

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

David Detlefsen	:	
	:	
v.	:	C-2024-3048161
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Christopher P. Pell
Deputy Chief Administrative Law Judge

INTRODUCTION

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

HISTORY OF THE PROCEEDING

On April 4, 2024, David Detlefsen (Complainant) filed a Formal Complaint (Complaint) against PECO Energy Company (PECO or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant placed a checkmark in the box marked “[o]ther,” under which he provided the following statement:

I am a residential PECO customer with solar and battery storage. I switched my PECO billing to Time of Use (TOU) in November 2023. Since that time, I have not received a bill from PECO, there is not [sic] bill available online and my multiple attempts to resolve the billing issues have been met

with endless promises of “escalation” to no effect. As of today 04 April 2024, I have not received a bill nor have any indication of my electric production or consumption from PECO since November 11, 2023. I have been unable to speak to anyone that can help me and need assistance resolving this matter.

Under the “requested relief” section of the Complaint form, the Complainant requested the following:

I want them to update and continue to provide the electric usage and export from my residential solar system and fix my billing so that I can pay for the past 4 months and receive monthly invoices going forward.

In his Complaint, the Complainant selected the option to receive all communications from the Commission via eService through an eFiling account he registered with the Commission. Complaint ¶ 9.

On April 23, 2024, the Respondent filed an Answer to the Complaint. In the Answer, the Respondent denied the material averments of the Complaint and requested that an Interim Mediation Order be issued in this matter.

On April 26, 2024, Chief Administrative Law Judge Charles E. Rainey, Jr. issued an Interim Order Setting Resolution Conference and referred this matter to the Office of Administrative Law Judge’s Mediation Unit. Mediation was unsuccessful.

By Initial Call-In Telephonic Hearing Notice dated May 15, 2024, an initial call-in telephonic hearing was scheduled for July 1, 2024, at 10:00 a.m., and the matter was assigned to me. The Hearing Notice advised the parties of the date and time of the scheduled hearing as well as how to call in for the hearing and warned of the following:

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.

I issued a Prehearing Order on May 16, 2024. The Prehearing Order also advised the parties of the date and time of the scheduled hearing as well as how to call in for the hearing. Additionally, the Prehearing Order directed the parties to comply with various procedural requirements and directed that a request to change the scheduled hearing should be sent to me at least five days prior to the hearing date, be in writing and state the agreement or opposition of the other party. It warned both parties of potentially serious consequences if they failed to obtain a continuance and failed to attend the hearing. It also explained that the Complainant bears the burden of proof to establish that the respondent violated its tariff, the Public Utility Code, or a Commission Order or regulation, and that he is entitled to the relief requested in the Complaint.

By Interim Order issued on June 28, 2024, I granted PECO’s unopposed Motion for a 60-day continuance in this matter.

By Initial Call-In Telephonic Hearing Notice dated June 28, 2024, an initial call-in telephonic hearing was scheduled for September 10, 2024, at 10:00 a.m. The Hearing Notice advised the parties of the date and time of the scheduled hearing as well as how to call in for the hearing and again warned of the following:

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.

By Interim Order issued on August 29, 2024, I granted PECO's second unopposed Motion for a 60-day continuance.

By Call-In Telephone Cancellation/Reschedule Hearing Notice dated September 3, 2024, the initial call-in telephonic hearing was scheduled for November 12, 2024, at 10:00 a.m. The Hearing Notice advised the parties of the date and time of the scheduled hearing as well as how to call in for the hearing and again warned of the following:

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.

I issued a second Prehearing Order on September 4, 2024. The Prehearing Order also advised the parties of the date and time of the rescheduled hearing as well as how to call in for the hearing. Additionally, the Prehearing Order again directed the parties to comply with various procedural requirements and directed that a request to change the scheduled hearing should be sent to me at least five days prior to the hearing date, be in writing and state the agreement or opposition of the other party. It warned both parties of potentially serious consequences if they failed to obtain a continuance and failed to attend the hearing. It also explained that the Complainant bears the burden of proof to establish that the respondent violated its tariff, the Public Utility Code, or a Commission Order or regulation, and that he is entitled to the relief requested in the Complaint.

By Interim Order issued on November 12, 2024, I granted PECO's unopposed Motion for a 90-day continuance.

By Cancelled/Rescheduled Initial Telephonic Hearing Notice dated November 12, 2024, the initial call-in telephonic hearing was scheduled for February 10, 2025, at 10:00 a.m. The Hearing Notice advised the parties of the date and time of the scheduled hearing as well as how to call in for the hearing and again warned of the following:

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.

I issued a third Prehearing Order on December 9, 2024. The Prehearing Order advised the parties of the name and contact information for my new legal assistant. The Prehearing Order also advised the parties of the date and time of the rescheduled hearing as well as how to call in for the hearing. Additionally, the Prehearing Order again directed the parties to comply with various procedural requirements and directed that a request to change the scheduled hearing should be sent to me at least five days prior to the hearing date, be in writing and state the agreement or opposition of the other party. It warned both parties of potentially serious consequences if they failed to obtain a continuance and failed to attend the hearing. It also explained that the Complainant bears the burden of proof to establish that the respondent violated its tariff, the Public Utility Code, or a Commission Order or regulation, and that he is entitled to the relief requested in the Complaint.

By Interim Order issued on February 7, 2025, I granted the parties Joint Motion for Continuance. As part of my Interim Order I: cancelled the February 10, 2025, hearing; directed the parties to file a joint status report on their ongoing settlement discussions on or before March 10, 2025 and every 30 days thereafter; and advised that if

the parties failed to file the required joint status reports, the matter would be rescheduled for hearing.

