

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kahina Benabdeslam	:	
	:	
v.	:	F-2025-3054521
	:	
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 for the failure of Complainant to appear for the hearing and prosecute the Complaint.

HISTORY OF THE PROCEEDING

On April 4, 2025, Kahina Benabdeslam (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (Respondent or PGW).¹ The Complainant checked the box requesting a Commission-issued payment arrangement. Compl. ¶ 4.

¹ The Complaint is a timely appeal from the determination of the Commission’s Bureau of Consumer Services (BCS), at BCS No. 4044297. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

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. Compl. ¶ 9.

On April 24, 2025, the Respondent filed an answer in which it admits or denies the material allegations of fact and conclusions of law in the Complaint. Respondent requested that the Complaint be dismissed.

On April 30, 2025, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing on July 8, 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 April 30, 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 to the email address she provided to the Commission. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

On July 8, 2025, the hearing convened as scheduled. Tracy Tripp, Esquire, appeared on behalf of Respondent. Complainant was not present. Prior to the hearing, I was informed that there may be a language barrier, so, an Arabic interpreter was scheduled to appear at the hearing. The interpreter did not appear. Therefore, I continued this matter so that the notices can be translated to Arabic and sent by both email and First-Class Mail. Tr. 3-4.

On July 31, 2025, a Further Hearing Notice and a Prehearing Order were issued scheduling a hearing for September 30, 2025 at 10:00 a.m. Arabic and English versions of the Hearing Notice and Prehearing Order were served on the Complainant via email and First-Class Mail.

On September 30, 2025, the hearing convened as scheduled. Tracy Tripp, Esquire, appeared on behalf of Respondent along with one witness and was ready to proceed. The Arabic interpreter and court reporter were also present. Complainant was not present to start the hearing. While on the call, we attempted to call Ms. Benabdeslam with the interpreter present. The interpreter left a message in Arabic asking her to call into 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 her Complaint. Tr. 9-11. 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 October, 17, 2025, when 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 Kahina Benabdeslam.
2. The Respondent is Philadelphia Gas Works.
3. On April 4, 2025, Complainant filed a Formal Complaint against Respondent.
4. On April 24, 2025, Respondent filed an answer to the Complaint.
5. On April 30, 2025, a Call-In Telephone Hearing Notice was served on Complainant scheduling an initial telephonic hearing on July 8, 2025 at 10:00 a.m.
6. On April 30, 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 to the email 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 July 8, 2025.

11. The July 8, 2025, hearing was continued in order to provide a new Hearing Notice and Prehearing order translated to Arabic and to ensure an Arabic Interpreter was present for the hearing.

12. On July 31, 2025, a Further Hearing Notice and a Prehearing Order were issued scheduling a hearing for September 30, 2025 at 10:00 a.m.

13. Arabic and English versions of the July 31, 2025, Hearing Notice and Prehearing Order were served on the Complainant via email and First-Class Mail.

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

15. Complainant failed to appear and participate in the scheduled telephonic hearing on September 30, 2025.

16. 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 July 31, 2025, Complainant was served an English and Arabic version of the Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on July 31, 2025, Complainant was served an English and Arabic version of the 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 English and Arabic versions of the Hearing Notice and Prehearing Order were served by U.S. First-Class Mail and email to the address and email 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); *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. *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, 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. *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. While the motion to dismiss is granted here, I note that Ms. Benabdeslam has been paying on and is current with the BCS payment arrangement that was appealed by this Formal Complaint. Further, I encourage Ms. Benabdeslam to reach out to PGW to discuss getting back on PGW's Customer Responsibility Program (CRP) as PGW believes that she is eligible or close to being eligible for CRP again. *See* Tr. 10-11.

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 or by email with no notification that service failed 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); *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. *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 of Kahina Benabdeslam at Docket Number F-2025-3054521 is granted.

2. That the Formal Complaint filed by Kahina Benabdeslam in *Kahina Benabdeslam v. Philadelphia Gas Works*, Docket Number F-2025-3054521, is hereby dismissed.

