

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Monique Jones	:	
	:	
v.	:	C-2024-3048425
	:	
FirstEnergy Pennsylvania Electric Company	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This decision denies the Formal Complaint of Monique Jones because she failed to appear at the scheduled hearing and prosecute her Complaint.

HISTORY OF THE PROCEEDING

On April 16, 2024, Monique Jones (Ms. Jones or Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against FirstEnergy Pennsylvania Electric Company (FirstEnergy, Company, or Respondent) alleging that the utility is threatening to shut off or has already shut off her electric service and that she is unable to pay her electricity bills due to recent physical limitation to her ability to work. As relief, the Complaint requests that the Commission establish a payment arrangement on her behalf.

On May 9, 2024, FirstEnergy filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

An Initial Call-in Telephonic Hearing Notice dated May 23, 2024, notified the parties that an initial call-in telephone hearing was scheduled on August 6, 2024, at 10:00 a.m., and that the matter was assigned to me. 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.”

On July 17, 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 and provided instructions for calling in to the hearing. In addition, the Prehearing Order 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.”** (Emphasis in the original).

The Initial Call-in Telephonic Hearing Notice and the Prehearing Order were served electronically via email and eService upon the Complainant at the email address that she provided to and registered with the Commission.¹ Neither the Hearing Notice nor the Prehearing Order were returned as undeliverable.

¹ In the Formal Complaint form, the Complainant checked the box to receive all documents by email at the email address she provided on the form and registered with the Commission. However, the Complainant also registered for eFiling and eService.

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. By creating this account, notification of filings via electronic mail shall constitute valid service of Commission

The hearing convened as scheduled on August 6, 2024.² Margaret Morris, 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 FirstEnergy moved that the Complaint be dismissed for lack of prosecution pursuant to 52 Pa. Code § 5.245. The Motion was held in abeyance.

The record in this matter closed on August 26, 2024, upon receipt of the hearing transcript. To date, there has been no contact or communication from Ms. Jones with me or anyone else at the Commission regarding her failure to appear at the August 6, 2024, hearing.

FINDINGS OF FACT

1. The Complainant is Monique Jones.
2. The Respondent is FirstEnergy Pennsylvania Electric Company.

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 May 14, 2024).

² Administrative Law Judge F. Joseph Brady presided over the August 6, 2024, hearing in my absence.

3. On April 16, 2024, Ms. Jones filed a Formal Complaint against FirstEnergy alleging that the utility is threatening to shut off or has already shut off her electric service and that she is unable to pay her electricity bills due to recent physical limitation to her ability to work.

4. As relief, the Complaint requests that the Commission establish an affordable payment arrangement on her behalf.

5. On May 9, 2024, FirstEnergy filed an Answer to the Complaint.

6. An Initial Call-in Telephonic Hearing Notice dated May 23, 2024, notified the parties that an initial call-in telephone hearing was scheduled on August 6, 2024, at 10:00 a.m.

7. The Initial Call-In 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.” May 23, 2024, Initial Call-In Hearing Notice, p. 1.

8. A Prehearing Order dated July 17, 2024, directed the parties to comply with various procedural requirements, reminded them of the time and date of the hearing and provided instructions for calling in to the hearing.

9. The July 17, 2024, Prehearing Order 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.**” July 17, 2024, Prehearing Order, ¶ 1 (emphasis in the original).

10. The Hearing Notice and the Prehearing Order were served electronically via email and eService upon the Complainant at the email address that she provided to and registered with the Commission.

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

12. The Complainant failed to appear at the August 6, 2024, hearing.

13. The Complainant did not request a continuance, withdraw the Complaint, or otherwise notify the Commission to explain why her failure to appear at the August 6, 2024, hearing was unavoidable.

DISCUSSION

In this Complaint, the Complainant alleges that FirstEnergy is threatening to shut off or has already shut off her electric service and that she is unable to pay her electricity bills due to recent physical limitation to her ability to work. As relief, the Complaint requests that the Commission establish a payment arrangement on her behalf.

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). Both the Hearing Notice and Prehearing Order were served to the email address registered with the Commission by the Complainant. Neither was returned to the Commission as

undeliverable. Accordingly, it must be presumed that these documents sent to Complainant were received by Complainant. *Hu v. PECO Energy Co.*, Docket No. C-2019-3012075 (Order entered Dec. 19, 2019) (*Hu*); *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered Apr. 7, 2017) (*Zirkel*); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered Jan. 31, 2017) (*Morella*).

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 scheduled hearing and did not appear for the hearing. Additionally, the May 23, 2024, Hearing Notice, and the July 17, 2024 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. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995).

Furthermore, 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. UGI 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.

Finally, the party who failed to appear at the hearing has the burden of explaining why 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. PECO Energy 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. PECO Energy Co.*, Docket No. C-2018-3000734 (Opinion and Order entered Mar. 14, 2019); *Jefferson v. UGI 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). There are no facts on the record that suggest that Complainant's failure to appear was unavoidable. Therefore, the Complaint will be dismissed.

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. *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).

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. PECO Energy 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); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of FirstEnergy Pennsylvania Electric Company to dismiss the Formal Complaint filed by Monique Jones at Docket No. C-2024-3048425 is granted.

