

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Karen Truax	:	
	:	
v.	:	F-2024-3051023
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Mary D. Long
Administrative Law Judge

INTRODUCTION

A Formal Complaint filed by a public utility customer is dismissed because Complainant failed to appear for the hearing without good cause.

HISTORY OF THE PROCEEDING

On August 22, 2024, the Complainant, Karen Truax, filed a Formal Complaint alleging that PPL Electric Utilities Corporation (PPL or Company) failed to properly manage her OnTrack program enrollment data and that her bills were not correct. PPL filed an Answer on September 25, 2024, denying the material allegations of the complaint.

By interim order entered October 2, 2024, Chief Administrative Law Judge Charles E. Rainey, Jr. directed the parties to attempt to resolve their dispute with the assistance of mediation. The parties did not resolve their dispute.

On February 18, 2025, the Office of Administrative Law Judge scheduled a hearing to take place by telephone on April 22, 2025, and assigned the case to me. I issued a prehearing order which set forth the procedures for the hearing.

As directed by the Prehearing Order, the Company served its proposed exhibits on April 15, 2025. On Wednesday April 16, 2025, the Complainant contacted my office stating that she had not received the hearing notice or prehearing conference order.¹ I directed counsel for PPL to contact Ms. Truax and agree on a new hearing date if PPL did not object to the continuance. PPL did not object to the continuance and reported that Ms. Truax agreed to a further hearing for July 15, 2025.

By hearing notice dated April 18, 2025, the hearing was rescheduled for July 15, 2025, at 10:00 a.m. On April 21, 2025, a second prehearing order was served by eService, email and USPS Mail. Also on April 21, 2025, I issued an interim order memorializing the Complainant's request for a continuance and granted the continuance.

The hearing convened on July 15, 2025. The Complainant did not appear. After a brief recess, PPL made a motion to dismiss the complaint for failure to prosecute.

Following communication with my office later on July 15, 2025, the Complainant provided a letter explaining that she did not appear at the hearing because

¹ Although the Complainant elected to receive service by email and First-Class mail, she also registered for eService. When she contacted my office, the Complainant was instructed to file a request for a continuance with the Commission's Secretary's Bureau. She eFiled her motion on April 18, 2025.

she believed that she was in active settlement discussions with PPL and was expecting a return telephone call from counsel. She stated that she was surprised to learn that PPL moved to dismiss her complaint. I provided a copy of this letter to counsel for PPL.

By letter filed on July 25, 2025, counsel for PPL admitted that she had spoken to the Complainant the day before the hearing. The parties discussed settlement, but according to PPL, counsel told the Complainant that she may not be able to respond to her settlement offer before the hearing. Counsel further noted that she informed the Complainant that the presiding ALJ will often provide the parties with the opportunity to complete their settlement discussions at the time of the scheduled hearing. Counsel stated that while PPL did not believe that the Complainant's absence was unavoidable, PPL did not object to scheduling a further hearing.

I agreed with PPL that the Complainant's absence from the hearing was not unavoidable as required by the Commission's regulations. However, in view of PPL's agreement to schedule a further hearing, I denied PPL's motion to dismiss and for a third time rescheduled the hearing.

By hearing notice dated July 24, 2025, a further hearing by telephone was scheduled for September 30, 2025. I also issued a third prehearing order.

The hearing convened as scheduled on September 30, 2025. Megan Rulli, Esquire, appeared on behalf of the Company. The Complainant did not appear and participate. After a short recess, the hearing was reconvened and the Company moved to dismiss the complaint with prejudice. Tr. 17. I took the motion under advisement. Following the receipt of the transcript, I issued an order closing the record on October 21, 2025.

FINDINGS OF FACT

1. Complainant is Karen Truax.
2. The Respondent, PPL Electric Utilities Corp., is a jurisdictional public utility.
3. On July 24, 2025, the Hearing Notice noting the date and time of the hearing was eServed to Complainant.
4. On July 24, 2025, a Prehearing Order for Telephone Hearing was eServed, emailed and mailed by First-Class Mail to the Complainant providing additional information to the parties regarding the hearing.
5. Both the Hearing Notice and Prehearing Order were eServed on Complainant to the email address Complainant registered with the Commission.
6. Both the Hearing Notice and Prehearing Order provided Complainant with the toll-free bridge telephone number and PIN to call and participate in the hearing, and, among other things, the procedure for requesting a continuance and the possible consequences of failing to appear at the hearing.
7. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.
8. The Complaint did not call the conference number at 10:00 a.m. on September 30, 2025, the date and time of the hearing.

DISCUSSION

The Complainant filed a Formal Complaint claiming that PPL was not properly administering her OnTrack benefit. The Complainant must prove that she is entitled to this relief from the Commission.² The Complainant did not appear at the hearing scheduled for her benefit and therefore did not take the opportunity to explain why the Commission should render a decision in her favor.

Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them.³ The fundamental tenets of due process are notice and an opportunity to be heard.⁴ However, the right to due process is not absolute.⁵ The Commonwealth Court has consistently held that where a party fails to avail themselves of the opportunity to be heard without good cause, the proceeding may be dismissed and there is no violation of due process.⁶ The Commission has codified this principle in its regulations:

(a) After being notified, a party who fails to be represented at a scheduled conference or hearing in a proceeding will:

(1) Be deemed to have waived the opportunity to participate in the conference or hearing.

(2) Not be permitted thereafter to reopen the disposition of a matter accomplished at the conference or hearing.

(3) Not be permitted to recall witnesses who were excused for further examination.

² 66 Pa.C.S. § 332.

³ *Pa. Bankers Assn v. Pa. Dept. of Banking*, 965 A.2d 956 (Pa. 2008) (*Pa. Bankers Assn*); *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

⁴ *Pa. Bankers Assn*.

