

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jamar Boykins

v.

PECO Energy Company

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C-2024-3051328

**INITIAL DECISION**

Before  
Katrina L. Dunderdale  
Administrative Law Judge

**INTRODUCTION**

This decision dismisses the Formal Complaint because Complainant failed to appear at the initial hearing and failed to prosecute the Formal Complaint.

**HISTORY OF THE PROCEEDING**

On September 23, 2024, Jamar Boykins (Mr. Boykins or Complainant) filed the Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (Respondent or PECO) alleging incorrect billing and averring PECO continued to attempt to collect monies from him. Specifically, Complainant requested the Commission order Respondent to stop trying to collect money and order PECO to return the money paid to date. Complainant selected both eFiling as his preferred method of service and registered for the Commission's eFiling service. Complaint ¶ 9.

On October 24, 2024, Respondent filed an Answer generally denying the allegations in the Complaint. Respondent averred it provides electric service to Complainant at 100 Reiffs Mill Road, Unit D-2, Ambler, Pennsylvania (service address). Respondent asserted it correctly billed Complainant for the electric service provided at the service address, and there was an outstanding balance of \$1,308.06 due on the account.

On October 23, 2024, the Office of Administrative Law Judge (OALJ) issued a Call-In Telephone Hearing Notice, which scheduled an initial hearing to be conducted on January 9, 2025, with Administrative Law Judge Katrina L. Dunderdale (the ALJ or presiding officer). On October 23, 2024, the presiding officer issued a Prehearing Order which outlined various procedural matters.

The presiding officer convened the initial hearing as scheduled on January 9, 2025, at 10:03 a.m., at which time Complainant was not present or represented by counsel. Respondent was represented by Khadijah Scott, Esquire, who appeared with Michael Begley, Regulatory Assessor for PECO. Mr. Boykins did not call into the hearing conference bridge and the presiding officer took a recess at 10:07 a.m., to give Mr. Boykins additional time to join the telephonic hearing or explain his unavailability.

The presiding officer re-convened the telephonic hearing at 10:16 a.m., at which time Complainant continued to be absent from the hearing. PECO made an oral motion to dismiss the proceeding for failure of Complainant to appear and to prosecute the Complaint. Attorney Scott noted Complainant failed to appear and failed to prosecute the Complaint, despite receiving two notices from the OALJ and various emails and exhibits sent by Respondent. Counsel noted all communications from Respondent referenced the hearing date and time, and no communications sent out by Respondent were returned to Respondent as undeliverable. The presiding officer noted Complainant

selected eFiling as his preferred method of service and registered for the Commission’s eFiling service. The hearing concluded at 10:18 a.m.

The hearing record closed on January 9, 2025, upon the conclusion of the telephonic hearing pursuant to 52 Pa. Code § 5.431(a) and (b).<sup>1</sup> Since the hearing concluded, Complainant has not contacted the presiding officer or the OALJ to explain whether some impediment had made his timely appearance impossible or to communicate that he was unavailable to attend the hearing.

### FINDINGS OF FACT

1. Complainant is Jamar Boykins who resides at 100 Reiffs Road, Apt. #D-2, Ambler, Pennsylvania (service address) where he receives electric service from Respondent.

2. Respondent is PECO Energy Company, an electric distribution company, which provides electric service to Complainant as the account holder at the service address.

3. The Prehearing Order dated October 23, 2024, and the hearing notice dated October 23, 2024, were served on Complainant to the email address provided by Complainant by eService and were not returned as undeliverable.

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<sup>1</sup> The provisions at 52 Pa. Code § 5.431(a) state the hearing “record will be closed at the conclusion of the hearing unless otherwise directed by the Presiding Officer or the Commission.”

4. In the Complaint, Complainant selected service of Commission documents by eFiling as his preferred method of service and registered for the Commission's eFiling service. Complaint ¶ 9.

5. The hearing notice and Prehearing Order warned Complainant the Complaint might be dismissed if Complainant failed to appear at the telephonic hearing.

6. Complainant was not present at the initial hearing on January 9, 2025, and Respondent was ready to proceed with its witness at the date and time scheduled for the hearing.

7. Complainant did not contact the presiding officer or the OALJ to indicate he would be unavailable to participate at the hearing on January 9, 2025, nor did he contact the presiding officer or the OALJ to explain why his failure to appear at the hearing was unavoidable.

## DISCUSSION

### Burden of Proof

Pursuant to Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), the burden of proof is on the proponent of a rule or order. In this proceeding, Mr. Boykins, as a complainant, is the proponent of a rule or order. Therefore, Complainant bears the burden of proving by a preponderance of the evidence that Respondent violated the Public Utility Code or a regulation or order of the Commission.<sup>2</sup> Mr. Boykins must show the utility is responsible or accountable for the problem described in the

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<sup>2</sup> *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

Complaint.<sup>3</sup> Administrative agencies, like the Commission, are required to provide due process to the parties appearing before them. This requirement is satisfied when the parties are provided with notice and the opportunity to appear and be heard.<sup>4</sup>

#### Notice of Hearing and Appearance at Hearing

Mr. Boykins did not appear at the time scheduled for the hearing on January 9, 2025, and no one appeared to represent Mr. Boykins at the hearing. Information concerning the date, time and the location of the hearing, as well as how to call into the telephonic hearing, was listed in the hearing notice, dated October 23, 2024, and in the Prehearing Order, dated October 23, 2024.

