

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Erik and Crystal Peters	:	
	:	
v.	:	F-2024-3049890
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Decision dismisses the Formal Complaint of Erik and Crystal Peters because they failed to appear at the scheduled hearing and prosecute their Complaint.

HISTORY OF THE PROCEEDING

On June 28, 2024, Erik and Crystal Peters (the Peters or Complainants) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL, Company, or Respondent) alleging: that the utility is threatening to terminate their electric service; that they are unable to pay their electricity bills; and that there are incorrect charges on their electricity bills from PPL. As relief, the Complainants request that the Commission establish an affordable payment arrangement for them.

This Formal Complaint is a timely appeal of a decision issued by the Commission's Bureau of Consumer Services at BCS Case 3978898. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

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

An Initial Call-in Telephone Hearing Notice dated August 5, 2024, notified the parties that an initial call-in telephone hearing was scheduled on October 22, 2024, at 10:00 a.m.

On September 20, 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 Complainants at the addresses that they provided to the Commission.¹ Neither the Hearing Notice nor the Prehearing Order were returned as undeliverable.

The hearing convened as scheduled on October 22, 2024. Megan E. Rulli, Esq. appeared representing the Respondent. The Complainants failed to call in. The Complainants were given an additional 15 minutes to call in but failed to do so.

¹ In the Formal Complaint form, the Complainants agreed to receive all documents by First-Class Mail at the address they provided on the form. Complaint ¶ 9.

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

The record in this matter closed on November 21, 2024, upon receipt of the hearing transcript.

FINDINGS OF FACT

1. The Complainants are Erik and Crystal Peters.
2. The Respondent is PPL Electric Utilities Corporation.
3. On June 28, 2024, the Peters filed a Formal Complaint alleging that the utility is threatening to terminate their electric service; that they are unable to pay their electricity bills; and that there are incorrect charges on their electricity bills from PPL.
4. As relief, the Complainants request that the Commission establish an affordable payment arrangement for them.
5. On July 23, 2024, PPL filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.
6. An Initial Call-in Telephone Hearing Notice dated August 5, 2024, notified the parties that an initial call-in telephone hearing was scheduled on October 22, 2024, at 10:00 a.m.

7. 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.” August 5, 2024, Initial Call-In Hearing Notice, p. 2.

8. A Prehearing Order dated September 20, 2024, directed the parties to comply with various procedural requirements, and reminded them of the time and date of the hearing.

9. The Prehearing Order stated in bold type: “**You may lose the case if you do not take part in this hearing and present evidence on the issues raised.**” September 20, 2024, Prehearing Order, ¶ 1 (emphasis in the original).

10. As requested by the Complainant, the Hearing Notice and the Prehearing Order were served by U.S. First-Class Mail upon the Complainants at the address that they provided to the Commission. Complaint ¶ 9.

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

12. The Complainants failed to appear at the October 22, 2024, hearing.

13. The Complainants did not request a continuance of the October 22, 2024, hearing, withdraw the Complaint, or otherwise notify the Commission to explain why their 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 Complainants at the addresses that they provided to the Commission. Neither one was returned as undeliverable. It is therefore deemed that the Complainants had notice of the date and time and participation information for the October 22, 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 Complainants were notified of the schedule for the hearing and did not appear for the hearing. Additionally, the Hearing Notice and the Prehearing Order advised the Complainants 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 Complainants have 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. PPL 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. PPL 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 Complainants have failed to meet this burden. Consequently, the Complaint will be dismissed on this basis as well. *Jefferson v. PPL 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 Complainants 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 Complainants have been fully protected in this proceeding and Complainants' 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 Complainants bear the burden of proof. 66 Pa.C.S. § 332(a).

5. The Complainants did not participate in the hearing, failed to appear for the hearing, did not present any evidence and, therefore, failed to meet the Complainants' 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).

