissing the complaint and precluding the Complainant from filing further complaints against the utility, DCALJ Cheskis indicated that the Complainant's conduct in the prior complaints cited above constituted abuse of the Commission's process. In reaching this

conclusion, DCALJ Cheskis cited several previous Commission decisions where the Commission had found that similar conduct constituted abuse of administrative process. In Grossman v. Bell Telephone Company of Pennsylvania, 67 Pa. PUC 714 (1988) (Grossman), the Commission found that the complainant had abused the regulatory process or his right to due process by frequently requesting continuances of hearings and then not appearing and by not honoring his part of a settlement.

In Manu v. Bell Telephone Company of Pennsylvania, Docket No. F-09029141 (Opinion and Order entered May 4, 1994) (Manu), the Commission consolidated the Manu case with other cases filed by Ms. Manu and other persons against not only Bell but also AT&T and PECO Energy Company (Docket Nos. C-00935014, C-00934970, C-00913621 and C-00924554) and precluded the complainant from filing further complaints, formal or informal, until all the arrearages were paid in full. The Commission found that the complainant had engaged in a pattern where a complaint was filed, hearing notices were mailed by certified mail and returned and marked as unclaimed, and requests for continuances were made.

In subsequent abuse of process cases, the Commission extended the identifying criteria to include such factors as the number and the nature of complaints, the number of defaulted payments, the use of tactics to avoid payments and service terminations, and the history of payments. DiFilippo v. PECO Energy Company, Docket No. C-20027116 (Final Order entered October 3, 2002) (DiFilippo) (complainant had abused the Commission's complaint process by filing three previous complaints which were all dismissed with prejudice and by filing a fourth complaint which contained impertinent or scandalous matters); Seidenstricker v. Metropolitan Edison Company, Docket No. F-2008-2019388 (Opinion and Order entered July 28, 2009) (Seidenstricker) (complainant was an abuser of the system by defaulting on four Bureau of Consumer Services and four Met-Ed payment plans, by using a variety of means to avoid terminations such as filing a bankruptcy proceeding and attempting to transfer her account to her mother and sister, and by invoking the provisions of 66 Pa. C.S. §§ 1521-1533 on 18 occasions); and Thomas v. Peoples Natural Gas Company, Docket No. 2009-2102194 (Opinion and Order dated June 17, 2010) (Thomas) (the Commission found the complainant had abused the system by filing three informal complaints which were all dismissed because he had

defaulted on a Commission-issued payment arrangement and a formal complaint which was also dismissed for the same reason and the complainant had a very poor history of payments (six payments in 52 months)).

DCALJ Cheskis' analysis and conclusions in the Potora case at Docket No. C-2018-3003485 are applicable to this case. I will therefore adopt DCALJ Cheskis' analysis and conclusions and apply it to this case. The Complainant will be prohibited from filing any further complaints against the Respondent until she has paid her current outstanding balance in full.

CONCLUSIONS OF LAW

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

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

3. By failing to appear and proffer any evidence to support her complaint, the Complainant has failed to meet her burden of proving that she is entitled to the relief that she seeks from the Commission. 66 Pa.C.S. § 332(a).

4. Using Commission processes to avoid termination and avoid paying for utility service is an abuse of the Commission's administrative processes. Seidenstricker v. Metropolitan Edison Co., Docket No. F-2008-2019388 (Order entered July 28, 2009), Thomas v Peoples Natural Gas Co., Docket No. C-2009-2102194 (Order entered June 17, 2010), Mazza v. PECO Energy Co., Docket No. C-2012-2318472 (Order entered April 23, 2014).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the oral motion of Pennsylvania-American Water Company to dismiss the complaint filed by Jennifer Potora at Docket No. C-2017-2627873 is granted.
2. That the complaint of Jennifer Potora against Pennsylvania-American Water Company at Docket No. C-2017-2627873 is dismissed with prejudice for failure to appear and prosecute.
3. That Jennifer Potora is precluded from filing further complaints with the Pennsylvania Public Utility Commission, either informal or formal, concerning the arrearages on her account for water service rendered by Pennsylvania-American Water Company until all arrearages are paid in full.
4. That the Pennsylvania Public Utility Commission's Secretary's Bureau and Bureau of Consumer Services shall, without further proceedings, reject or dismiss any formal or informal complaint filed by Jennifer Potora concerning the arrearages on her account for water service rendered by Pennsylvania-American Water Company until all arrearages are paid in full.
5. That the docket at Docket No. C-2017-2627873 is marked closed.

