

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

James Bocsy	:	
	:	
v.	:	C-2025-3053828
	:	
Duquesne Light Company	:	

INITIAL DECISION

Before
Emily I. DeVoe
Administrative Law Judge

INTRODUCTION

This decision dismisses the Formal Complaint for the failure of Complainant to appear for the hearing and prosecute the Complaint.

HISTORY OF THE PROCEEDING

On February 7, 2025, James Bocsy (Complainant or Mr. Bocsy) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Duquesne Light Company (DLC, Company, or Respondent), alleging that the Company was threatening to shut off service or had already shut off service and there were incorrect charges on his bill. Further, he wrote in the “other” section, “their [sic] are multiple problems.” Complaint ¶ 4. On an attached piece of paper, Mr. Bocsy avers specific service and billing issues for an account in the name of “David Bocsy.” Also attached to the Complaint is a cover sheet for a Court of Common

Pleas Civil Action between James Bocsy and David S. Bocsy against DLC at Docket No. GD-24-2769.

Regarding service by the Commission, Mr. Bocsy elected to be served by First-Class Mail. Complaint ¶ 9.

On March 31, 2025, Respondent filed an Answer, New Matter, and Preliminary Objection to the Complaint. DLC explains that it believes the case pertains to the service address at 118 W. Virginia Ave, Munhall PA 15120. DLC denies that Mr. Bocsy currently has or has ever applied for service in his name at this address, but its records show that Mr. Bocsy is the owner of that property. The Company denied the material averments in the Complaint.

The New Matter and Preliminary Objection each included a Notice to Plead, directing Complainant to file a response within ten days. Complainant did not file a response to either pleading.

On May 1, 2025, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing on July 1, 2025, at 10:00 a.m. and the case was assigned to me. The Hearing Notice provided the parties with the Toll-Free Bridge Number and the PIN to call and participate in the telephonic hearing.

On May 1, 2025, a Prehearing Order was served on the parties which reminded the parties of the date and time of the hearing. The Prehearing Order also stated the potential consequences if a party failed 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 hearing continuances.

The Hearing Notice and Prehearing Order served by First-Class Mail to Complainant at the address listed on his Complaint. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

On May 6, 2025, I issued an Interim Order holding the Preliminary Objection in abeyance. I explained,

At this juncture, it is unclear whether Complainant is raising claims on behalf of David Bocsy or himself, or both. Therefore, it is appropriate to hold the Preliminary Objection in abeyance pending the hearing on July 1, 2025. At the beginning of the proceeding on July 1, 2025, I will give Complainant an opportunity to respond orally to the Company's Preliminary Objection. After hearing argument from both parties, I intend to issue a ruling on the record, striking claims from the Complaint for which Complainant lacks standing.

May 6, 2025 Interim Order, pp. 3-4.

I ordered held DLC's PO in abeyance pending the evidentiary hearing and ordered the parties to appear at the hearing on July 1, 2025, and be prepared to provide oral argument on the Preliminary Objection. *May 6, 2025 Interim Order*, p. 4.

The hearing convened as scheduled on July 1, 2025. Ms. Megan Rulli, Esquire, was present on behalf of the Company. Complainant was not present. Consistent with my standard practice, I reviewed the filings in this case to ensure Complainant received proper notice of the July 1, 2025 hearing. I discovered that the July 1, 2025, Notice and Prehearing Order were served upon Complainant by First-Class Mail at 118 W. Virginia Ave., Munhall, PA 15120, but on his Complaint, Complainant indicated his mailing address was 3719 Botsford St., Apt #1, Munhall, PA 15120. Tr. 8; *see* Complaint ¶ 1. Therefore, I told counsel I was going to correct the Complainant's

mailing address in the Commission's records and reschedule the hearing due to Complainant failing to receive proper notice of the hearing. Tr. 8. The Company indicated it was available for a hearing on August 20, 2025.

On July 1, 2025, I issued an Interim Order, rescheduling the hearing. In my Order, I directed the Commission to update Complainant's mailing address to be 3719 Botsford St., Apt #1, Munhall, PA 15120; rescheduled the hearing for August 20, 2025; continued to hold DLC's PO in abeyance pending the evidentiary hearing; and directed the Commission to serve a copy of the May 6, 2025 Interim Order upon Mr. Bocsy at the updated address. Notably, Ordering Paragraph 4 read, "That the parties shall appear at the hearing on August 20, 2025, and be prepared to provide oral argument on the Preliminary Objection, as well as provide evidence as part of an evidentiary hearing on the Complaint."

