

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jadiyyah B. Abdul-Aziz	:	
	:	
v.	:	F-2024-3045764
	:	
PECO Energy Company	:	

**INITIAL DECISION**

Before  
Eranda Vero  
Administrative Law Judge

**INTRODUCTION**

This Decision dismisses the Formal Complaint of Jadiyyah B. Abdul-Aziz because she failed to appear at the scheduled hearing and prosecute her Complaint.

**HISTORY OF THE PROCEEDING**

On December 23, 2023, Jadiyyah B. Abdul-Aziz (Ms. Abdul-Aziz or Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO, Company, or Respondent) alleging that there are incorrect charges on her electricity bills from PECO caused by PECO’s failure to physically read the meter on location. As relief, the Complainant requests that the Commission order PECO to:

- 1) Continue providing and issuing uninterrupted electric service to the account holder until given notice of request for shut-off by the account holder to PECO; 2) Register and annotate the account as remaining credited in full by way of remittance

transfer; 3) Issue a certified cashier's check in the name of the account holder totaling the sum of all payments made on the account by the account holder to PECO through electronic payment systems, as the account is already, and was already paid in full by both the Federal Reserve and the Secretary of Treasury.

## Complaint ¶ 5.

This Formal Complaint is a timely appeal of a decision issued by the Commission's Bureau of Consumer Services at BCS Case No. 3927559. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

On February 14, 2024, PECO filed an Answer denying all material allegations of fact and conclusions of law in the Complaint. In its Answer, PECO averred that, pursuant to 52 Pa. Code § 56.12(5), it is required to physically read its meters at least once every five years and Complainant has been a PECO customer only since 2021. PECO further averred that the Company only accepts cash, certified checks, money orders obtained with valid U.S. legal tender, and valid bank checks in payment of utility accounts. PECO will not apply as credit to any customer account non-negotiable documents, sight drafts, 1040 Forms, Acceptance for Value, UCC Certified Tender of Payments, Promissory Notes or other UCC documents. Moreover, PECO alleged this issue has already been decided in *Coppedge v. PECO*, Docket No. F-2014-2406180 (Opinion and Order entered Jan. 29, 2015) (*Coppadge*), where the Commission determined that “even accepting as true the Complainant’s contentions, nothing in either PECO’s tariff or our Regulations requires PECO to accept all forms of payment.” Answer at 2, citing *Coppage* at 9.

An Initial Call-in Telephone Hearing Notice dated March 1, 2024, notified the parties that an initial call-in telephone hearing was scheduled on April 12, 2024, at 10:00 a.m.

On March 6, 2024, I issued a Prehearing Order. The Prehearing Order directed the parties to comply with various procedural requirements, reminded them of the time and date of the hearing, provided instructions for calling in to the hearing, and warned in bold type: “**You**

**may lose the case if you do not take part in this hearing and present evidence on the issues raised.”**

The Hearing Notice and the Prehearing Order were served by U.S. First-Class Mail upon the Complainant at the addresses that she provided to the Commission.<sup>1</sup> Neither the Hearing Notice nor the Prehearing Order were returned as undeliverable.

The hearing convened as scheduled on April 12, 2024. Khadijah Scott, Esq. appeared representing the Respondent. The Complainant failed to call in. The Complainant was given an additional 15 minutes to call in but failed to do so.

At the hearing, counsel for PECO moved that the Complaint be dismissed for lack of prosecution pursuant to 52 Pa. Code § 5.245.

The record in this matter closed on May 9, 2024, upon receipt of the hearing transcript.

#### FINDINGS OF FACT

1. The Complainant is Jadiyyah B. Abdul-Aziz.
2. The Respondent is PECO Energy Company.
3. On December 23, 2023, Ms. Abdul-Aziz filed a Formal Complaint alleging that there are incorrect charges on her electricity bills from PECO caused by PECO’s failure to physically read the meter at her location.

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<sup>1</sup> In the Formal Complaint form, the Complainant agreed to receive all documents by First-Class Mail at the address she provided on the form.

4. As relief, the Complainant requests that the Commission order PECO to:

1) Continue providing and issuing uninterrupted electric service to the account holder until given notice of request for shut-off by the account holder to PECO; 2) Register and annotate the account as remaining credited in full by way of remittance transfer; 3) Issue a certified cashier's check in the name of the account holder totaling the sum of all payments made on the account by the account holder to PECO through electronic payment systems, as the account is already, and was already paid in full by both the Federal Reserve and the Secretary of Treasury.

Complaint ¶ 5.

5. On February 14, 2024, PECO filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

6. In its Answer, PECO averred that, pursuant to 52 Pa. Code § 56.12(5), it is required to physically read its meters at least once every five years and Complainant has been a PECO customer only since 2021.

7. In its Answer, PECO averred that the Company only accepts cash, certified checks, money orders obtained with valid U.S. legal tender, and valid bank checks in payment of utility accounts. PECO will not apply as credit to any customer account non-negotiable documents, sight drafts, 1040 Forms, Acceptance for Value, UCC Certified Tender of Payments, Promissory Notes or other UCC documents.

8. An Initial Call-in Telephone Hearing Notice dated March 1, 2024, notified the parties that an initial call-in telephone hearing was scheduled on April 12, 2024, at 10:00 a.m.

