

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Stephanie Mobley	:	
	:	
v.	:	C-2025-3054579
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Michael J. Mroczka
Special Agent

INTRODUCTION

This decision grants Philadelphia Gas Work’s motion to dismiss the Formal Complaint with prejudice for the failure of Complainant to appear for the hearing and prosecute the Complaint. However, this decision denies Philadelphia Gas Work’s oral motion at the hearing to preclude the Complainant from filing further informal or formal complaints until her current customer assistance program arrearage is paid.

HISTORY OF THE PROCEEDING

On April 15, 2025, Stephanie Mobley (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (Respondent or PGW). The Complainant checked box for “Other” and alleges the following:

[I] Contacted PGW today 4/14/24 and informed [them] that I just got out of hospital and was asking for more time to be able to pay the bill of \$709.00. I understand that once my account has a lower balance or a zero balance that I would be eligible for a medical hold but unfortunately due to health issues I have been out of work but I do plan on paying [the] bill.

Compl. ¶ 4. Under “Requested Relief” Complainant wrote, “I would like an opportunity to be offered a payment arrangement to help me get back on track.” Compl. ¶ 5.

In her Complaint, Complainant selected the option to receive all communications from the Commission via email at the email address provided by Complainant on the Complaint. Complaint ¶ 9. Subsequently, Complainant signed up for the Commission’s eFiling service, thereby requesting eService. Therefore, all documents were served to Complainant by both email and eService.

On May 1, 2025, the Respondent filed an answer in which it denied the material allegations of fact and conclusions of law in the Complaint. Respondent requested that the Complaint be dismissed.

On May 7, 2025, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing on June 30, 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. 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 May 7, 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.

The Hearing Notice and Prehearing Order were electronically served to Complainant in the ordinary course of the Commission’s business by email and eService to the email address she provided to and registered with the Commission. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

On June 30, 2025, the hearing convened as scheduled. Graciela Chrislieb, Esquire, appeared on behalf of Respondent along with one 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. At the hearing, Respondent moved to dismiss the Complaint with prejudice for Complainant’s failure to appear and prosecute her Complaint. Tr. 6. I took this motion under advisement. Also at the hearing, Respondent moved to preclude the Complainant from filing any more informal or formal complaints until her current customer assistance program arrearage under PGW’s Customer Responsibility Program (CRP) is paid (Motion to Preclude). *Id.* In support of the Motion

to Preclude PGW presented the testimony of Ms. Jessica Antonetti, a senior customer review officer for PGW. Ms. Antonetti sponsored two exhibits (PGW Exhibits 2 and 5), which were entered into the record.

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

The record closed on July 7, 2025, when the 25-page transcript was filed with the Commission. This decision grants the Respondent's motion to dismiss the Complaint with prejudice, but denies Respondent's Motion to Preclude.

FINDINGS OF FACT

1. The Complainant is Stephanie Mobley.
2. The Respondent is Philadelphia Gas Works.
3. On April 15, 2025, Complainant filed a Formal Complaint against Respondent.
4. On May 1, 2025, Respondent filed an answer to the Complaint.
5. On May 7, 2025, a Call-In Telephone Hearing Notice was served on Complainant scheduling an initial telephonic hearing on June 30, 2025 at 10:00 a.m.
6. On May 7, 2025, a Prehearing Order for Telephone Hearing was 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 electronic mail and eService to the email address Complainant provided to and registered with 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 June 30, 2025.

11. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the June 30, 2025, hearing.

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

13. Complainant is enrolled in PGW's Customer Responsibility Program (CRP). Tr. 10; PGW Ex. 2.

14. Complainant's CRP arrears at the time of the hearing were \$1,027. Tr. 11.

15. Complainant filed an Informal Complaint on May 24, 2017. Tr. 12; PGW Ex. 5 at 1-2.

16. Complainant filed a Formal Complaint on May 30, 2017. Tr. 12; PGW Ex. 5 at 3-11.

17. The May 30, 2017 Formal Complaint was settled with a Certificate of Satisfaction on June 12, 2017. Tr. 12; PGW Ex. 5 at 12.