Date: November 29, 2018

/s/
David A. Salapa
Administrative Law Judge

EXHIBIT 3

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held August 8, 2019

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
David W. Sweet, Vice Chairman
Norman J. Kennard
Andrew G. Place
John F. Coleman, Jr.

Jennifer Potora

C-2017-2627873

v.

Pennsylvania-American Water Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions filed by Jennifer Potora (Complainant or Ms. Potora) on January 14, 2019, to the Initial Decision (Initial Decision or I.D.) of Administrative Law Judge (ALJ) David A. Salapa, served December 3, 2018.¹ Replies to

¹ The Complainant's filing is titled "Complainant's Exceptions to the Secretarial Letter of December 27, 2018." In order to ensure an efficient determination in this proceeding, we shall consider the filing as Exceptions to the Initial Decision based on the content and timing of the filing.

Exceptions have not been filed. For the reasons stated below, we will deny the Complainant's Exceptions and adopt the ALJ's Initial Decision.

History of the Proceeding

On October 5, 2017, Ms. Potora filed a Formal Complaint (Complaint) against Pennsylvania-American Water Company (PAWC, Respondent, or Company), alleging that the Respondent was threatening to shut off her water service or had already shut off her water service. Ms. Potora also averred that her bills were too high and that her meter was not functioning properly. Complaint at 2. Ms. Potora requested that the Commission direct the Respondent to test the Complainant's meter. *Id.* at 3.

The Respondent filed an Answer on October 25, 2017, in which it admitted that it issued a termination notice to the Complainant for nonpayment. The Respondent denied that the Complainant's meter is inaccurate and denied that the Complainant's bills are incorrect. Answer at 1. The Respondent also stated that it has scheduled a test of the Complainant's meter. The Respondent further stated that the Complainant has been provided with multiple Company payments arrangements and one Commission-issued payment arrangement, and the Complainant defaulted on those payment arrangements. *Id.* at 1-2.

The Complainant made four requests for continuances of scheduled hearings in this matter. On June 28, 2018, the Complainant emailed the ALJ to request a continuance, stating that there had been a death in her family and she would not be available for the July 3, 2018 hearing. On July 7, 2018, the Complainant emailed the ALJ to request a second continuance. The Complainant stated that she would be on a flight returning to Pennsylvania at the time of the hearing and would not have access to a telephone for the July 20, 2018 hearing. On August 22, 2018, the Complainant emailed the ALJ to request a third continuance. The Complainant stated that she had a medical

appointment scheduled for August 27, 2018, the same day as the telephonic hearing. In response to the ALJ's request, on August 24, 2018, the Complainant emailed the ALJ a copy of a note from her doctor indicating that she had an appointment on August 27, 2018 at 10:15 a.m. The ALJ granted these three continuance requests.

The Commission subsequently scheduled this matter for a telephonic hearing on November 14, 2018, at 10 a.m. On November 14, 2018 at 6 a.m., the Complainant emailed the ALJ stating that she was sick and had no voice and requested a fourth continuance. The Complainant also attached to the email a note from her doctor stating that the doctor had seen the Complainant on November 13, 2018, and the Complainant had a sinus infection and laryngitis. I.D. at 3 (citing Tr. at 4-5). The ALJ responded by email that the hearing would not be continued, as the ALJ wished to ascertain whether the Complainant was physically unable to participate in the telephonic hearing. I.D. at 3 (citing Tr. at 5).

The ALJ convened a telephonic hearing on November 14, 2018, at 10 a.m. The Complainant failed to appear for the hearing or to call the conference number listed in the Hearing Notice dated August 29, 2018 (August 2018 Hearing Notice). The ALJ waited approximately ten minutes to allow the Complainant time to call the conference number. Upon commencement of the hearing, the Respondent's counsel moved to dismiss the Complaint due to Ms. Potora's failure to appear and prosecute. Tr. at 6, 8.

