

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kevin Lofton, Jr.

v.

Philadelphia Gas Works

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C-2024-3049773

**INITIAL DECISION**

Before  
Eranda Vero  
Administrative Law Judge

**INTRODUCTION**

This Decision denies the Formal Complaint of Kevin Lofton, Jr. because the Complainant failed to appear at the scheduled hearing and prosecute his Complaint. In addition, this decision precludes Kevin Lofton, Jr. from filing further complaints with the Pennsylvania Public Utility Commission, whether of an informal or formal nature, regarding the arrearages on his gas account with Philadelphia Gas Works until all such arrearages are paid in full.

**HISTORY OF THE PROCEEDING**

On June 25, 2024, Kevin Lofton, Jr. (Complainant or Mr. Lofton) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW, Respondent or Company) with the Pennsylvania Public Utility Commission (Commission). In his Complaint, Mr. Lofton alleged that PGW terminated his gas service on June 24, 2024, due

to theft of service. Mr. Lofton denies that he engaged in theft of gas service at his residence. As relief, the Complainant requests that PGW explain its claim and that a payment arrangement be established for him.

On July 23, 2024, the Respondent filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

An Initial Call-in Telephonic Hearing Notice dated July 26, 2024, notified the parties that an initial call-in telephone hearing was scheduled on September 24, 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 August 14, 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 Hearing Notice and the Prehearing Order were eServed on the Complainant at the email address registered with the Commission by the Complainant.<sup>1</sup> None of the emails sent by the Commission to the Complainant were returned as undeliverable.

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<sup>1</sup> Both the Complainant and Respondent have elected to enroll in the Commission’s e-Filing Subscription Service (eService) and were served via eService. See Complaint ¶ 9.

The hearing convened as scheduled on September 24, 2024. Graciela Christlieb, Esq. appeared representing the Respondent. The Complainant failed to call in to the hearing. The Complainant was given an additional 10-15 minutes to call in but failed to do so.

At the hearing, counsel for PGW moved that the Complaint be dismissed for lack of prosecution pursuant to 52 Pa. Code § 5.245. In addition, attorney Christlieb requested that the Complaint be dismissed with prejudice because the Complainant has abused the Commission's administrative process to avoid termination of service, and that the Complainant be precluded from filing more informal or Formal complaints with the Commission. Tr. 7-8. She presented the testimony of Jessica Antonetti, who is a Senior Customer Review Officer with PGW. The Respondent sponsored one exhibit which was admitted into the record.

The record in this matter closed on October 22, 2024, upon receipt of the hearing transcript. To date, there has been no contact or communication from Mr. Lofton with me or anyone else at the Commission regarding his failure to appear at the September 24, 2024 hearing.

### FINDINGS OF FACT

1. The Complainant is Kevin Lofton, Jr. who receives gas service from PGW at 1961 Ashley Street, Philadelphia PA (Service Address).
2. The Respondent is Philadelphia Gas Works.
3. On August 27, 2013, Complainant filed an informal complaint with the Bureau of Consumer Service (BCS) at BCS Case No. 3141789 seeking a payment arrangement (PAR). PGW Exhibit 10, p. 1.

4. On August 30, 2013, BCS established a PAR for Mr. Lofton at BCS Case No. 3141789 upon determining that he was a level 1 income customer. PGW Exhibit 10, p. 2.

5. On June 2, 2014, Mr. Lofton filed a second informal complaint with BCS at BCS Case No. 3245996 requesting another PAR. PGW Exhibit 10, p. 3.

6. On September 4, 2014, BCS dismissed Ms. Lofton's informal complaint at BCS Case No. 3245996 pursuant to 66 Pa.C.S. § 1405(d) upon finding that he had defaulted on the first Commission-issued PAR and had not experienced a change of income. PGW Exhibit 10, p. 4.

7. On September 11, 2014, Mr. Lofton filed his third informal complaint with BCS at BCS Case No. 3328416 again requesting a PAR. PGW Exhibit 10, p. 5.

8. On February 21, 2015, BCS dismissed Mr. Lofton's informal complaint at BCS Case No. 33284176 upon finding that his outstanding balance consisted of arrearages accumulated while he participated in PGW's Customer Responsibility Program (CRP). PGW Exhibit 10, p. 6.