On July 1, 2025, a Call-In Telephone Hearing Notice was served on the parties rescheduling the initial telephonic hearing for August 20, 2025, at 10:00 a.m. The Hearing Notice provided the parties with the Toll-Free Bridge Number and the PIN to call and participate in the telephonic hearing. The July 1, 2025 Hearing Notice further stated as follows:

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 July 1, 2025, a Prehearing Order was served on the parties which reminded the parties of the date and time of the hearing. The Prehearing Order also stated the potential consequences if a party failed 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 hearing continuances.

The July 1, 2025 Interim Order, Hearing Notice and Prehearing Order were served by First-Class Mail to Complainant at 3719 Botsford St., Apt #1, Munhall, PA 15120. None of those mailings were returned to the Commission as undeliverable.

On August 20, 2025, I convened the hearing as scheduled. Ms. Rulli was again present on behalf of Respondent along with one witness and was ready to proceed. The court reporter was also present. Complainant was not present at the start of the hearing, and the hearing proceeded in Complainant's absence. No testimony was taken, and no exhibits were introduced into the record. At the hearing, Respondent moved to dismiss the Complaint with prejudice due to Complainant's failure to appear and prosecute his Complaint. Tr. 23-25. I took this motion under advisement. I also took judicial notice of the docket at F-2024-3048366.¹ *Id.* at 22-23.

Complainant has not contacted the Commission to explain why his failure to appear at the hearing was unavoidable.

¹ A complaint was recently filed by David Bocsy, who the Company avers is Complainant's brother, at Docket No. F-2024-3048366. Mr. David Bocsy's complaint raised nearly identical claims as those raised in Complainant's Complaint. This prior complaint was dismissed by the Commission after David Bocsy failed to appear for the scheduled hearing and prosecute his Complaint.

The record closed on August 20, 2025, at the conclusion of the hearing on August 20, 2025. 52 Pa. Code § 5.431(a).

This decision grants the Respondent's motion to dismiss the complaint but without prejudice.

FINDINGS OF FACT

1. Complainant is James Bocsy.
2. Respondent is Duquesne Light Company.
3. On January 29, 2025, Complainant filed a Formal Complaint against Respondent.
4. On his Complaint, Mr. Bocsy listed his address underneath his name as 118 W. Virginia Ave., Munhall, PA 15120. Complaint ¶ 1.
5. There is a section of the Complaint which reads, “If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.” Under this section, Mr. Bocsy wrote, “Mailing address. James Bocsy, 3719 Botsford Street, Apt # 1, Munhall, PA, 15120.” Complaint ¶ 1.
6. On February 25, 2025, Respondent filed an Answer, New Matter, and Preliminary Objection to the Complaint.
7. On May 1, 2025, a Call-In Telephone Hearing Notice was served on Complainant scheduling an initial telephonic hearing on July 1, 2025, at 10:00 a.m.

8. On May 1, 2025, a Prehearing Order for Telephone Hearing was served on Complainant providing additional information to the parties regarding the hearing.

9. Both the May 1, 2025 Hearing Notice and May 1, 2025 Prehearing Order were served on Complainant by First-Class Mail at 118 W. Virginia Ave., Munhall, PA 15120.

10. Neither the May 1, 2025 Hearing Notice nor the May 1, 2025 Prehearing Order were returned to the Commission as undeliverable.

11. On May 6, 2025, I issued an Interim Order holding DLC's PO in abeyance pending the July 1, 2025 hearing.

12. The May 6, 2025 Interim Order was served on Complainant by First-Class Mail at 118 W. Virginia Ave., Munhall, PA 15120.

13. The July 1, 2025 hearing convened as scheduled.

14. Counsel for the Company appeared, as did the Company's witness, but Complainant did not.

15. Upon review of the Complaint on July 1, 2025, it was discovered that the Commission had not sent the May 1, 2025 Hearing Notice or the May 1, 2025 Prehearing Order to Mr. Bocsy at the address he indicated as his mailing address on the Complaint.

