

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

William Schneider

v.

Duquesne Light Company

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C-2024-3050648

**INITIAL DECISION**

Before  
Emily I. DeVoe  
Administrative Law Judge

**INTRODUCTION**

This decision dismisses the Formal Complaint due to Complainant’s failure to appear at the evidentiary hearing and prosecute the Complaint.

**HISTORY OF THE PROCEEDING**

On August 9, 2024, William Schneider (Mr. Schneider or Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Duquesne Light Company (DLC, Company, or Respondent), regarding service at 25 Minooka Street, Pittsburgh, PA (service location). Mr. Schneider checked the box on the complaint form, explaining he had a tenant at the property, Brian Link, who tampered with the electricity and has since been removed from the service location. Mr. Schneider alleges DLC is requiring him to pay a \$600 fee, even though he is not the one who did the damage, and he identified the individual who did. As relief,

Mr. Schneider requests DLC remove the \$600 investigation fee and the requirement to obtain a wiring inspection. Regarding “Methods of Communication by the Commission,” Mr. Schneider selected service by email, checking and initialing the box beside this option on the Complaint. Complaint ¶ 9. The Commission’s records show Complainant subsequently created an eService account with the Commission.<sup>1</sup>

On August 29, 2024, DLC filed an answer. DLC explains that Complainant is the owner of the service location, but service had been in the name of Brian Link effective March 7, 2024. DLC avers it went to the service location on July 15, 2024, in order to disconnect service due to nonpayment and discovered evidence of meter tampering. DLC explains it disconnected service and posted a notice requiring payment of \$600 as a meter tampering fee and receipt of an approved wiring inspection in order for service to be restored. DLC notes Complainant contacted the Company on August 7, 2024, and affirmed the requirements listed on the notice in order for service to be restored. The Company submits that it subsequently informed Complainant that

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<sup>1</sup> When Complainant registered for an eFiling account he agreed to the following terms and conditions:

I agree that I will accept electronic service in the Commission proceeding in which I am a party of record. By creating this account, notification of filings via electronic mail shall constitute valid service of Commission documents. I understand that such electronic service of any and all documents will be substituted for service by mail. I agree to be served via email with all subsequent filings. I agree that email notices will be sent on the same day the document is posted.

By clicking on the ‘Create Account’ button below, [I am] agreeing to all the Terms and Agreements listed above.

eFiling Registration Page, <https://efiling.puc.pa.gov/Accounts/Create?accountType=I> (last visited Jan. 2, 2025).

service could be restored in Complainant's name without payment of the meter tampering fee, but Complainant would still need to obtain proof of an approved wiring inspection.

On September 4, 2024, Chief Administrative Law Judge Charles E. Rainey issued an Interim Order Setting Resolution Conference with the Mediation Unit of the Commission's Office of Administrative Law Judge.

Mediation was not successful, so on October 18, 2024, the Commission issued a hearing notice, assigning this matter to Administrative Law Judge Conrad A. Johnson (ALJ Johnson) and scheduling an evidentiary hearing for December 5, 2024. The hearing notice was served on Complainant by eService, consistent with his registration of an eService account with the Commission.

Also on October 18, 2024, ALJ Johnson issued a Prehearing Order, setting forth the procedures for the parties' conduct at the hearings, including the consequences of failing to appear as well as instructions for requesting a continuance. The Prehearing Order was served on Mr. Schneider by eService.

Complainant subsequently contacted ALJ Johnson by email, requesting the hearing be continued due to Complainant having other hearings scheduled. Tr. 8. On December 5, 2024, the Commission issued a cancellation notice, cancelling the hearing on December 5, 2024.

On January 16, 2025, the Commission issued a hearing notice, rescheduling the evidentiary hearing for 1:00 p.m. on February 3, 2025. The January 16, 2025, notice was served on Mr. Schneider by eService.

The hearing convened as scheduled at 1:00 p.m. on February 3, 2025. ALJ Johnson presided. Ms. Megan Rulli, Esq., counsel for DLC, was on the line, as was

DLC's witness. Complainant was not. On the record, Ms. Rulli recounted her attempt to contact Mr. Schneider prior to the hearing. Tr. 5-6. Out of an abundance of caution, ALJ Johnson took a short recess from 1:06 p.m. until 1:27 p.m. to give Complainant an opportunity to call into the hearing. Tr. 7. Complainant did not call into the hearing. Tr. 7.

ALJ Johnson reconvened the hearing, and Ms. Rulli made a motion to dismiss the Complaint with prejudice due to Complainant's failure to appear at the hearing. ALJ Johnson took the motion to dismiss under advisement. The hearing was adjourned at 1:35 p.m.

On February 6, 2025, the transcript was filed. It is 15 pages.

On March 3, 2025, the Commission issued a Judge Change Notice, reassigning this matter to me.

On March 5, 2025, I issued an Interim Order closing the record.

This matter is now ripe for disposition.

#### FINDINGS OF FACT

1. Complainant is William Schneider.
2. Respondent, Duquesne Light Company, is a jurisdictional public utility.
3. On August 9, 2024, Complainant filed a Formal Complaint against DLC regarding service at 25 Minooka Street, Pittsburgh, PA.