9. On April 20, 2015, Mr. Lofton filed a Formal Complaint with the Commission at Docket No. C-2015-2477763. PGW Exhibit 10, p. 7

10. The parties were able to resolve the issues raised in Formal Complaint at Docket No. C-2015-2477763 and PGW filed a letter of satisfaction (C.S.) with the Commission on August 31, 2015. PGW Exhibit 10, p. 8.

11. On October 26, 2015, Mr. Lofton filed his fourth informal complaint with BCS at BCS Case No. 3396356 disputing his arrears and requesting a PAR. PGW Exhibit 10, p. 9.

12. On March 1, 2016, BCS dismissed Mr. Lofton's informal complaint at BCS Case No. 3396356 pursuant to 66 Pa.C.S. § 1405(d) upon finding that he had defaulted on a Commission-issued PAR and had not experienced a change of income. PGW Exhibit 10, p. 10-12.

13. On April 11, 2016, Mr. Lofton filed his second Formal Complaint against PGW at Docket No. C-2016-2539283. PGW Exhibit 10, p. 13.

14. On September 6, 2016, Mr. Lofton filed his fifth informal complaint with BCS, at BCS Case No. 3474098 requesting a PAR. PGW Exhibit 10, p. 14.

15. On September 9, 2016, BCS dismissed Mr. Lofton's informal complaint at BCS Case No. 3474098 finding no good faith effort to make payments to PGW and directing the Complainant to pay \$1,428.09 to restore service. PGW Exhibit 10, p. 15.

16. On February 24, 2017, the Commission entered a Final Order on Mr. Lofton's Formal Complaint at Docket No. C-2016-2539283 directing him to pay undisputed charges plus the reconnection fee, then establish a PAR for him as a level 1 income customer. PGW Exhibit 10, p. 16.

17. On May 4, 2017, Mr. Lofton filed his sixth informal complaint with BCS at BCS Case No. 3522523 in which he disputed his bills from PGW. PGW Exhibit 10, p. 17.

18. On May 23, 2017, BCS closed BCS Case No. 3522523 without a decision but changed Company-PAR to comply with the Final Order on Formal Complaint at Docket No. C-2016-2539283. PGW Exhibit 10, p. 18-19.

19. On September 1, 2017, Mr. Lofton filed his seventh informal complaint with BCS at BCS Case No. 3558999 requesting a PAR. PGW Exhibit 10, p. 20.

20. On September 29, 2017, BCS closed BCS Case No 3558999 without a decision, explaining to the Complainant that the Company PAR would be reinstated if he paid the past due agreement amount of \$176.55. PGW Exhibit 10, at 21-23.

21. On June 4, 2018, Mr. Lofton filed his eighth informal complaint with BCS at BCS Case No. 3620589, requesting a PAR. PGW Exhibit 10, p. 24.

22. On June 5, 2018, BCS issued a PAR for Mr. Lofton at BCS Case No. 3620589, finding him to be a level 1 income customer. PGW Exhibit 10, p. 25.

23. On May 28, 2019, Mr. Lofton filed his ninth informal complaint against PGW at BCS Case No. 3705267, raising a billing dispute and requesting a PAR. PGW Exhibit 10, p. 26.

24. On March 4, 2020, BCS dismissed the informal complaint at BCS Case No. 3705267 pursuant to 66 Pa.C.S. § 1405(d) upon finding that he had defaulted

on a Commission-issued PAR and had not experienced a change of income. PGW Exhibit 10, p. 27-28.

25. On August 21, 2020, Mr. Lofton filed his third Formal Complaint against PGW at Docket No. F-2020-3021455 disputing his gas bills and requesting a PAR. PGW Exhibit 10, p. 29.

26. On February 9, 2021, the Commission issued a Final Order dismissing the Formal Complaint at Docket No. F-2020-3021455 for failure to prosecute because Mr. Lofton failed to appear at the scheduled hearing. PGW Exhibit 10, p. 30-31.

27. On September 23, 2022, PGW issued a 10-Day Shut Off Notice to Mr. Lofton requesting that he pay \$8,220.45 to avoid termination of service at the Service Address. PGW Exhibit 10, p. 32.

28. On October 4, 2022, Mr. Lofton filed his tenth informal complaint against PGW at BCS Case No. 3869236 raising quality of service issues and requesting a PAR. PGW Exhibit 10, p. 33.