16. On July 1, 2025, I issued an Interim Order rescheduling the hearing to August 20, 2025; continuing to hold DLC's PO in abeyance; directing the Commission to update Mr. Bocsy's mailing address to 3719 Botsford Street, Apt # 1, Munhall, PA, 15120; and directing the Commission to serve a copy of the May 6, 2025 Interim Order upon Mr. Bocsy at the updated address.

17. The July 1, 2025 Interim Order ordered, in pertinent part, "That the parties shall appear at the hearing on August 20, 2025, and be prepared to provide oral argument on the Preliminary Objection, as well as provide evidence as part of an evidentiary hearing on the Complaint."

18. The July 1, 2025 Interim Order was served on Mr. Bocsy by First-Class Mail at 3719 Botsford Street, Apt # 1, Munhall, PA, 15120.

19. On July 1, 2025, a Call-In Telephone Hearing Notice was served on Complainant rescheduling the initial telephonic hearing for August 20, 2025 at 10:00 a.m.

20. On July 1, 2025, a Prehearing Order for Telephone Hearing was served on Complainant providing additional information to the parties regarding the hearing.

21. The July 1, 2025 Interim Order, July 1, 2025 Hearing Notice, and July 1, 2025 Prehearing Order were served on Complainant by First-Class Mail at 3719 Botsford Street, Apt # 1, Munhall, PA, 15120, and none were returned as undeliverable.

22. Both the July 1, 2025 Hearing Notice and July 1, 2025 Prehearing Order provided Complainant 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.

23. Complainant failed to appear and participate in the scheduled telephonic hearing on August 20, 2025.

24. The court reporter, counsel for Respondent, and its witness were present and prepared to proceed at the August 20, 2025 hearing.

25. Complainant has not contacted the Commission to explain why his failure to appear at the hearing was unavoidable.

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 Complainant was provided notice and the opportunity to be heard. Although the Commission initially failed to send the Hearing Notice and Prehearing Order to Mr. Bocsy's mailing address, it corrected this error by rescheduling the hearing and sending a second Hearing Notice and a second Prehearing Order to Mr. Bocsy's correct mailing address on July 1, 2025. The Hearing Notice served on July 1, 2025, advised the parties of the date and time of the hearing, and how to participate. On July 1, 2025, the Commission served Complainant with a Prehearing Order which reminded the parties of the date and time of the hearing, and how to

participate. Further, both documents advised the parties, *inter alia*, how to request a continuance prior to the hearing if needed. Finally, both documents advised Complainant that failure to appear may result in the dismissal of the Complaint with prejudice, which means that Complainant would be barred from filing another complaint raising the same claim(s) and issues(s) presented in the dismissed complaint.

Further, the July 1, 2025 Interim Order provided Mr. Bocsy a copy of the May 6, 2025 Interim Order and explained that it was important for him to appear to provide oral argument on DLC's PO.

The July 1, 2025 Interim Order, July 1, 2025 Hearing Notice, and July 1, 2025 Prehearing Order were served by U.S. First-Class Mail to the address provided on the Complaint as Mr. Bocsy's mailing address. None of the documents were returned as being undeliverable. Accordingly, it must be presumed that this mail was received by Complainant. *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.*, 449 A.2d 658 (Pa. Super. 1982).

Complainant had notice of the hearing and an opportunity to be heard in this proceeding. Therefore, Complainant's due process rights have been fully protected. *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993).

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. *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. *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).

Complainant failed to appear for the August 20, 2025 hearing despite receiving notice. To date, there has been no communication to the Office of Administrative Law Judge or me by, or on behalf of, Complainant explaining why Complainant's failure to appear at the hearing was unavoidable.

Consequently, I find that Complainant waived the opportunity to participate in a hearing on the matters raised in the Complaint, 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, a 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. Complainant has failed to participate in this proceeding in any way since filing his Complaint. He has not responded to the New Matter or Preliminary Objection, nor has he appeared at the hearing to provide oral argument on the PO. Thus, it is appropriate to dismiss the Complaint. Accordingly, the merits of the Complaint will not be addressed.

Respondent's motion to dismiss with prejudice will be granted in part such that the Complaint is dismissed, but without prejudice.

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 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 mailed via U.S. First-Class Mail to a party and not returned to the Commission as undeliverable is presumed received. *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.*, 449 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. Complainant's due process rights have been fully protected and 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).

6. As the party seeking relief, 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).

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

