

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Alice Carter	:	
	:	
v.	:	C-2024-3050615
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Gail M. Chiodo
Administrative Law Judge

INTRODUCTION

This decision dismisses the Formal Complaint of a former electric service customer because the former customer failed to appear for the hearing and prosecute her Complaint.

HISTORY OF THE PROCEEDING

On July 31, 2024, the Complainant, Alice Carter, filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission or PUC) against PPL Electric Utilities Corporation (PPL or the Company). The Complainant alleges that there are incorrect charges on her bill. As relief, the Complainant wants the charges removed from her bill which were incurred after June 16, 2023, when she avers she moved out of the service address at issue. The Complainant also requests a PUC payment arrangement.

Using the Complaint form made available by the PUC for the convenience of customers wishing to file a complaint against a public utility, Ms. Carter selected the option that she wanted to be served all documents from the PUC, including all hearing notices, orders and related documents, by email service. (Complaint ¶ 9).

On August 28, 2024, PPL timely filed an Answer in which it denied the material factual allegations in the Complaint. Specifically, PPL denied that Ms. Carter contacted the Company and requested that service be discontinued after June 16, 2023. The Company further responded that the Complainant's account was closed on August 10, 2023, after a new service application was submitted by another customer at the service address at issue.

On September 3, 2024, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing on October 25, 2024, at 10:00 a.m., and the case was assigned to me. That same day, a Corrected Call-In Telephone Hearing Notice was served on the parties which only added that October 25, 2024, fell on a Friday. Both Hearing Notices provided the parties with the toll-free bridge number to call and passcode to enter to participate in the telephonic hearing. The Hearing Notices further explained the consequences of failing to appear for the hearing and how to request a continuance, if needed, by stating:

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 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).

On September 18, 2024, a Prehearing Order was served on the parties which reminded the parties of the date and time of the hearing, and again stated the failure to appear warning above and how to request a continuance, if needed. The Prehearing Order provided other information about the hearing process such as, but not limited to, the burden of proof, serving proposed exhibits, and where to obtain other information in general about the hearing process.

The Hearing Notices and Prehearing Order were served to the Complainant in the ordinary course of the Commission's business to the email address that she provided on her Complaint. Neither the Hearing Notices nor the Prehearing Order were returned to the Commission as undeliverable.

On October 25, 2024, the hearing convened at 10:00 a.m., as scheduled. Nicholas A. Stobbe, Esquire, appeared on behalf of the Company, along with one witness, and the Company was ready to proceed. The court reporter was also present. The Complainant was not present. After delaying the start of the hearing for approximately 15 minutes to allow time for the Complainant to appear, the hearing proceeded in the Complainant's absence. No testimony was taken, and no exhibits were introduced into the record. At the hearing, the Company moved to dismiss the Complaint with prejudice for the failure of the Complainant to appear and prosecute her Complaint. I took this motion under advisement.

The record closed on October 31, 2024, with the filing of the ten-page hearing transcript. To date, there is nothing in the record to explain why the Complainant

failed to appear at the hearing. For the reasons discussed below, this decision grants the Company's oral motion to dismiss the Complaint.

FINDINGS OF FACT

1. The Complainant is Alice Carter.
2. The Respondent is PPL Electric Utilities Corporation.
3. On July 31, 2024, the Complainant filed a Formal Complaint against PPL concerning an active account she once maintained with PPL at 3913 Market Street, Apt. C, Camp Hill, Pennsylvania 17011 (previous service address).
4. On August 28, 2024, the Company timely filed an Answer.
5. On September 3, 2024, a Call-In Telephone Hearing Notice was served on the parties scheduling a telephonic hearing on October 25, 2024, at 10:00 a.m.; on this same date a Corrected Call-In Telephone Hearing Notice was served on the parties which only added that October 25, 2024, fell on a Friday.
6. On September 18, 2024, a Prehearing Order for Telephone Hearing was served on the parties which, among other details, reminded the parties of the date and time of the hearing, and that the failure to appear at the hearing may include dismissal of the Complaint with prejudice.
7. Using the Complaint form made available by the PUC for the convenience of customers wishing to file a complaint against a public utility, Ms. Carter selected the option that she wanted to be served all documents from the PUC, including all hearing notices, orders and related documents, by email service. (Complaint ¶ 9).

8. Both Hearing Notices and the Prehearing Order were emailed to the Complainant to the email address the Complainant provided on her Complaint.

9. Both Hearing Notices and the Prehearing Order provided the Complainant with the toll-free bridge telephone number and password to enter to participate in the hearing.

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

11. The Complainant failed to appear and participate in the scheduled telephonic hearing on October 25, 2024, and there is nothing in the record to explain why the Complainant failed to appear at the hearing.

DISCUSSION

Administrative agencies, such as the PUC, are required to provide due process to the parties appearing before them. *Schneider v. Pa. PUC*, 479 A.2d 10 (Pa. Cmwlth. 1984). This due process requirement is satisfied when the parties are provided notice and the opportunity to be heard. *Id.*

The record shows that the Complainant was provided notice and the opportunity to be heard. First, on September 3, 2024, the Complainant was served a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. This same date, a Corrected Call-In Telephone Hearing Notice was served on the parties which only added that October 25, 2024, fell on a Friday. Second, on September 18, 2024, the Complainant was served a Prehearing Order which reminded the parties of the date and time of the hearing, and how to participate. All of these

documents advised the parties, *inter alia*, how to request a continuance prior to the hearing if needed. Finally, the documents advised the Complainant that a failure to appear may result in dismissal with prejudice, explaining that Complainant would be barred from filing another complaint raising the same claim(s) and issues(s) presented in the dismissed complaint.

