

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Gloria Holloway	:	
	:	
v.	:	C-2025-3053873
	:	
Community Utilities of Pennsylvania Inc.	:	
-Wastewater	:	

Gloria Holloway	:	
	:	
v.	:	C-2025-3053874
	:	
Community Utilities of Pennsylvania Inc.	:	
-Water	:	

INITIAL DECISION

Before
Alphonso Arnold III
Administrative Law Judge

INTRODUCTION

This Decision dismisses the Formal Complaints filed by Gloria Holloway against Community Utilities of Pennsylvania, Inc. at Docket Nos. C-2025-3053873 and C-2025-3053874 with prejudice for the failure of Complainant to appear for the hearing and prosecute the Complaints.

HISTORY OF THE PROCEEDING

On February 24, 2025, Gloria Holloway (Complainant) filed Formal Complaints (Complaints) with the Pennsylvania Public Utility Commission (Commission) against Community Utilities of Pennsylvania's wastewater and water divisions (Respondent), docketed at Docket Nos. C-2025-3053873 and C-2025-3053874 respectively. In the Complaints, Complainant alleged that, since Respondent's most recent rate increases, Respondent has been price gouging and overcharging her for her wastewater and water service. Complainant further alleged that a meeting was held between Respondent and its Penn Estates service territory customers and that the customers were blamed for a water leak that occurred in Penn Estates. For relief, Complainant requested that the Commission look into this alleged price gouging by Respondent. Both Complaints were served on Respondent on March 11, 2025.

In her Complaints, Complainant selected the option to receive all communications from the Commission via First-Class Mail at the address provided by Complainant on the Complaints. Complaints, p. 6.

On March 31, 2025, Respondent filed Answers with New Matters to the Complaints. In its Answers, Respondent denied that it was price gouging or overcharging. Respondent admitted that it held meetings with customers regarding customer leaks and system leaks so as to address unaccounted for water in the Penn Estates System but denied that it blamed customers.

In its New Matters, Respondent asserted that its rates were approved by the Commission and that the law requires Respondent to adhere to its Commission-approved tariff. Respondent also asserted that holding a meeting with its customers to educate customers on leaks and low water levels is not a violation of a Commission order or

regulation or the Public Utility Code. Respondent concluded its Answers with New Matters by requesting dismissal of the Complaints with prejudice.

The Answers with New Matters contained Notices to Plead for Complainant to file Replies to the New Matters within 20 days of its service. Complainant did not file Replies to the New Matters.

Also on March 31, 2025, Respondent filed Preliminary Objections to the Complaints. Respondent argued that the Complaints are legally insufficient pursuant to 52 Pa. Code § 5.101(a)(4) and should be dismissed because the Complaints failed to state a claim upon which relief could be granted. Respondent concluded its Preliminary Objections by requesting dismissal of the Complaints with prejudice.

The Preliminary Objections contained Notices to Plead for Complainant to file Answers to the Preliminary Objections within 10 days of service. Complainant did not file Answers to the Preliminary Objections.

On May 5, 2025, the Commission issued Motion Judge Assignment Notices, assigning these matters to me as Administrative Law Judge.

On May 27, 2025, the Commission issued my Interim Orders Consolidating Formal Complaints. The Orders consolidated the wastewater and water matters.

On May 30, 2025, the Commission issued my Orders Denying Preliminary Objections.

On June 18, 2025, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing on August 26, 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 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 June 20, 2025, a Prehearing Order was served on the parties which reminded the parties of the date and time of the hearing. The Prehearing Order again stated the failure to appear warning. Additionally, the Prehearing Order informed the parties about the applicable procedural rules and again included the procedure to follow for hearing continuances.

In the ordinary course of the Commission’s business, the Hearing Notice and Prehearing Order were served via U.S. First-Class Mail to Complainant at the street address provided by her to the Commission. The Commission did not receive any return mail indicating that the Hearing Notice or the Prehearing Order sent to Complainant’s address were undeliverable.

On August 26, 2025, the hearing was convened as scheduled. Whitney Snyder, Esquire, appeared on behalf of Respondent along with a witness and was ready to proceed. The court reporter was also present. Complainant was not present to start the

hearing. After a short recess to allow time for Complainant to appear, 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 Complaints for Complainant's failure to appear and prosecute her Complaints. Tr. 6. I took this Motion under advisement.

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

The record closed on September 5, 2025, the date I received the electronic transcript of the hearing. This decision grants Respondent's Motion to Dismiss and dismisses the Complaints but with prejudice.

FINDINGS OF FACT

1. The Complainant is Gloria Holloway.
2. The Respondent is Community Utilities of Pennsylvania.
3. On February 24, 2025, Complainant filed Formal Complaints against Respondent.
4. On March 31, 2025, Respondent filed Answers with New Matters to the Complaints.
5. On June 18, 2025, a Call-In Telephone Hearing Notice was served on Complainant scheduling an initial telephonic hearing on August 26, 2025, at 10:00 a.m.

6. On June 20, 2025, a Prehearing Order for Telephone Hearing were served on Complainant providing additional information to the parties regarding the hearing.

7. Both the Hearing Notice and Prehearing Order were served on Complainant by U.S. First-Class Mail to the postal address Complainant provided to the Commission.

8. Both the Hearing Notice and Prehearing Order provided the 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.

9. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

10. Complainant failed to appear and participate in the scheduled telephonic hearing on August 26, 2025.

11. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the August 26, 2025, hearing.

12. Complainant has not contacted the Commission to explain why her 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. First, on June 18, 2025, Complainant was served with a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on June 20, 2025, Complainant was served 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 dismissal with prejudice, which means that Complainant would be barred from filing another complaint, raising the same claim and issues presented in the dismissed complaint.

Both the Hearing Notice and Prehearing Order were served by U.S. First-Class Mail to the address provided on the Complaints. The documents were not returned as 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, the 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 with prejudice. *Brown v. PPL 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. PPL 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 hearing despite receiving notice and despite the undersigned allowing additional time for Complainant to appear. 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 Complaints and Complainant's absence was not unavoidable, and the Complaints should be dismissed with prejudice.

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, Complainant bears the burden of proof. By failing to participate and proffer any evidence to support the Complaints, Complainant has failed to meet this burden. Thus, it is appropriate to dismiss the Complaints. *Brown v. PPL Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Williams v. PPL Energy Co.*, Docket No. C-2018-300734 (Opinion and Order entered Mar. 14, 2019) (citing *Jefferson v. UGI Utils., Inc.*, Docket

No. Z-00269892 (Opinion and Order entered Dec. 26, 1995). Accordingly, the merits of the Complaints will not be addressed.

Respondent's Motion to Dismiss will be granted in the Ordering paragraphs below but with 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. 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 with prejudice. *Brown v.*

PPL 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. PPL 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).

6. 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).

7. 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).

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

ORDER

THEREFORE,

IT IS ORDERED:

1. That Community Utilities of Pennsylvania's Motion to Dismiss the Formal Complaints of Gloria Holloway at *Gloria Holloway v. Community Utilities of Pennsylvania* at Docket Nos. C-2025-3053873 and C-2025-3053874 is granted but with prejudice.