The Respondent's counsel also requested that the ALJ bar the Complainant from filing any further complaints against the Respondent until she had paid her outstanding account balance. I.D. at 3 (citing Tr. at 6-8). The Respondent's counsel indicated that the Complainant had made only one payment on her account since August 2017, had broken at least six appointments the Respondent scheduled with her to test her meter, and had filed complaints against other utilities and failed to appear for hearings in

those complaint proceedings after receiving numerous continuances. I.D. at 4 (citing Tr. at 6-8).

The record closed on November 27, 2018, the date the transcript was filed with the Secretary's Bureau.

By Initial Decision served December 3, 2018, the ALJ dismissed the Complaint with prejudice due to the Complainant's failure to appear and prosecute and precluded the Complainant from filing further complaints with the Commission concerning the arrearages on her account for water service PAWC rendered until all arrearages were paid in full.

On December 20, 2018, the Complainant filed a document objecting to the Initial Decision because she did not receive the decision by email or certified mail. The Complainant requested that a copy of the Initial Decision be mailed to her and that she receive an extension of time to file Exceptions. By Secretarial Letter issued December 27, 2018, the Commission granted the Complainant's request for an extension of time to file Exceptions in order to ensure due process since the Complainant is proceeding *pro se*. Accordingly, Exceptions were due on or before January 14, 2019, and Replies to Exceptions were due on or before January 24, 2019.

As previously noted, the Complainant filed Exceptions on January 14, 2019. PAWC did not file Replies to Exceptions.

Discussion

Legal Standards

As an administrative agency of the Commonwealth, the Commission is required to provide due process to the parties appearing before it. *Schneider v. Pa. PUC*, 479 A.2d 10, 15 (Pa. Cmwlth. 1984) (*Schneider*), citing *Fusaro v. Pa. PUC*, 382 A.2d 794 (Pa. Cmwlth. 1978). Due process is satisfied when the parties are afforded notice and the opportunity to appear and be heard. *Schneider*, 479 A.2d at 15 (Pa. Cmwlth. 1984), citing *Township of Middleton v. The Institute District of the County of Delaware*, 293 A.2d 885 (Pa. Cmwlth. 1972), *aff'd* 450 Pa. 282, 299 A.2d 599 (Pa. Cmwlth. 1973). The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *Montefiore Hospital Ass'n of Western Pennsylvania v. Pa. PUC*, 421 A.2d 481, 484 (Pa. Cmwlth. 1980).

The Commission is required to fix the time and place of a hearing in a complaint proceeding and to serve notice thereof upon the parties in interest. *See* 66 Pa. C.S. § 703(a)-(b). Service on interested persons is sufficient to provide notice. 52 Pa. Code § 5.201(a). Notice mailed to a party's last known address and not returned by the post office is presumed to have been received. *See Berkowitz v. Mayflower Securities, Inc.*, 455 Pa. 531, 317 A.2d 584 (Pa. 1974) (*Mayflower*); *Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review*, 645 A.2d 944, 946 (Pa. Cmwlth. 1994), appeal denied 539 Pa. 696, 653 A.2d 1234 (1994); *Geary v. Verizon Pennsylvania Inc.*, Docket No. C-2009-2118625 (Order entered September 16, 2010).

Once a hearing is scheduled and duly notified by the Commission, it is the responsibility of the parties to appear and participate in the hearing. *Mumma v. PPL Electric Utilities Corporation*, Docket No. C-00014869 (Order entered January 24,

2002); *Sentner v. Bell Tel. Co. of PA*, Docket No. F-00161106 (Order entered October 25, 1993) (*Sentner*).

A party to a proceeding has the right to request a continuance of the hearing, which may be considered and granted by the presiding officer “only for good cause shown.” See 52 Pa. Code § 1.15(b). The party making the request must file a motion at least five days prior to the hearing date stating the facts on which the request is made, except that during a hearing, an oral request for hearing continuance may be made before the presiding officer in the hearing room. 52 Pa. Code § 1.15(b).

If a party fails to appear at a scheduled and duly notified hearing, the party will be deemed to have waived the opportunity to participate in a hearing in the matter. 66 Pa. C.S. § 332(f); 52 Pa. Code § 5.245(a)-(b). This result is not applied to the party, however, if the presiding officer determines that the party’s failure to appear was “unavoidable” and the interests of the other party (or parties) and the public will not be “prejudiced” by permitting the reopening or further examination. 66 Pa. C.S. § 332(f); 52 Pa. Code § 5.245(a)-(b). Also, this result may not be applied if the presiding officer of Commission determines that the complainant demonstrated a good faith attempt to attend the hearing. See, e.g., *Yomari Then v. Philadelphia Gas Works*, Docket No. F-2012-2318264 (Order entered June 13, 2013); see also *Windell C. Wiggins v. PECO Energy Company*, Docket No. C-2010-2190335 (Order entered October 27, 2011).