PECO filed status reports on March 10, 2025, and April 11, 2025, requesting that the matter remain in settlement discussions to provide the Complainant time to monitor his billing for accuracy. Neither party filed the required status report in May 2025.

By Initial Call-In Telephonic Hearing Notice dated June 3, 2025, the initial call-in telephonic hearing was scheduled for August 4, 2025, at 10:00 a.m. The Hearing Notice advised the parties of the date and time of the scheduled hearing as well as how to call in for the hearing and again warned of the following:

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.

On August 4, 2025, I convened the hearing as scheduled. Khadijah Scott, Esquire, appeared on behalf of Respondent along with two witnesses and was ready to proceed. The court reporter was also present. The Complainant was not present at the start of the hearing. After a short recess to allow time for the Complainant to appear, the hearing proceeded in the 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 the Complainant's failure to appear and prosecute his complaint. Tr. 5. I took this motion under advisement.

To date, the 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, the date the transcript was filed with the Commission. This Decision grants the Respondent's Motion to Dismiss the Complaint.

FINDINGS OF FACT

1. The Complainant is David Detlefsen.
2. The Respondent is PECO Energy Company.
3. On April 4, 2024, the Complainant filed a Formal Complaint against Respondent.
4. On April 23, 2024, the Respondent filed an Answer to the Complaint.
5. On April 26, 2024, Chief Administrative Law Judge Charles E. Rainey, Jr. issued an Interim Order Setting Resolution Conference and referred this matter to the Office of Administrative Law Judge's Mediation Unit.
6. Mediation was unsuccessful.
7. On May 15, 2024, an Initial Call-In Telephonic Hearing Notice was served on the Complainant scheduling an initial telephonic hearing on July 1, 2024, at 10:00 a.m.
8. On May 16, 2024, a Prehearing Order for Telephone Hearing was served on Complainant providing additional information to the parties regarding the hearing.

9. By Interim Order issued on June 28, 2024, I granted PECO's unopposed Motion for a 60-day continuance in this matter.

10. On June 28, 2024, an Initial Call-In Telephonic Hearing Notice was served on the Complainant scheduling the initial call-in telephonic hearing on September 10, 2024, at 10:00 a.m.

11. By Interim Order issued on August 29, 2024, I granted PECO's second unopposed Motion for a 60-day continuance.

12. On September 3, 2024, an Initial Call-In Telephonic Hearing Notice was served on the Complainant scheduling the initial call-in telephonic hearing on November 12, 2024, at 10:00 a.m.

13. On September 4, 2024, a second Prehearing Order for Telephone Hearing was served on Complainant providing additional information to the parties regarding the hearing.

14. By Interim Order issued on November 12, 2024, I granted PECO's unopposed Motion for a 90-day continuance.

15. On November 12, 2024, a Cancelled/Rescheduled Initial Telephonic Hearing Notice was served on the Complainant scheduling the initial call-in telephonic hearing on February 10, 2025, at 10:00 a.m.

16. On December 9, 2024, a third Prehearing Order for Telephone Hearing was served on the Complainant informing the parties of the name and contact information for my new legal assistant as well as providing additional information to the parties regarding the hearing.

17. By Interim Order issued on February 7, 2025, I granted the parties Joint Motion for Continuance.

18. As part of my February 7, 2025 Interim Order I: cancelled the February 10, 2025, hearing; directed the parties to file a joint status report on their ongoing settlement discussions on or before March 10, 2025 and every 30 days thereafter; and advised that if the parties failed to file the required joint status reports, the matter would be rescheduled for hearing.

19. PECO filed status reports on March 10, 2025, and April 11, 2025, requesting that the matter remain in settlement discussions to provide the Complainant time to monitor his billing for accuracy.

20. Neither party filed the required status report in May 2025.

21. On June 3, 2025, an Initial Call-In Telephonic Hearing Notice was served on the Complainant scheduling the initial call-in telephonic hearing on August 4, 2025, at 10:00 a.m.

22. The Hearing Notices and Prehearing Orders were served on the Complainant by eService to the email address Complainant provided to and registered with the Commission.

23. The Hearing Notices and Prehearing Orders 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.

24. Neither the Hearing Notices nor the Prehearing Orders were returned to the Commission as undeliverable.

25. Complainant failed to appear and participate in the scheduled telephonic hearing on August 4, 2025.

26. The court reporter, Counsel for Respondent and its witnesses were present and prepared to proceed at the August 4, 2025, hearing.

27. Complainant has not contacted the Commission to explain why his failure to appear at the August 4, 2025, 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 3, 2025, the Commission served the Complainant a Hearing Notice which advised the parties of the date and time of the rescheduled hearing, and how to participate. Second, on May 16, 2024, September 4, 2024, and December 9, 2024, the Commission served the Complainant Prehearing Orders which reminded the parties of how to participate in the hearing. Further, all documents advised the parties, *inter alia*, how to request a continuance prior to the hearing if needed. Finally, all documents advised the 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.

Both the Hearing Notice and Prehearing Orders were eServed to the Complainant at the email address he registered with the Commission. None of these documents were returned to the Commission as undeliverable. Notice eServed to a party's registered email address with no notification that service failed is presumed to have been received. *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 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. *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).

The Complainant failed to appear for the rescheduled hearing despite receiving notice and despite the undersigned allowing additional time for the Complainant to appear. To date, there has been no communication to the Office of Administrative Law Judge or me by, or on behalf of, the Complainant explaining why the Complainant's failure to appear at the hearing was unavoidable.

Consequently, I find that the Complainant waived the opportunity to participate in a hearing on the matters raised in the Complaint, the 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, the Complainant bears the burden of proof. By failing to participate and proffer any evidence to support the Complaint, the 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 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 eServed to a party's registered email address with no notification that service failed to be delivered to that email address is presumed to have been received. *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. *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. The 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, the 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).

