

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael Shields

v.

Philadelphia Gas Works

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C-2025-3053770

**INITIAL DECISION**

Before  
Marta Guhl  
Administrative Law Judge

**INTRODUCTION**

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

**HISTORY OF THE PROCEEDING**

On February 25, 2025, Michael Shields (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (Respondent or PGW). The Complaint alleged that the Respondent was threatening to shut off or had already shut off his utility service and requested a payment arrangement.

In his Complaint, the Complainant selected the option to receive all communications from the Commission via First-Class Mail at the address provided by the Complainant on the Complaint. Complaint ¶ 9.

On March 25, 2025<sup>1</sup>, 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 March 26, 2025, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing on May 14, 2025, at 10:00 a.m. and the case was assigned to me.

On March 27, 2025, a Prehearing Order was served on the parties which reminded them 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.

On May 1, 2025, PGW filed a Motion to Continue the hearing scheduled for May 14, 2025. The Complainant did not object to the Motion, and I granted the request via email to the parties.

On May 14, 2025, a Cancelled/Rescheduled Initial Telephonic Hearing Notice was served on the parties which rescheduled the initial telephonic hearing to July 21, 2025, at 10:00 a.m. The Hearing Notice provided the parties with the Toll-Free

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<sup>1</sup> The Formal Complainant was served on the Respondent by the Commission's Secretary's Bureau on March 5, 2025.

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).

The Hearing Notices and Prehearing Order were electronically served to Complainant in the ordinary course of the Commission’s business to the email address he provided to the Commission. Neither the Hearing Notices nor the Prehearing Order were returned to the Commission as undeliverable.

On July 21, 2025, I convened the hearing as scheduled. Graciela C. Christlieb, 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 at the start of 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 Complaint for Complainant’s failure to appear and prosecute his Complaint with prejudice. Tr. 6. I took this Motion under advisement.

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

The record closed on August 6, 2025, when I received my copy of the hearing transcript. This Decision grants Respondent's Motion to Dismiss the Complaint with prejudice.

### FINDINGS OF FACT

1. Complainant is Michael Shields.
2. Respondent is Philadelphia Gas Works.
3. On February 25, 2025, Complainant filed a Formal Complaint against Respondent.
4. On March 25, 2025, Respondent filed an Answer to the Complaint.
5. On March 26, 2025, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing on May 14, 2025, at 10:00 a.m.
6. On March 27, 2025, a Prehearing Order was served on the parties.
7. On May 1, 2025, PGW filed a Motion to Continue the Hearing on May 14, 2025.
8. The request was granted, and a Cancelled/Rescheduled Telephonic Hearing Notice was served on May 14, 2025, to the parties which scheduled a new initial telephonic hearing for July 21, 2025, at 10:00 a.m.

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

8. Both the Hearing Notices and 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.

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

10. Complainant failed to appear and participate in the scheduled telephonic hearing on July 21, 2025.

11. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the July 21, 2025, hearing.

12. 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. First, on March 26, 2025, the Commission served Complainant a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on March 27, 2025, the Commission served Complainant a Prehearing Order which reminded the parties of the date and time of the hearing, and how to participate. Finally, the Commission served Complainant with the Cancelled/Rescheduled Telephonic Hearing Notice on May 14, 2025. Further, these documents advised the parties, *inter alia*, how to request a continuance prior to the hearing if needed. Finally, these 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 claims and issues presented in the dismissed Complaint.

The Hearing Notice, Prehearing Order, and Cancelled/Rescheduled Telephonic Hearing Notice were served by U.S. First-Class Mail to the address provided on the complaint. Neither document was 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 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.

### **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. Thus, it is appropriate to dismiss the Complaint. *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.

### 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. 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).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That Philadelphia Gas Works' Motion to Dismiss the Formal Complaint with prejudice of Michael Shields, at Docket Number C-2025-3053770, is granted.

2. That the Formal Complaint filed by Michael Shields in Michael Shields v. Philadelphia Gas Works, Docket Number C-2025-3053770, is hereby dismissed with prejudice.

3. That the Secretary's Bureau shall mark Docket No. C-2025-3053770 as closed.

Date: October 17, 2025

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Marta Guhl  
Administrative Law Judge