Using the Complaint form made available by the PUC for the convenience of customers wishing to file a complaint against a public utility, Ms. Carter selected the option that she wanted to be served all documents from the PUC, including all hearing notices, orders and related documents, by email service. (Complaint ¶ 9). In accordance with her selection, the Hearing Notices and Prehearing Order were emailed to the Complainant at the email address she provided on her Complaint. No notice or order was returned to the PUC as undeliverable. Notice served to a party's email address with no notification that service failed is presumed to have been received. *Skow v. Metro. Edison Co.*, No. F-2023-3042228 (Final Order entered May 7, 2024); *Hu v. PECO Energy Co.*, No. C-2019-3012075 (Order entered Dec. 19, 2019); *Zirkel v. Phila. Gas Works*, No. C-2016-2561176 (Final Order entered Apr. 7, 2017); *Morella v. PECO Energy Co.*, No. C-2016-2553416 (Final Order entered Jan. 31, 2017).

Once a hearing is scheduled and the parties are duly notified by the Commission, it is the responsibility of the parties to appear and participate in the hearing. *Mumma v. PPL Elec. Utils. Corp.*, No. C-00014869 (Opinion and Order entered Jan. 24, 2002). 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). However, these provisions in the Code and in the Commission's regulations do not apply if the presiding officer determines that the party's failure to appear at the hearing was unavoidable and that the interests of the other parties and of the

public would not be prejudiced by permitting the reopening or further examination. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(b).

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.*, 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 with prejudice. *Brown v. PECO Energy Co.*, No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Little v. Pittsburgh Water & Sewer Auth.*, No. F-2021-3027107 (Opinion and Order entered Feb. 7, 2022); *Williams v. PECO Energy Co.*, No. C-2018-3000734 (Opinion and Order entered Mar. 14, 2019); *Jefferson v. PPL Utils., Inc.*, No. Z-00269892 (Opinion and Order entered Dec. 26, 1995); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

The Complainant failed to appear for scheduled hearing, despite receiving notice and despite the undersigned allowing additional time for the Complainant to appear.¹ To date, there are no facts in the record to show that the Complainant's failure to appear was unavoidable.

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the complainant must show that the respondent public utility is responsible or accountable for the problem described in the complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. P.U.C. 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa. P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990). A preponderance of the evidence is established by presenting evidence

¹ The hearing concluded at 10:21 a.m. (Tr. at 9).

more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

As the proponent of any request for relief, Complainant bears the burden of proof. By failing to participate and proffer any evidence to support the Complaint, the Complainant has failed to meet this burden. Thus, it is appropriate to dismiss the Complaint. *Brown v. PECO Energy Co.*, No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Williams v. PECO Energy Co.*, No. C-2018-300734 (Opinion and Order entered Mar. 14, 2019) (citing *Jefferson v. PPL Utils., Inc.*, No. Z-00269892 (Opinion and Order entered Dec. 26, 1995)).

Accordingly, the merits of the Complaint will not be addressed and the Company's motion to dismiss the Complaint will be granted.

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 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. PUC*, 479 A.2d 10 (Pa. Cmwlth. 1984).
3. Notice served to a party's email address with no notification that service failed to be delivered to that email address is presumed to have been received. *Skow v. Metro. Edison Co.*, No. F-2023-3042228 (Final Order entered May 7, 2024); *Hu v. PECO Energy Co.*, No. C-2019-3012075 (Order entered Dec. 19, 2019); *Zirkel v.*

Phila. Gas Works, No. C-2016-2561176 (Final Order entered Apr. 7, 2017); *Morella v. PECO Energy Co.*, No. C-2016-2553416 (Final Order entered Jan. 31, 2017).

4. 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).

5. 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 with prejudice. *Brown v. PECO Energy Co.*, No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Little v. Pittsburgh Water & Sewer Auth.*, No. F-2021-3027107 (Opinion and Order entered Feb. 7, 2022); *Williams v. PECO Energy Co.*, No. C-2018-3000734 (Opinion and Order entered Mar. 14, 2019); *Jefferson v. PPL Utils., Inc.*, No. Z-00269892 (Opinion and Order entered Dec. 26, 1995).

6. Complainant's due process rights have been fully protected and Complainant's failure to appear was not unavoidable. *Schneider v. Pa. PUC*, 479 A.2d 10 (Pa. Cmwlth. 1984); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

7. As the party seeking relief, Complainant bears the burden of proof by a preponderance of the evidence. 66 Pa.C.S. § 332(a); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

8. By failing to participate in the hearing and proffer any evidence to support the complaint, the Complainant has failed to meet the burden of proof.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion of PPL Electric Utilities Corporation to dismiss with the Formal Complaint of Alice Carter at Docket No. C-2024-3050615 is granted.
2. That the Formal Complaint of Alice Carter filed against PPL Electric Utilities Corporation at Docket Number C-2024-3050615 is hereby dismissed.
3. That the Secretary's Bureau shall mark Docket No. C-2024-3050615 as closed.

Date: January 14, 2025

/s/
Gail M. Chiodo
Administrative Law Judge