9. The Hearing Notice stated, “You may lose the case if you do not take part in this hearing and present evidence on the issue(s) raised.”

10. A Prehearing Order dated March 6, 2024, directed the parties to comply with various procedural requirements, reminded them of the time and date of the hearing, provided instructions for calling in to the hearing, and warned in bold type: “**You may lose the case if you do not take part in this hearing and present evidence on the issues raised.**”

11. The Hearing Notice and the Prehearing Order were served by U.S. First-Class Mail upon the Complainant at the address that she provided to the Commission.

12. Neither the Hearing Notice nor the Prehearing Order were returned as undeliverable.

13. The Complainant failed to appear at the April 12, 2024, hearing.

14. The Complainant did not request a continuance of the April 12, 2024, hearing, withdraw the Complaint, or otherwise notify the Commission to explain why her failure to appear at the hearing was unavoidable.

### DISCUSSION

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

Administrative agencies, like the Public Utility Commission, are required to provide due process to the parties appearing before them. This requirement is satisfied when the parties are afforded notice and the opportunity to appear and be heard. *Schneider v. Pa. Pub. Util. Comm’n*, 479 A.2d 10 (Pa. Cmwlth. 1984). Notice served to a party with no notification that service failed is presumed received. *Berkowitz v. Mayflower Sec., Inc.*, 317 A.2d 584 (Pa. 1974) (*Berkowitz*); *Meierdierck v. Miller*, 147 A.2d 406 (Pa. 1959) (*Meierdierck*); *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. 1997) (*Samaras*); *Judge v. Celina Mut. Ins. Co.*, 449 A.2d 658 (Pa. Super. 1982) (*Judge*).

The Hearing Notice and the Prehearing Order were served by U.S. First-Class Mail upon the Complainant at the addresses that she provided to the Commission. Neither one was returned as undeliverable. It is therefore deemed that the Complainant had notice of the date and time and participation information for the April 12, 2024 hearing. *Berkowitz; Meierdierck; Samaras; Judge.*

As the Commission noted in *Strydio v. PPL Electric Utilities Corp.*, Docket No. C-2017-2633043 at 6 (Opinion and Order entered July 18, 2018), "[o]nce notice of a hearing and the opportunity to be heard have been provided by the Commission, it is the responsibility of the parties to appear and participate in the hearing." (citing, *Mumma v. PPL Elec. Utils. Corp.*, Docket No. C-00014869 (Opinion and Order entered Jan. 24, 2002)); *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993).

The Complainant was notified of the schedule for the hearing and did not appear for the hearing. Additionally, the Hearing Notice and the Prehearing Order advised the Complainant that the case could be dismissed for failure to call-in and participate in the hearing. Both the Public Utility Code and the Commission's regulations provide that, after being notified, a party who fails to appear at a scheduled hearing shall be deemed to have waived the opportunity to participate in the hearing and shall not be permitted to later reopen the matter or be permitted to recall excused witnesses. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a). Thus, the Complainant has waived the opportunity to participate in the hearing by failing to appear. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a); *Jefferson v. PECO Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995).

The party who failed to appear at the hearing has the burden of explaining why his/her failure to appear was unavoidable. 66 Pa.C.S. § 332(a); *Herr v. West Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022). When there are no facts in the record that the party's failure to appear was unavoidable, the complaint should be dismissed. *Brown v. Metro. Edison Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Little v. Pittsburgh Water & Sewer Auth.*, Docket No. F-2021-3027107 (Opinion and Order entered Feb. 7, 2022); *Williams v. Metro. Edison Co.*, Docket No. C-2018-3000734 (Opinion and

Order entered Mar. 14, 2019); *Jefferson v. PECO Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a). Therefore, the Complaint will be dismissed.

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. By failing to appear and proffer any evidence to support the Complaint, the Complainant has failed to meet this burden. Consequently, the Complaint will be dismissed on this basis as well. *Jefferson v. PECO Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995); *El-Ayazra v. W. Penn Power Co.*, Docket No. F-2015-2509292 (Opinion and Order entered June 30, 2016); 52 Pa. Code § 5.245.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding. 66 Pa.C.S. § 701.
2. The Complainant received notice of the hearing. *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).
3. The due process rights of the Complainant have been fully protected in this proceeding and Complainant's failure to appear was not unavoidable. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984); 52 Pa. Code § 5.245(a).
4. As the party seeking affirmative relief from the Commission, the Complainant bears the burden of proof. 66 Pa.C.S. § 332(a).

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

6. If there are no facts in the record that a party's failure to appear at a hearing was unavoidable, the complaint should be dismissed. *Brown v. Metro. Edison Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Little v. Pittsburgh Water & Sewer Auth.*, Docket No. F-2021-3027107 (Opinion and Order entered Feb. 7, 2022).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of PECO Energy Company to dismiss the Formal Complaint filed by Jadiyyah B. Abdul-Aziz at Docket No. F-2024-3045764 is granted.
2. That the Formal Complaint of Jadiyyah B. Abdul-Aziz in Jadiyyah B. Abdul-Aziz v. PECO Energy Company at Docket No. F-2024-3045764 is dismissed.
3. That Docket No. F-2024-3045764 is marked closed.

Date: August 9, 2024

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/s/  
Eranda Vero  
Administrative Law Judge