

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Cheyanne Maloney	:	
	:	
v.	:	F-2024-3051249
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Eranda Vero  
Administrative Law Judge

**INTRODUCTION**

This Decision denies the Formal Complaint of Cheyanne Maloney because the Complainant failed to appear at the scheduled hearing and prosecute her Formal Complaint.

**HISTORY OF THE PROCEEDING**

On September 5, 2024, Cheyanne Maloney (Complainant or Ms. Maloney) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW, Respondent or Company) with the Pennsylvania Public Utility Commission (Commission) alleging her inability to pay her gas bills to PGW. As relief, she requested a payment arrangement.

The Complaint is a timely appeal from the determination of the Commission's Bureau of Consumer Services (BCS) which dismissed the Complainant's

informal complaint at BCS Case No. 4000737. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

On October 8, 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 October 10, 2024, notified the parties that an initial call-in telephone hearing was scheduled on December 11, 2024, at 1:00 p.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 November 26, 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 underlined 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 served electronically<sup>1</sup> upon the Complainant at the email address that she provided to the Commission. Neither the Hearing Notice nor the Prehearing Order were returned as undeliverable.

The hearing convened as scheduled on December 11, 2024. Anita J. Murray, Esq. appeared representing the Respondent. The Complainant failed to call in to

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<sup>1</sup> In the Formal Complaint form, the Complainant agreed to receive all documents by email at the email address she provided on the form. Complaint ¶ 9.

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.

The record in this matter closed on January 6, 2025, upon receipt of the hearing transcript. To date, there has been no contact or communication from Ms. Maloney with me or anyone else at the Commission regarding her failure to appear at the December 11, 2024 hearing.

#### FINDINGS OF FACT

1. The Complainant is Cheyanne Maloney.
2. The Respondent is Philadelphia Gas Works.
3. On September 5, 2024, Ms. Maloney filed a Formal Complaint against PGW alleging that she is unable to pay her gas bills to the Respondent.
4. As relief, the Complainant requested that the Commission establish a payment arrangement for her.
5. Complainant agreed to receive all Commission documents by email at the email address she provided on the Complaint form. Complaint ¶ 9.
6. On October 8, 2024, the Respondent filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

7. An Initial Call-in Telephonic Hearing Notice dated October 10, 2024, notified the parties that an initial call-in telephone hearing was scheduled on December 11, 2024, at 1:00 p.m.

8. 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.” October 10, 2024, Initial Call-In Hearing Notice, p. 1.

9. A Prehearing Order dated November 26, 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.

10. The November 26, 2024 Prehearing Order warned in underlined bold type: “**You may lose the case if you do not take part in this hearing and present evidence on the issues raised.**” November 26, 2024, Prehearing Order, ¶ 1 (emphasis in the original).

11. The Hearing Notice and the Prehearing Order were served on the Complainant at the email address 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 December 11, 2024, hearing.

14. The Complainant did not request a continuance, withdraw the Complaint, or otherwise notify the Commission to explain why her failure to appear at the December 11, 2024, hearing was unavoidable.

## DISCUSSION

In the present Complaint, Ms. Maloney alleged that she is unable to pay her gas bills to PGW and requested a payment arrangement.

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 Complainant to the email address that she provided to the Commission. 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 previously noted, "[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." *Strydio v. PPL Elec. Utils. Corp.*, Docket No. C-2017-2633043 at 6 (Opinion and Order entered July 18, 2018) (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 October 10, 2024 Hearing Notice, and the November 26, 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 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).