The public interest is prejudiced by the wasteful use of the agency’s and the respondent’s time and resources in addressing a complaint. See *Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Order entered December 26, 1995) (*Jefferson*), see also, e.g., *Charles Nichols III v. Bell-Atlantic-Pennsylvania*, Docket No. C-00956667 (Opinion and Order entered August 4, 1995).

Any issue that we do not specifically delineate or address herein shall be deemed to have been duly considered and denied without further discussion. It is well-settled that the Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741, 744 (Pa. Cmwlth. 1993); *also see, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217, 1222-1223 (Pa. Cmwlth. 1984).

The ALJ's Initial Decision

In the Initial Decision, ALJ Salapa made nine Findings of Fact and reached four Conclusions of Law. I.D. at 4-5, 9. We shall adopt and incorporate herein by reference the ALJ's Findings of Fact and Conclusions of Law unless they are either expressly or by necessary implication overruled or modified by this Opinion and Order.

The ALJ dismissed the Complaint due to the Complainant's failure to appear at the telephonic hearing and prosecute the Complaint. The ALJ initially noted that the Commission sent a Prehearing Order dated May 18, 2018, and the August 2018 Notice by first-class mail to the Complainant's address on file with the Commission and these documents were not returned. Accordingly, the ALJ presumed that the Complainant received this mail that was sent in the ordinary course of business. I.D. at 5 (citing *Mayflower*).

The ALJ stated that the Complainant did not appear for the scheduled hearing because she did not call the conference number listed on the telephonic hearing notice. *Id.* The ALJ also stated that on the morning of the hearing, the Complainant requested a continuance; however, given the lateness of the Complainant's request, the ALJ did not grant the request so that he could ascertain whether the Complainant was physically unable to participate in the telephonic hearing. *Id.* at 5-6. The ALJ concluded that under these circumstances, it appeared the Complainant had ample opportunity to

appear and to be heard but voluntarily chose not to do so. Therefore, the ALJ determined that the Complainant's due process rights have been fully protected. *Id.* at 6 (citing *Sentner*; 52 Pa. Code § 5.245(a)). The ALJ additionally found that by failing to appear and proffer any evidence in support of her complaint, Ms. Potora failed to satisfy her burden of proof under Section 332(a) of the Code, 66 Pa. C.S. § 332(a), and caused the Commission and the Respondent to waste resources. *I.D.* at 6 (citing *Jefferson*).

Additionally, the ALJ barred the Complainant from filing any further complaints against PAWC until she has paid her current outstanding balance in full. The ALJ stated that in this proceeding, Ms. Potora has requested and received three continuances and when her fourth last minute request was denied, she failed to appear for the hearing. *I.D.* at 6. The ALJ observed that the Complainant's conduct in this case is similar to her conduct in other complaint proceedings concerning other utilities in which the Complainant failed to appear at hearings after receiving multiple continuances. *Id.* at 7 (citing *Potora v. UGI Penn Natural Gas, Inc.*, Docket No. C-2016-2574107 (Final Order entered July 7, 2017); *Potora v. UGI Utilities, Inc.*, Docket No. C-2016-2575793 (Final Order entered May 14, 2018); *Potora v. UGI Penn Natural Gas, Inc.*, Docket No. C-2018-3000028 (Final Order entered August 14, 2018)). The ALJ concluded that the circumstances in this case also support the conclusion that the Complainant is filing complaints with the Commission to prevent or delay her utilities from terminating her service for non-payment. *I.D.* at 7. The ALJ relied on various Commission decisions which, when paired with Ms. Potora's complaint filing history with the Commission, guided his findings that the Complainant had engaged in an abuse of process. *See I.D.* at 8 (citing *Grossman v. Bell Telephone Company of Pennsylvania*, 67 Pa. PUC 714 (1988); *Manu v. The Bell Telephone Company of Pennsylvania*, Docket No. F-09029141 (Order entered May 4, 1994); *DiFilippo v. PECO Energy Company*, Docket No. C-20027116 (Final Order entered October 3, 2002); *Seidenstricker v. Metropolitan Edison Company*, Docket No. F-2008-2019388 (Order entered July 28, 2009); *Thomas v. The Peoples Natural Gas Company*, Docket No. 2009-2102194 (Order entered June 17, 2010)).