18. The closing decision from the May 24, 2017 Informal Complaint was issued on July 20, 2017, dismissing the complaint due to Complainant having CRP arrears. Tr. 12; PGW Ex. 5 at 13.

19. Complainant filed a Formal Complaint on July 24, 2017. Tr. 13; PGW Ex. 5 at 14-20.

20. The July 24, 2017, Formal Complaint was settled with a Certificate of Satisfaction on October 9, 2017. Tr. 13; PGW Ex. 5 at 21.

21. Complainant filed an Informal Complaint on August 2, 2019. Tr. 13; PGW Ex. 5 at 22-23.

22. The closing decision for the August 2, 2019, Informal Complaint was issued on September 5, 2019, dismissing the complaint due to Complainant having CRP arrears. Tr. 13; PGW Ex. 5 at 24.

23. Complainant filed a Formal Complaint on November 5, 2019. Tr. 13; PGW Ex. 5 at 25-30.

24. An Initial Decision was entered on March 26, 2020 dismissing the November 5, 2019, Formal Complaint with prejudice for Complainant failure to appear at

the hearing. A Final Order was entered on July 8, 2020. Tr. 13-14; PGW Ex. 5 at 31-40, 41.

25. A ten-day shutoff notice was issued on August 5, 2021. Tr. 14; PGW Ex. 5 at 42.

26. Complainant filed an Informal Complaint on August 10, 2021. Tr. 14; PGW Ex. 5 at 43-44.

27. The closing decision for the August 10, 2021, Informal Complaint was issued on October 5, 2021, dismissing the complaint. Tr. 14; PGW Ex. 5 at 45-46.

28. Complainant reenrolled in CRP on December 3, 2021. Tr. 15, 19; PGW Ex. 2.

29. A ten-day shutoff notice was issued on May 1, 2023. Tr. 15; PGW Ex. 5 at 47.

30. Complainant filed an Informal Complaint on May 15, 2023. Tr. 15, PGW Ex. 5 at 48-49.

31. The closing decision for the May 15, 2023, Informal Complaint was issued on June 12, 2023, dismissing the complaint due to Complainant having CRP arrears. Tr. 15; PGW Ex. 5 at 50.

32. A ten-day shutoff notice was issued on July 29, 2024. Tr. 15-16; PGW Ex. 5 at 51.

33. Complainant filed an Informal Complaint on August 10, 2024. Tr. 16; PGW Ex. 5 at 52-53.

34. The closing decision for the August 10, 2024, Informal Complaint was issued on August 30, 2024, dismissing the complaint due to Complainant having CRP arrears. Tr. 16; PGW Ex. 5 at 54.

35. A ten-day shutoff notice was issued on March 31, 2025. Tr. 16; PGW Ex. 5 at 55.

36. The current Formal Complaint was filed on April 15, 2025. Compl.; Tr. 16; PGW Ex. 5 at 56.

37. Complainant filed a total of five informal complaints and four formal complaints, including this Complaint. Tr. 20.

38. Complainant was not given notice of PGW's intent to request that she be precluded from filing further complaints prior to the hearing. *See Answer.*

DISCUSSION

Motion to Dismiss with Prejudice

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) (*Schneider*). 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 May 7, 2025, Complainant was served a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on May 7, 2025, Complainant was served 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(s) and issues(s) presented in the dismissed complaint.

Both the Hearing Notice and Prehearing Order were served by email and eService to the email address provided by Complainant to the Commission. Neither was returned to the Commission as undeliverable. Accordingly, it must be presumed that these documents sent to Complainant were received by Complainant. *Skow v. Metro. Edison Co.*, Docket No. F-2023-3042228 (Final Order entered May 7, 2024); *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).

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. 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 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 Complaint, Complainant's absence was not unavoidable, and the Complaint 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 Complaint, Complainant has failed to meet this burden. Thus, it is appropriate to dismiss the Complaint with prejudice. *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Williams v. PECO 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 Complaint will not be addressed.

Respondent's motion to dismiss with prejudice will be granted.