29. On November 10, 2022, BCS verbally closed the informal complaint at BCS Case No. 3869236 after Mr. Lofton made the payment requested by the Company. PGW Exhibit 10, p. 34.

30. On March 23, 2023, PGW issued a 10-Day Shut Off Notice to Mr. Lofton requesting that he pay \$8,810.54 to avoid termination of service at the Service Address. PGW Exhibit 10, p. 35.

31. On April 11, 2023, Mr. Lofton filed his eleventh informal complaint against PGW at BCS Case No. 3900253 claiming a significant change in circumstances and requesting a PAR. PGW Exhibit 10, p. 36.

32. On May 10, 2023, BCS closed the case at BCS Case No. 3900253 noting that the matter was resolved between the parties, that the customer will enroll in CRP and that the Company will issue a PAR. PGW Exhibit 10, p. 37-38.

33. On September 21, 2023, PGW issued a 10-Day Shut Off Notice to Mr. Lofton requesting that he pay \$8,467.35 to avoid termination of service at the Service Address. PGW Exhibit 10, p. 39.

34. On October 3, 2023, Mr. Lofton filed his twelfth informal complaint against PGW at BCS Case No. 3946423 requesting a PAR. PGW Exhibit 10, p. 40.

35. On December 8, 2023, BCS dismissed the informal complaint at BCS Case No. 3946423 pursuant to 66 Pa.C.S. § 1405(d) upon finding that he had defaulted on a Commission-issued PAR and had not experienced a change of income. PGW Exhibit 10, p. 41.

36. On April 24, 2024, PGW issued a 10-Day Shut Off Notice to Mr. Lofton requesting that he pay \$10,250.21 to avoid termination of service at the Service Address. PGW Exhibit 10, p. 42.

37. On May 6, 2024, Mr. Lofton filed his thirteenth informal complaint against PGW at BCS Case No. 3984553 requesting a PAR. PGW Exhibit 10, p. 43.

38. On June 5, 2024, BCS dismissed the informal complaint at BCS Case No. 3984553 pursuant to 66 Pa.C.S. § 1405(d) upon finding that Mr. Lofton had defaulted on a Commission-issued PAR and had not experienced a change of income. PGW Exhibit 1, p. 44.

39. On June 25, 2024, Mr. Lofton filed his fourth Formal Complaint (present Complaint) against PGW alleging that PGW improperly terminated his gas service on June 24, 2024 for theft of service.

40. As relief, the Complainant requested that PGW explain the grounds for claiming theft of service and the Commission establish a payment arrangement for him.

41. On July 23, 2024, the Respondent filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

42. An Initial Call-in Telephonic Hearing Notice dated July 26, 2024, notified the parties that an initial call-in telephone hearing was scheduled on September 24, 2024, at 10:00 a.m.

43. 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.” July 26, 2024, Initial Call-In Hearing Notice, p. 1.

44. A Prehearing Order dated August 14, 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.

45. The August 14, 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.**” August 14, 2024, Prehearing Order, ¶ 1 (emphasis in the original).

46. The Hearing Notices and the Prehearing Order were eServed on the Complainant at the email address registered with the Commission by the Complainant. None of the emails sent by the Commission to the Complainant were returned as undeliverable.

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

48. The Complainant failed to appear at the September 24, 2024, hearing.

49. The Complainant did not request a continuance, withdraw the Complaint, or otherwise notify the Commission to explain why his failure to appear at the September 24, 2024, hearing was unavoidable.

50. As of the date of the hearing on September 24, 2024, Complainant’s outstanding balance with PGW was \$10,691.48. Tr. 17.

### DISCUSSION

In the present Complaint, Mr. Lofton alleged that PGW improperly terminated his gas service on June 24, 2024, for theft of service. Mr. Lofton disputes PGW’s grounds for termination and requested that PGW explain its claim and the Commission establish a payment arrangement for him.

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 eServed 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); *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).

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 July 26, 2024 Hearing Notice, and the August 14, 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).

Additionally, 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 his 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.

