

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Florence Snyder	:	
	:	
v.	:	F-2024-3050128
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Erin L. Gannon
Administrative Law Judge

INTRODUCTION

This Decision dismisses the Formal Complaint of Florence Snyder due to her failure to appear for the hearing and prosecute her Complaint.

HISTORY OF THE PROCEEDING

On June 20, 2024, Florence Snyder (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL or Respondent).¹ Ms. Snyder contended that she incurs late charges each month because her PPL bill is due before she receives her monthly Social Security check. She would like PPL to change her billing date to follow her

¹ The Complaint is a timely appeal of a decision by the Commission's Bureau of Consumer Services (BCS) at BCS No. 3980018. The timely appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

Social Security deposit on the 21st or 22nd of each month, so that she can avoid late charges.

Ms. Snyder elected on her Complaint form to receive all documents by First-Class Mail. Complaint ¶ 9.

On August 6, 2024, the Respondent filed an answer to the Complaint and sent a copy to Ms. Snyder by First-Class Mail.

In its answer, PPL admitted that the Complainant's bills are often due between the 10th and 12th of the month but denied that the Complainant was entitled to the relief requested. The Respondent requested that the Complaint be denied in its entirety and with prejudice.

On August 12, 2024, Chief Administrative Law Judge Charles E. Rainey, Jr., issued an Interim Order Setting Resolution Conference (Interim Order) referring this matter to mediation. The Interim Order was served to Ms. Snyder by First-Class Mail. Mediation was not successful.

By Initial Telephonic Hearing Notice dated November 26, 2024 (Hearing Notice), a telephonic hearing was scheduled for January 21, 2025, at 1:00 p.m. and the matter was assigned to me. The Hearing Notice provided the correct date, time, and call-in information for the hearing; however, the day of the week was incorrect. On December 5, 2024, a Corrected Initial Telephonic Hearing Notice (Corrected Hearing Notice) was issued, specifying that the hearing would be held on Tuesday, January 21, 2025.

Both hearing notices provided the parties with the Toll-Free Bridge Number and PIN to call and participate in the telephonic hearing. The notices further stated as follows:

To participate in the hearing,

- You must dial the toll-free Bridge number below
- You must enter the PIN number below when instructed
- You must speak your name when prompted, and press #
- Then, the telephone system will connect you to the hearing

Toll-free Bridge Number: **866.759.6860**

PIN Number: **71568747**

FAILURE TO APPEAR: You may lose the case if you do not take part in this hearing and present evidence on the issue(s) raised. Your case may be dismissed “with prejudice” which means that you will be barred from filing another complaint raising the same claim(s) and issue(s) presented in the dismissed complaint.

CONTINUANCES. You may request a continuance of the hearing if you have a good reason. All continuances will be granted only for good cause. To request a continuance, you must submit a written request (a “motion”) at least five (5) days before the hearing. Your motion should include: 1) The case name, number, and hearing date; 2) The reason for the request; and 3) Whether the other party agrees (or if you do not know).

On December 10, 2024, a Prehearing Order for Telephone Hearing (Prehearing Order) was issued, which reminded the parties of the date and time of the hearing. The Prehearing Order warned against possible dismissal for failure to appear at the hearing. Additionally, the Prehearing Order informed the parties about the applicable procedural rules and again included the procedure to follow for requesting a hearing continuance.

The Hearing Notice, Corrected Hearing Notice, and Prehearing Order were served by First-Class Mail to the Complainant at the mailing address provided in the Complaint. Neither the hearing notices nor the Prehearing Order were returned to the Commission as undeliverable.

The Respondent submitted proposed hearing exhibits on January 13, 2025, and sent copies to the Complainant by First-Class Mail. The submission included a cover letter stating the date and time for the January 21, 2025 telephonic hearing.

On January 21, 2025, the hearing was convened as scheduled. Nicholas A. Stobbe, Esquire appeared on behalf of the Respondent, with a witness, and was ready to proceed. The Complainant was not present to start the hearing at 1:00 p.m. After a 20-minute recess to allow time for Ms. Snyder or a representative to appear, the hearing proceeded in the Complainant's absence. No testimony was taken and no exhibits were introduced into the record.

Mr. Stobbe advised that he had attempted to reach Ms. Snyder via telephone throughout the litigation process and, while those efforts were not successful, he committed to continue to reach out to the Complainant through the end of the week, in the hope of making contact and resolving the Complaint. Tr. 8. I advised Mr. Stobbe that I would keep the record open for approximately three weeks until receipt of transcript to provide additional time for informal resolution. Tr. 9. I requested that he update me if any progress toward resolution was made in the interim. *Id.*

While Mr. Stobbe stated his position that there was "a sincere possibility of the complaint being resolved," due to the Complainant's failure to appear at the hearing and prosecute the Complaint, he moved on PPL's behalf to dismiss the Complaint with prejudice. Tr. 6, 8. I took this motion under advisement.

The record closed on January 23, 2025, when the 10-page transcript was filed with the Commission.

No communication from Ms. Snyder was received by me or the Office of Administrative Law Judge before or after the hearing, to indicate that she was unable to participate in the hearing or to request a continuance. Further, I have received no updates from PPL that progress had been made to resolve the matter informally. As such, this matter is ready for a decision.