4. In his Complaint, Mr. Schneider requested his service be restored without him having to pay the \$600 meter tampering fee and without him obtaining a wiring inspection.

5. Under “Methods of Communication by the Commission,” Mr. Schneider selected email, checking the box and initialing next to this option. Complaint ¶ 9.

6. The Commission’s records regarding Docket No. C-2024-3050648 show Mr. Schneider subsequently created an eService account with the Commission.

7. On August 29, 2024, DLC filed an answer, alleging it would no longer require Complainant to pay the \$600 meter tampering fee, but maintained Complainant must obtain a wiring inspection in order to ensure DLC could safely restore service.

8. By hearing notice dated October 18, 2024, the Complaint was set for hearing on December 5, 2024.

9. The hearing notice was eServed on Mr. Schneider, consistent with his registration of an eService account with the Commission.

10. A Prehearing Order was issued on October 18, 2024, setting forth the procedures for the parties’ conduct at the hearings, including the consequences of failing to appear as well as instructions for requesting a continuance.

11. The Prehearing Order was eServed on Mr. Schneider, consistent with his registration of an eService account with the Commission.

12. On or about December 5, 2024, Complainant contacted ALJ Johnson by email, requesting a continuance of the December 5, 2024 hearing due to a scheduling conflict. Tr. 8.

13. On December 5, 2024, the Commission issued a cancellation notice, cancelling the hearing on December 5, 2024.

14. On January 16, 2025, the Commission issued a hearing notice, rescheduling the evidentiary hearing for 1:00 p.m. on February 3, 2025.

15. The January 16, 2025, notice was eServed on Mr. Schneider, consistent with his registration of an eService account with the Commission.

16. Mr. Schneider did not appear at the evidentiary hearing.

17. Mr. Schneider did not withdraw or settle this matter.

18. Mr. Schneider did not request a continuance of this matter, nor has he contacted the Commission to explain why his failure to appear was unavoidable.

### DISCUSSION

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

The January 16, 2025, hearing notice and Prehearing Order were both eServed on Complainant, consistent with his registration of an eService account with the Commission. Nothing was returned to the Commission as undeliverable. Notice eServed to a party's registered email address with no notification that service failed is presumed to have been 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).

Mr. Schneider filed the instant Complaint seeking, *inter alia*, his service be restored without first obtaining a wiring inspection. Mr. Schneider must prove that he is entitled to this relief from the Commission. 66 Pa.C.S. § 332. The hearing notice scheduling the hearing on February 3, 2025, was eServed on him, consistent with his registration of an eService account with the Commission. The hearing notice and Prehearing Order issued in this case gave clear instructions regarding how to request a continuance. Furthermore, the fact Complainant requested a continuance of the December 5, 2024 hearing, demonstrates he was aware of how to request a continuance. Mr. Schneider had an opportunity to appear at the hearing and voluntarily chose not to do so. Under the circumstances, the due process rights of Complainant have been fully protected.

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.*, Docket No. C-00014869 (Opinion and Order entered Jan. 28, 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.*, 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 with prejudice. *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022) (*Brown*); *Little v. Pittsburgh Water & Sewer Auth.*, Docket No. F-2021-3027107 (Opinion and Order entered Feb. 7, 2022) (*Little*); *Williams v. PECO Energy Co.*, Docket No. C-2018-3000734 (Opinion and Order entered Mar. 14, 2019) (*Williams*); *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995) (*Jefferson*); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

Complainant failed to appear for the hearing despite receiving notice. To date, there has been no communication from Complainant to the Office of Administrative Law Judge explaining why his failure to appear at the hearing was unavoidable.

Consequently, I find that Mr. Schneider waived the opportunity to participate in a hearing on the matters raised in the Complaint and his absence was not unavoidable.

Finally, 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. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A preponderance of the evidence is established by presenting evidence 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, Complainant has failed to meet this burden. Thus, it is appropriate to dismiss the Complaint. *Brown; Williams* (citing *Jefferson*). Accordingly, the merits of the Complaint will not be addressed.

As such, the Complaint is dismissed due to Complainant's failure to appear and prosecute the Complaint. While Commission precedent would support dismissing the Complaint with prejudice, I am exercising my discretion to dismiss without prejudice.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of 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. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

3. Notice eServed to a party's registered email address with no notification that service failed to be delivered to that email address is presumed to have

been 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).

4. The due process rights of Mr. Schneider have been fully protected in this proceeding and his 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).

5. By failing to appear for the hearing and proffer any evidence to support the Complaint, Mr. Schneider has failed to meet his burden of proving he is eligible for the relief he seeks from the Commission. 66 Pa.C.S. § 332(a); 52 Pa. Code § 5.245(a).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That Duquesne Light Company's motion to dismiss the Formal Complaint of William Schneider at Docket No. C-2024-3050648 is granted.

2. That the Complaint of William Schneider filed in William Schneider v. Duquesne Light Company at Docket No. C-2024-3050648 is dismissed without prejudice.

3. That the Secretary's Bureau shall mark Docket No. C-2024-3050648 as closed.

Date: March 31, 2025

\_\_\_\_\_/s/  
Emily I. DeVoe  
Administrative Law Judge