At the September 24, 2024 hearing, counsel for the Company also argued that the Complainant has abused the Commission's process and should be barred from filing any more informal and formal complaints with the Commission until his outstanding balance is paid in full. Tr. 7-8. In support of this position, attorney Christlieb presented the testimony

of Jessica Antonetti, who is a Senior Customer Review Officer with PGW. Ms. Antonetti testified that from August 2013 to September 2024, Complainant had filed 13 informal complaints and four formal complaints against PGW. The complaints filed by Mr. Lofton, the dates, claims and outcomes of each are as follows:

	<b>Informal/Formal Complaint</b>	<b>Date Filed</b>	<b>Date Closed</b>	<b>Claims</b>	<b>Outcome</b>
1	BCS Case # 3141789	8/27/2013	8/30/2013	PAR	PAR issued L1
2	BCS Case # 3245996	6/2/2014	9/4/2014	PAR	Case dismissed per 1405 (d)
3	BCS Case # 3284176	9/1/2014	2/21/2015	PAR	Case dismissed – customer has CRP arrears in his balance
4	PUC Formal Complaint C-2015-2477763	4/20/2015	8/31/2015		C.S.
5	BCS Case #3396356	10/26/2015	3/1/2016	Billing dispute / PAR	No PAR issued under 1405(d) no change in income.
6	PUC Formal Complaint C-2016-2539283	4/11/2016	2/24/2017		Customer to pay undisputed charges plus reconnection fee. Then PUC PAR -Level 1.
7	BCS Case # 3474098	9/6/2016	9/9/2016	PAR	No good faith effort payment. Pay \$1,428.09 to restore service.
8	BCS Case # 3522523	5/4/2017	5/23/2017	Billing dispute	Closed without decision. Changed Company PAR to comply with

	<b>Informal/Formal Complaint</b>	<b>Date Filed</b>	<b>Date Closed</b>	<b>Claims</b>	<b>Outcome</b>
					Final Order on formal complaint C-2016-2539283.
9	BCS Case #3558999	9/1/2017	9/29/2017	PAR	Closed without decision. The Company will reinstate the previous PAR if past due agreement amount is paid.
10	BCS Case # 3620589	06/04/2018	6/5/2018	PAR	PAR issued L1
11	BCS Case # 3705267	5/28/2019	3/7/2020	Billing Dispute / PAR	Case dismissed. No PAR issued pursuant to 1405(d)
12	PUC Formal Complaint F-2020-3021455	8/21/2020	2/9/2021	Billing Dispute / PAR	Complainant failed to appear at the hearing. Complaint dismissed for failure to prosecute
13	BCS Case #3869236	10/4/2022	11/10/2022	Quality of service/PAR	Case verbally closed after complainant made the payment requested by the company.
14	BCS Case # 3900253	4/11/2023	5/10/2023	PAR due to significant change in circumstance.	Case closed. Matter resolved between the parties. Customer to enroll in CRP.

	<b>Informal/Formal Complaint</b>	<b>Date Filed</b>	<b>Date Closed</b>	<b>Claims</b>	<b>Outcome</b>
					Company issued PAR.
15	BCS Case # 3946423	10/3/2023	12/8/2023	PAR	Case dismissed. No PAR issued pursuant to 1405(d).
16	BCS Case # 3984553	5/6/2024	6/5/2024	PAR	Case dismissed. No PAR issued pursuant to 1405(d).
17	PUC Formal Complaint C-2024-3049773 (present Complaint)	6/25/2024		Quality of service / PAR	

PGW Exhibit 10. As of the date of the hearing on September 24, 2024, Complainant’s outstanding balance with PGW was \$10,691.48. Tr. 17.

Upon careful review of the evidence submitted in this matter, I agree with Respondent that the effect of these repetitive filings has been to prevent the lawful termination of service by the Company despite the large balance accumulated in Complainant’s account. The record in this case highlights a disturbing trend in which the Complainant deftly uses this Commission’s administrative proceedings to delay or evade the Company’s termination procedures. The 17 informal and formal complaints filed by Mr. Lofton in the last 12 years follow a clear pattern: they are almost exclusively filed two per year, with one filed in Spring (April, May or early June) and one filed in the Fall (late August, September and early October). Each of these filings, along with the winter moratorium mandated by the Commission regulation at 56 Pa. Code § 56.100(b),<sup>2</sup> halted

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<sup>2</sup> Unless otherwise authorized by the Commission, during the period of December 1 through March 31, an electric distribution utility or natural gas distribution

PGW's collection's activities on Mr. Lofton's account and contributed to the accumulation of a large outstanding balance in his account.