⁵ *Goetz v. Dept. of Env't Res.*, 613 A.2d 65 (Pa. Cmwlth. 1992).

⁶ *See Fountain Cap. Fund, Inc. v. Pa. Sec. Comm'n*, 948 A.2d 208 (Pa. Cmwlth. 2008), and the cases cited therein.

(b) Subsection (a)(1)-(3) does not apply if the presiding officer determines that the failure to be represented 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. Counsel shall be expected to go forward with the examination of witnesses at the hearing under § 5.242 (relating to order of procedure), or as has been otherwise stipulated or has been directed by the presiding officer.^[7]

The Complainant received adequate notice of the date and time of the hearing. The Complainant elected to receive service by eService by registering her email address with the Commission.⁸ She also received service by email and by First-Class Mail. Commission records do not indicate that service to Complainant was unsuccessful.

⁷ 52 Pa. Code § 5.425.

⁸ In her Complaint, Complainant selected email service as her preferred method of service of Commission documents. Complaint ¶ 9. However, Complainant also registered for eService by creating an eFiling account when she filed her Complaint. When Complainant registered for an eFiling account she agreed to the following terms and conditions:

I agree that I will accept electronic service in the Commission proceeding in which I am a party of record. By creating this account, notification of filings via electronic mail shall constitute valid service of Commission documents. I understand that such electronic service of any and all documents will be substituted for service by mail. I agree to be served via email with all subsequent filings. I agree that email notices will be sent on the same day the document is posted.

By clicking on the ‘Create Account’ button below, [I am] agreeing to all the Terms and Agreements listed above.

eFiling Registration Page, <https://efiling.puc.pa.gov/Accounts/Create?accountType=I> (last visited Jan. 2, 2025).

Accordingly, the Commission presumes that she received the hearing notice and order that the Commission eServed in connection with the hearing.⁹

The Complainant also had notice of the consequences if she did not appear and participate in the hearing. The Hearing Notice 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 Prehearing Order included my contact information and instructions for requesting a continuance of the hearing if the date and time was inconvenient. Yet the Complainant did not contact the Commission to attempt to reschedule.

⁹ *Hu v. PECO Energy Co.*, Docket No. C 2019-3012075 (Opinion and 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); see also *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) (First-class Mail); and *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 (Opinion and 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) (Email).

Well after the hearing was concluded, the Complainant emailed my office claiming that she dialed into participate in the hearing, but that she “was never added to the conference call.” The hearing commenced at 10:00 a.m. as scheduled and was in session until 10:20 a.m.¹⁰

I do not find the Complainant’s excuse for failing to appear credible. The Complainant was repeatedly accommodated in the year that her complaint has been before the Commission. The Commission recently held that to “meet the unavoidable standard, the Commission will require a complainant to show, with supporting information, that the failure to appear was due to exigent circumstances.”¹¹ The Complainant did not attempt to call in to the conference bridge during the twenty minutes that the hearing was in session. She did not contact my office during that twenty-minute period to report that she was having a problem being connected. She did not report her claim that she attempted to call in until well after the hearing was concluded.

The Complainant should have been well aware of the expectations for the conduct of the hearing and the consequences for failing to appear on time. Continuances have been previously granted. During these proceedings, the Complainant had experience contacting my office and had received instructions for requesting relief. The Complainant is not entitled to never-ending continuances.¹² I find that her failure to appear on time was not unavoidable, nor do I find that she made a good faith attempt to appear.

¹⁰ Tr. 19.

¹¹ *Panepinto v. First Energy Elec. Co.*, Docket C-2024-3051189 at 7 (Opinion and Order entered Oct. 9, 2025).

¹² *See Steadwell v. Unemployment Comp. Bd. of Rev.*, 463 A.2d 1298 (Pa. Cmwlth. 1983).

In sum, the Commission afforded Complainant with ample opportunity to appear and request relief from the Commission. Once notice of a hearing and the opportunity to be heard was provided, it was the responsibility of the Complainant to appear on time and to participate in the hearing.¹³

Section 332(a) of the Public Utility Code¹⁴ places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, Complainant has the burden of demonstrating that the facts alleged in the complaint are true and that she is entitled to the relief that she requested. By not appearing for the scheduled hearing to present evidence, Complainant failed to meet this burden of proof. Consequently, the Complaint must be dismissed.

In conclusion, the Complainant was notified of the scheduled hearing call-in procedure, date and time, as well as how to contact the Office of Administrative Law Judge but failed to appear without a credible excuse. Under these circumstances, the Complainant had ample opportunity to appear and be heard in this proceeding but voluntarily chose not to do so. The due process rights of the Complainant have been fully protected.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of the dispute. 66 Pa.C.S. § 701.
2. The due process rights of the Complainant have been fully protected. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

¹³ *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993); *Mumma v. PPL Elec. Utils. Corp.*, Docket No. C-00014869 (Opinion and Order entered Jan. 28, 2002).

¹⁴ 66 Pa.C.S. § 332(a).

3. Notice eServed to a party who has elected to receive service in this manner is presumed to have been received. *Hu v. PECO Energy Co.*, Docket No. C-2019-3012075 (Opinion and 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. By failing to appear at the scheduled hearing, Complainant has waived her claims and has failed to sustain her burden of proof. 66 Pa.C.S. § 332; 52 Pa. Code § 5.245.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion to dismiss the Formal Complaint of Karen Truax against PPL Electric Utilities Corporation at Docket F-2024-3051023, is granted.

2. That the Formal Complaint of Formal Complaint of Karen Truax against PPL Electric Utilities Corporation at Docket F-2024-3051023, is dismissed.

