

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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|------------------------------------|---|----------------|
| Jason Starvatow | : | |
| | : | |
| v. | : | C-2024-3052209 |
| | : | |
| PPL Electric Utilities Corporation | : | |

INITIAL DECISION

Before
John M. Coogan
Administrative Law Judge

INTRODUCTION

This decision dismisses the Formal Complaint of Jason Starvatow against PPL Electric Utilities Corporation because Mr. Starvatow failed to appear for his hearing and prosecute his Formal Complaint.

HISTORY OF THE PROCEEDING

On November 20, 2024, Jason Starvatow (Mr. Starvatow or Complainant) filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL or Company). In his Complaint, Mr. Starvatow indicated that PPL is threatening to shut off his service or has already shut off his service, and that he is having a reliability, safety or quality problem with his utility service. Mr. Starvatow further explained that PPL is failing to charge his

bank account, which is causing issues with paying his utility bill. As relief, Mr. Starvatow requests reestablishment of his ability to make online payments immediately.¹

On December 10, 2024, PPL filed an answer to Mr. Starvatow's Formal Complaint. In its answer, PPL admitted that it issued a termination notice to Complainant, but denied that issuance of the termination notice violated the Public Utility Code, the Commission's regulations, or the Company's Commission-approved tariff. PPL stated that Complainant's electric service was terminated on November 19, 2024. PPL also admits that it placed Complainant on a "cash-only" payment restriction due to problems with non-cash payments from Complainant's bank account, but denies that PPL is responsible for the attempted payments' rejection.

On December 20, 2024, the Commission issued an initial telephonic hearing notice, setting a call-in telephonic hearing for this matter for March 19, 2025, at 10:00 a.m. Also on December 20, 2024, I issued a prehearing order, setting forth various rules that would govern the March 19, 2025 hearing. On January 7, 2025, the Commission issued a corrected initial telephonic hearing notice, and on January 8, 2025, I issued a corrected prehearing order. The corrected hearing notice and corrected prehearing order were identical to the previously issued hearing notice and prehearing order but provided updated telephone conference and PIN numbers.

The initial hearing convened on March 19, 2025, as scheduled. Anthony DeCusatis, Esquire, appeared on behalf of PPL. Complainant did not appear, and no one

¹ Mr. Starvatow's Formal Complaint also indicated a court has granted him a protection from abuse or other order for his personal safety or welfare. Complaint ¶ 6. Additionally, the Formal Complaint indicated that Mr. Starvatow was represented by counsel. Complaint ¶ 10. On December 20, 2024, the Office of Administrative Law Judge received an e-mail from counsel listed on Mr. Starvatow's Formal Complaint, indicating that he was not representing Complainant in this matter.

appeared on behalf of Complainant. At the hearing, Counsel for PPL made an oral motion to dismiss the Formal Complaint.

The record in this case consists of the transcript of ten pages. The record closed on April 1, 2025, upon my receipt of the hearing transcript. For the reasons discussed below, PPL's motion will be granted, and the Formal Complaint will be dismissed.

FINDINGS OF FACT

1. The Complainant is Jason Starvatow.
2. The Respondent is PPL Electric Utilities Corporation.
3. Mr. Starvatow elected to be served by eService in this proceeding.
Complaint ¶ 9.
4. On January 7, 2025, a corrected hearing notice was served by eService on Complainant.
5. The January 7, 2025 corrected hearing notice states that a party may lose the case if they do not take part in the hearing and present facts on the issues raised.
6. On January 8, 2025, a corrected prehearing order was served by eService on Complainant.
7. The January 8, 2025 corrected prehearing order instructed the parties how to request a continuance of a hearing and stated that a party may lose the case if they do not take part in the hearing and present facts on the issues raised.

8. No electronic mail delivery failure notification was received by the Commission indicating that the documents served on Mr. Starvatow were returned to the Commission as undeliverable.

9. The telephonic hearing convened on March 19, 2025, as scheduled. Tr. 1-10.

10. PPL appeared at the March 19, 2025 hearing. Tr. 1-10.

11. No one appeared on behalf of Mr. Starvatow at the March 19, 2025 telephonic hearing. Tr. 1-10.

12. Complainant did not file a motion for continuance or otherwise notify the Office of Administrative Law Judge that he was unavailable for the March 19, 2025 hearing.

13. Complainant did not contact the Office of Administrative Law Judge to explain why his failure to attend the March 19, 2025 hearing was unavoidable.

14. During the March 19, 2025, hearing, counsel for PPL made an oral motion to dismiss Mr. Starvatow's Formal Complaint. Tr. 8.

DISCUSSION

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). The offense must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701. Complainant has the burden of proof in this proceeding as the party seeking relief.

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.*

Mr. Starvatow affirmatively signed up to receive service by eService in this proceeding. The hearing notice and prehearing order were served by eService on Complainant. No document was returned to the Commission as undeliverable. Accordingly, I must presume that these documents, which were sent in the ordinary course of business, were received by the 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).

The hearing notice and the prehearing order served on the parties to this proceeding state that, if a party fails to participate in the hearing, the hearing may proceed without that party and a decision may be entered against that party. Mr. Starvatow did not appear at the March 19, 2025 hearing. During the hearing, counsel for PPL moved to have the Formal Complaint dismissed because Mr. Starvatow did not appear.

Once notice of a hearing and the opportunity to be heard have 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); 66 Pa.C.S. § 332(f). 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). The Commission has held that 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); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a). Further, as the proponent of any request for relief, Complainant bears the burden of proof.

In this case, Mr. Starvatow affirmatively agreed to accept eService. Mr. Starvatow did not appear for the evidentiary hearing, despite receiving proper service,

and there are no facts in the record to find his failure to appear was unavoidable. By failing to participate and proffer any evidence to support the complaint, Complainant has failed to meet this burden. Thus, it is appropriate to grant PPL's motion and dismiss the Complaint. *Brown; Williams*.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter in this proceeding. 66 Pa.C.S. § 701.

2. The party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).

3. 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).

4. The degree of proof required to satisfy the burden of proof is a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

5. 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).

6. Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. This due process requirement

is satisfied when the parties are afforded notice and the opportunity to be heard. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

7. Complainant was properly notified of the evidentiary 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).

8. By failing to participate in the hearing and proffer any evidence to support the complaint, Mr. Starvatow has failed to carry his burden of proof in this proceeding. 66 Pa.C.S. § 332(a).

9. 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).