To further illustrate this point, I note that each of the termination proceedings initiated by the Company in the last two years was quickly followed by complaints filed by the Complainant which halted each and every one of them. The 10-Day Shut Off Notice dated September 23, 2022, was followed by Mr. Lofton's filing of an informal complaint against PGW on October 4, 2022, at BCS Case No. 3869236 raising quality of service issues and requesting a PAR. PGW Exhibit 10, p. 32-33. The 10-Day Shut Off Notice dated March 23, 2023, was followed by Mr. Lofton's filing of an informal complaint on April 11, 2023, at BCS Case No. 3900253 claiming a significant change in circumstances and requesting a PAR. PGW Exhibit 10, p. 35-36. The 10-Day Shut Off Notice dated September 21, 2023, was followed by Mr. Lofton's filing of an informal complaint on October 3, 2023, at BCS Case No. 3946423, requesting a PAR. PGW Exhibit 10, p. 39-40. Lastly, the 10-Day Shut Off Notice dated April 24, 2024, was followed by Mr. Lofton's filing of an informal complaint on May 6, 2024, at BCS Case No. 3984553 requesting a PAR. PGW Exhibit 10, p. 42-43.

The Commission has on occasion precluded a party from filing further informal and formal complaints when the party has been an abuser of the system. *See, Manu v. Bell Tel. Co. of Pa.*, Docket Nos. F-09029141, C-00935014, C-00934970, C-00913621 (Opinion and Order entered May 9, 1994); *Dinion v. Duquesne Light Co.*, 91 Pa.P.U.C. 550 (1998); *DiFilippo v. PECO Energy Co.*, Docket No. C-20027116 (Final Order entered Oct. 3, 2002).

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utility may not terminate service to customers with household incomes at or below 250% of the Federal poverty level. 56 Pa.Code § 56.100(b).

In *Seidenstricker v. Metropolitan Edison Co.*, Docket No. F-2008-2019388, (Final Order entered July 28, 2009), the Commission adopted the Administrative Law Judge's Initial Decision which, *inter alia*, ordered that complainant be precluded from filing further informal and formal complaints pertaining to the same account until such time as the current balance on that account was paid in full, after finding that complainant had abused the system by using its provisions to prevent termination of service over the course of many years while receiving electric utility service from respondent and while accruing a large outstanding balance. Similarly, in the present case, I find that Complainant should be precluded from filing further informal and formal complaints pertaining to his gas account for the Service Address until such time as the current balance on that account is paid in full.

Furthermore, because the record indicates that the Complainant has abused the administrative process to avoid paying his bills, it is appropriate to dismiss the Complaint with prejudice. *See, e.g. Herr v. West Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022).

### 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).

7. The Commission has on occasion precluded a party from filing further informal and formal complaints when the party has been an abuser of the administrative process. *See, Manu v. Bell Tel. Co. of Pa.*, Docket Nos. F-09029141, C-00935014, C-00934970, C-00913621 (Opinion and Order entered May 9, 1994); *Dinion v. Duquesne Light Co.*, 91 Pa.P.U.C. 550 (1998); *DiFilippo v. PECO Energy Co.*, Docket No. C-20027116 (Final Order entered Oct. 3, 2002).

8. Complainant has abused the administrative process by using its provisions to prevent termination of service for years while receiving utility service from Respondent and while accruing an outstanding balance. *See Seidenstricker v. Metro. Edison Co.*, Docket No. F-2008-2019388, (Final Order entered July 28, 2009).

9. Complainant should be precluded from filing further informal and formal complaints pertaining to his gas account with Respondent for the Service Address until such time as the current balance on that account is paid in full. *Seidenstricker v. Metropolitan Edison Co.*, Docket No. F-2008-2019388, (Final Order entered July 28, 2009).

10. Because the record indicates that the Complainant has abused the administrative process to avoid paying its bills, it is appropriate to dismiss the Complaint with prejudice. *See, e.g. Herr v. West Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Kevin Lofton, Jr. in *Kevin Lofton, Jr. v. Philadelphia Gas Works* at Docket No. C-2024-3049773 is dismissed with prejudice.

2. That Kevin Lofton Jr. be, and hereby is, precluded from filing further complaints with the Pennsylvania Public Utility Commission, whether of an informal or formal nature, regarding the arrearages on his gas account with Philadelphia Gas Works until all such arrearages are paid in full, and that the filing of any complaint pertaining to such arrearages shall be dismissed without further proceedings.