Exceptions

In her Exceptions, the Complainant states that she “objects to the entire Initial Decision” because the Commission did not send her a copy of the Initial Decision by certified mail and she was unable to access the Initial Decision on the Commission’s website. The Complainant requests a second extension of time to file “proper” Exceptions on the basis that the Initial Decision was not provided to her. Exc. at 1.

Disposition

Based on our review of the record, we will deny the Complainant’s Exceptions and adopt the Initial Decision. The Commission properly served the Initial Decision on the Complainant electronically based on her selection to receive electronic service of all documents instead of receiving paper copies in the mail. The Commission’s eFiling system provides that when an eFiling account is established, the party setting up the account agrees not only to file documents electronically but also to accept documents eServed to the party. The eFiling agreement states the following:

By checking this box, I agree that I will accept electronic service in this Commission proceeding in which I am a party of record. By selecting electronic service (eService), notification of filings via electronic mail shall constitute valid service of eFiled documents. **I understand that such electronic service of any and all documents will be in place of paper service.** 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.

Accordingly, by selecting electronic service, Ms. Potora agreed that a notification of the filings and a link to the filings in this proceeding via electronic mail would constitute valid legal service.

Moreover, the Commission's Regulations authorize the Commission to serve documents, including Initial Decisions, on parties who have agreed to receive electronic service by sending an electronic mail notice informing the parties that a document was posted on the Commission's electronic filing system and by providing a link to the document on the same day the document is posted. 52 Pa. Code §§ 1.53(b)(3), 1.16(c). The Commission will mail an Initial Decision to parties who are not electronic filing users or who have not agreed to receive electronic service. 52 Pa. Code § 1.16(b). In this case, the Commission's records show that the Commission electronically served the Initial Decision on the Complainant on December 3, 2018, and that the Commission published the Initial Decision on its website the same day. The audit history of the Commission's docketing system for this case contains no notification that the Initial Decision failed to be delivered electronically to the e-mail address the Complainant provided. Therefore, we conclude that the Complainant received the Initial Decision. *See Harvey v. PECO Energy Company*, Docket No. C-2018-3002514 (Order entered December 20, 2018); *Zirkel v. Philadelphia Gas Works*, Docket No. C-2016-2561176 (Final Order entered April 7, 2017); *Morella v. PECO Energy Company*, Docket No. C-2016-2553416 (Final Order entered January 31, 2017).

Conclusion

Based on the above discussion, we shall deny the Complainant's Exceptions and adopt the ALJ's Initial Decision; **THEREFORE,**

IT IS ORDERED:

1. That the Exceptions filed by Jennifer Potora on January 14, 2019, are denied.

2. That the Initial Decision of Administrative Law Judge David A. Salapa served on December 3, 2018, is adopted.

3. That the oral motion of Pennsylvania-American Water Company to dismiss the Complaint filed by Jennifer Potora at Docket No. C-2017-2627873 is granted.


4. That the Complaint of Jennifer Potora against Pennsylvania-American Water Company at Docket No. C-2017-2627873 is dismissed with prejudice.

5. That Jennifer Potora is precluded from filing further complaints with the Commission, either informal or formal, concerning the arrearages on her account for water service rendered by Pennsylvania-American Water Company until all arrearages are paid in full.

6. That the Commission's Secretary's Bureau and Bureau of Consumer Services shall, without further proceedings, reject or dismiss any formal or informal complaint filed by Jennifer Potora concerning the arrearages on her account for water service rendered by Pennsylvania-American Water Company until all arrearages are paid in full.

7. That the proceeding at Docket No. C-2017-2627873 is marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: August 8, 2019

ORDER ENTERED: August 8, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JENNIFER POTORA	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3039542
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Preliminary Objections upon the party listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA First Class U.S. Mail

Jennifer Potora
53 Academy Street
Plymouth, PA 18651



Michael A. Gruin

DATED: April 24, 2023