The OALJ eServed both the hearing notice and the Prehearing Order to Complainant via his requested method by serving the same at the email address Mr. Boykins provided in his Complaint and registered with the Commission. Further, counsel for Respondent averred at the initial telephonic hearing that Respondent sent the proposed exhibits to Complainant via email on December 20, 2024, and again on January 8, 2025. Counsel noted the emails were not returned to Respondent as undeliverable and Respondent received delivery receipts. Accordingly, it must be presumed that these documents sent to Complainant were received by Complainant.<sup>5</sup>

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<sup>3</sup> *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976).

<sup>4</sup> *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

<sup>5</sup> *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).

Once notice of a hearing and the opportunity to be heard was provided, it was the responsibility of Mr. Boykins to appear and participate in the hearing.<sup>6</sup> If Mr. Boykins could not appear or was unavailable, for any reason, then it was the responsibility of Mr. Boykins to notify the presiding officer immediately about the impediment or dilemma.<sup>7</sup>

Section 332(f) of the Public Utility Code provides in pertinent part:

Any party who shall fail to be represented at a scheduled conference or hearing after being duly notified thereof, shall be deemed to have waived the opportunity to participate in such conference or hearing, and shall not be permitted thereafter to reopen the disposition of any matter accomplished thereat[.]

66 Pa.C.S. § 332(f).

### CONCLUSION

In this proceeding, Mr. Boykins did not call into the telephonic hearing as specified in the hearing notice dated October 23, 2024, and in the Prehearing Order dated October 23, 2024. Both the hearing notice and the Prehearing Order indicated clearly Complainant was to call into the hearing and provided Complainant with the Commission's toll-free conference bridge number and PIN number. The hearing notice also provided an address and telephone number where Mr. Boykins could reach the

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<sup>6</sup> *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993); *Mumma v. PPL Elec. Utils. Corp.*, Docket No. C-00014869 (Opinion and Order entered Jan. 28, 2002).

<sup>7</sup> 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).

presiding officer if additional information was needed prior to the hearing or to explain if an impediment existed which would prevent him from participating in the hearing.

Since Mr. Boykins did not appear or participate in the hearing, despite receiving notice of the date and time of the hearing, the hearing was held in accordance with 66 Pa.C.S. § 332(f) and 52 Pa. Code § 5.245. Respondent's attorney moved to dismiss the Complaint with prejudice for failure of Complainant to appear and prosecute the Complaint. When a complainant fails to appear for a scheduled conference or hearing and a complainant's failure to appear does not appear to be unavoidable, the complaint may be dismissed.<sup>8</sup>

In addition, Mr. Boykins did not contact the presiding officer or the OALJ to explain his absence or to explain if he was unavailable. Complainant failed to take advantage of the opportunity provided to appear and prosecute the Complaint against Respondent by presenting evidence to support the allegations. As a result, Complainant failed to sustain the burden of proof. Accordingly, Respondent's oral motion to dismiss the Complaint will be granted, and the Complaint will be dismissed in the Ordering Paragraphs below.<sup>9</sup>

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<sup>8</sup> *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995); *El-Ayazra v. West Duquesne Light Co.*, Docket No. F-2015-2509292 (Opinion and Order entered June 30, 2016); 52 Pa. Code § 5.245.

<sup>9</sup> *Little v. Pittsburgh Water & Sewer Auth.*, F-2021-3027107 (Opinion and Order entered Feb. 7, 2022); *Volgstadt v. UGI Penn Nat. Gas*, Docket No. F-02266429 (Opinion and Order entered Sept. 12, 2008); *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).

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter in this proceeding. 66 Pa.C.S. § 701.
2. The due process rights of Complainant have been protected fully in this proceeding. *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993).
3. Complainant, as the proponent of a rule or order, has the burden of proof in this matter pursuant to 66 Pa.C.S. § 332(a).
4. By failing to appear at the scheduled hearing, Complainant waived the opportunity to participate in the hearing. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).
5. Notice electronically served to a party with no notification that service failed is presumed received. *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).
6. Once notice of a hearing and the opportunity to be heard has been provided, it is the responsibility of the parties to appear and participate in the hearing. *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993).
7. When a complainant fails to appear for a scheduled conference or hearing and a complainant's failure to appear does not appear to be unavoidable, the complaint may be dismissed. *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486

(Opinion and Order entered Apr. 22, 2022); *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995); *El-Ayazra v. West Duquesne Light Co.*, Docket No. F-2015-2509292 (Opinion and Order entered June 30, 2016); 52 Pa. Code § 5.245.

8. By failing to appear for the hearing and proffer any evidence to support the Complaint, Complainant failed to meet the burden of proving he is entitled to the relief he seeks from the Commission. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the oral motion of PECO Energy Company to dismiss the Formal Complaint filed by Jamar Boykins against PECO Energy Company, at Docket No. C-2024-3051328, is granted.

2. That the Formal Complaint filed by Jamar Boykins in *Jamar Boykins v. PECO Company*, at Docket No. C-2024-3051328 is dismissed.

3. That the Secretary mark the case as closed.

Date: March 31, 2025

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/s/  
Katrina L. Dunderdale  
Administrative Law Judge