FINDINGS OF FACT

1. The Complainant is Florence Snyder.
2. The Respondent is PPL Electric Utilities Corporation.
3. On June 20, 2024, the Complainant filed a Formal Complaint against the Respondent.
4. On August 6, 2024, the Respondent filed an answer.
5. On the Complaint form filed with the Commission, Ms. Snyder selected First-Class Mail as the method by which she would receive all documents. Complaint ¶ 9.
6. PPL served the answer by First-Class Mail to the Complainant.
7. On November 26, 2024, an Initial Telephonic Hearing Notice was issued scheduling a telephonic hearing on Monday, January 21, 2025, at 1:00 p.m.

8. On December 5, 2024, a Corrected Initial Telephonic Hearing Notice was issued, correcting the day of the week on which the hearing would be held from Monday January 21, 2025 to Tuesday, January 21, 2025.

9. On December 10, 2024, a Prehearing Order for Telephone Hearing was issued providing additional information to the parties regarding the hearing.

10. Both hearing notices and the Prehearing Order provided the parties with the toll-free bridge telephone number and PIN to call and participate in the hearing, and, inter alia, the procedure for requesting a continuance and the possible consequences of failing to appear at the hearing. Tr. 6.

11. The hearing notices and Prehearing Order were sent by First-Class Mail to the mailing address the Complainant provided on the Complaint form.

12. None of the documents mailed to the Complainants were returned to the Office of Administrative Law Judge or the Commission as undeliverable.

13. The Complainant failed to appear and participate in the scheduled telephonic hearing on January 21, 2025. Tr. 4, 5, 7.

14. Counsel for the Respondent was present and prepared to proceed at the telephonic hearing on January 21, 2025. Tr. 4-5.

15. The Complainant never contacted the Commission or me, either before or after the hearing, to explain why her failure to appear at the hearing was unavoidable or to request a continuance.

DISCUSSION

Due Process and Notice

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 provided notice and the opportunity to be heard. *Id.*

The record shows that the Complainant was provided notice and the opportunity to be heard. On November 26, 2024, the Complainant was served a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. The Hearing Notice incorrectly stated that January 21, 2025 was a Monday rather than a Tuesday; all other information was correct. On December 5, 2024, a Corrected Hearing Notice was issued, specifying that January 21, 2025 was a Tuesday.

On December 10, 2024, a Prehearing Order was issued providing additional information to the parties regarding the hearing. Both the hearing notices and the Prehearing Order advised the Complainant that the case could be dismissed if the Complainant did not call in and participate in the hearing.

The Complainant indicated on her Complaint form that she preferred to be served documents via First-Class Mail. The hearing notices and Prehearing Order were sent by First-Class Mail to the Complainant at the mailing address that the Complainant provided on the Complaint form filed with the Commission. None of the mailings were returned as undeliverable. It is therefore deemed that the Complainant received these documents and had notice of the date and time of the scheduled 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.*, 444 A.2d 658 (Pa. Super. 1982).

Failure to Appear, Waiver and the “Unavoidable” Standard

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. *Strydio v. PPL Elec. Utils. Corp.*, Docket No. C-2017-2633043 (Opinion and Order entered July 18, 2018) (citing *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 reopening or further examination. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

The party who failed to appear at the hearing has the burden of explaining why their 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) (*Brown*); *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) (*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).

The Complainant failed to appear for the hearing despite receiving notice and despite the undersigned allowing additional time for the Complainant to appear. To date, there has been no communication with the Office of Administrative Law Judge or me by, or on behalf of, the Complainant explaining why the Complainant's failure to appear at the hearing was unavoidable or requesting that the hearing be rescheduled. Consequently, I find the Complainant waived the opportunity to participate in a hearing on the matters raised in the Complaint, the Complainant's absence was not unavoidable, and the Complaint should be dismissed.

Burden of Proof and Dismissal of Complaint

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, the Complainant bears the burden of proof. By failing to participate and proffer any evidence to support the Complaint, the Complainant has failed to meet this burden. Thus, it is appropriate to dismiss the Complaint. *Brown; Williams* (citing *Jefferson*).

Accordingly, the Respondent's motion to dismiss will be granted. However, the motion to dismiss will be granted without prejudice because the Complainant is unrepresented.

Further, given the nature of the Complainant's requested relief and the representations of PPL's counsel regarding the possibility of settlement, I encourage PPL to continue efforts to reach out to the Complainant informally.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to 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. The Complainant 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.*, 444 A.2d 658 (Pa. Super. 1982).

4. 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).

5. 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); *Williams v. PECO Energy Co.*, Docket No. C-2018-3000734 (Opinion and Order entered Mar. 14, 2019); *Jefferson v. UGI Utils., Inc.*, Docket No. Z00269892 (Opinion and Order entered Dec. 26, 1995).

6. The Complainant's due process rights have been fully protected and the Complainant's failure to appear was not unavoidable. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

7. As the party seeking relief, the Complainant bears the burden of proof by a preponderance of the evidence. 66 Pa.C.S. § 332(a); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

8. By failing to participate in the hearing and proffer any evidence to support the complaint, the Complainant has failed to meet the burden of proof. 66 Pa.C.S. § 332(a).