Motion to Preclude the Complainant from Filing Informal or Formal Complaints

In addition to the Motion to Dismiss with Prejudice, PGW also requested that Complainant be precluded from filing further complaints with the Commission until her current CRP arrears are paid. Tr. 6. In support of this Motion to Preclude, PGW presented the testimony of Ms. Antonetti and two exhibits (PGW Ex. 2: CRP Enrollment and PGW Ex. 5: Record of Abuse).

In certain circumstances, when a complainant is determined to be abusing the Commission's administrative process to avoid termination of their utility service, the Commission may bar a complainant from filing further complaints regarding the arrearages of an account until the outstanding balance has been paid. *See Herr v. W. Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022).

The Commission does not have specific standards or regulations for determining if a complainant is abusing the administrative process. However, there are factors that the Commission has considered. The Commission has barred complainants from individuals who repeatedly request continuances and then fail to appear. *Grossman v. Bell Tel. Co. of Pa.*, 67 Pa.P.U.C. 714 (1988). The Commission has considered the number and nature of complaints filed by a customer, the complainant's payment history, the number of defaulted payment arrangements and the use of tactics to avoid service terminations. *See Hogan v. West Penn Power Co.*, Docket F-2019-3012920 (Final Order entered Mar. 10, 2020); *Potora v. UGI Penn Nat. Gas, Inc.*, Docket No. C-2018-3003485 (Opinion and Order entered Aug. 8, 2019); *DiFilippo v. PECO Energy Co.*, Docket No. C-20027116 (Final Order entered Oct. 3, 2002).

PGW's exhibits and testimony highlight numerous informal and formal complaints filed by Complainant to avoid service terminations. *See Findings of Fact* ¶¶ 15-37. Complainant was made aware that she is not eligible for a Commission issued payment arrangement on CRP arrears. PGW Ex. 5 at 13, 24, 50, 54; 66 Pa.C.S. § 1405(c). However, Complainant continued to file complaints after receiving termination notices. Further, Complainant failed to appear for hearings on two formal complaints, including the present Complaint. Tr. 4, 13-14; PGW Ex. 5 at 31-40, 41.

The Complainant's actions regarding her arrears may arise to an abuse of administrative process; however, I will not grant PGW Motion to Preclude in this matter. In *Madajewski v. UGI Utilities Inc.*, Docket No. C-2022-3033946 (Final Order entered June 6, 2023), the ALJ denied the utilities motion to preclude the complainant from filing further complaints with the commission. In *Madajewski* the motion was raised for the first time by the Company in closing argument and it was not raised in new matter or prior to the hearing. The ALJ held that the utility did not provide notice to the complainant that it intended to make the request or that he would have to respond to the request. *Id.* Here, PGW did not raise this issue in new matter, request this outcome in its request for relief, or otherwise inform Complainant that it would make this request.

Unlike the Motion to Dismiss with Prejudice, where the Hearing Notice and Prehearing Order warned Complainant of the possibility of the dismissal if she failed to appear, Complainant was not provided notice or opportunity to be heard on the Motion to Preclude. Consequently, granting the Motion to Preclude would be a violation of Complainant's Due Process rights. *See Schneider.*

Therefore, PGW's oral Motion to Preclude will be denied.

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 electronically served to a party with no notification that service failed is presumed received. *Skow v. Metro. Edison Co.*, Docket No. F-2023-3042228 (Final Order entered May 7, 2024); *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. 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. 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).

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 Complaint, Complainant has failed to meet the burden of proof. 66 Pa.C.S. § 332(a).

9. Complainant was not provided notice or opportunity to be heard on the Motion to Preclude, and granting the motion would be a violation of Complainant's Due Process rights. *Madajewski v. UGI Utilities Inc.*, Docket No. C-2022-3033946 (Final Order entered June 6, 2023); *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

ORDER

THEREFORE,

IT IS ORDERED:

1. That Philadelphia Gas Works' Motion to Dismiss, with prejudice, the Formal Complaint of Stephanie Mobley at Docket Number C-2025-3054579 is granted.

