

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

James King	:	
	:	
v.	:	C-2025-3053689
	:	
Pennsylvania-American Water Company	:	

**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**

James King (Complainant) filed a Formal Complaint against Pennsylvania-American Water Company (Company) on March 3, 2025, alleging that he did not owe \$552.55. The Company filed an Answer on March 24, 2025, averring that the Complainant's bills are correct as rendered.

By interim order entered March 25, 2025, 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 June 3, 2025, the Office of Administrative Law Judge scheduled a hearing to take place by telephone on July 22, 2025, and assigned the case to me. I issued a prehearing order which set forth the procedures for the hearing.

By email dated June 23, 2025, counsel for the Company requested a continuance due to a scheduling conflict. By email I directed the Complainant to lodge any objection he had to the continuance by the close of business June 24, 2025. The Complainant did not respond. By interim order dated June 25, 2025, I granted the continuance and directed the Company to confer with the Complainant and file a status report which included three alternate dates when all parties and their witnesses were available for hearing.

The Company filed a status report as directed on July 10, 2025. The Company indicated that while it attempted to confer with the Complainant, those efforts were unsuccessful. The Complainant did not object to or respond to the representations made by the Company in the status report.

By hearing notice dated July 15, 2025, the Office of Administrative Law Judge scheduled a hearing to take place by telephone on October 8, 2025. I issued a second prehearing order which set forth the procedures for the hearing.

The hearing convened as scheduled on October 8, 2025. Nicholas Stobbe, 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. Tr. 7-8. I took the motion under advisement. Following the receipt of the transcript, I issued an order closing the record on October 20, 2025.

## FINDINGS OF FACT

1. Complainant is James King.
2. The Respondent, Pennsylvania-American Water Company, is a jurisdictional public utility.
3. On July 15, 2025, the Hearing Notice noting the date and time of the hearing was eServed to Complainant.
4. On July 15, 2025, a Prehearing Order for Telephone Hearing was eServed on 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 provided to and registered with the Commission.
6. 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, 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 Complainant did not call the conference number at 10:00 a.m. on October 8, 2025, at the date and time of the hearing.

9. The Complainant did not contact the Commission to explain why his failure to appear at the hearing was unavoidable.

### DISCUSSION

The Complainant filed a Formal Complaint requesting that the Commission direct the Company to stop harassing him and to impose a civil penalty. The Complainant must prove that he is entitled to this relief from the Commission.<sup>1</sup> The Complainant did not appear at the hearing scheduled for his benefit and therefore did not take the opportunity to explain why the Commission should render a decision in his favor.

Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them.<sup>2</sup> The fundamental tenets of due process are notice and an opportunity to be heard.<sup>3</sup> However, the right to due process is not absolute.<sup>4</sup> 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.<sup>5</sup> 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:

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<sup>1</sup> 66 Pa.C.S. § 332.  
<sup>2</sup> *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).  
<sup>3</sup> *Pa. Bankers Assn.*  
<sup>4</sup> *Goetz v. Dept. of Env't Res.*, 613 A.2d 65 (Pa. Cmwlth. 1992).  
<sup>5</sup> *See Fountain Cap. Fund, Inc. v. Pa. Sec. Comm'n*, 948 A.2d 208 (Pa. Cmwlth. 2008), and the cases cited therein.

- (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.

(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.<sup>[6]</sup>

The Complainant received adequate notice of the date and time of the hearing. The Complainant elected to receive service by eService by registering his email address with the Commission. Commission records do not indicate that service to the Complainant was unsuccessful. Accordingly, the Commission presumes that he received the hearing notice and order that the Commission eServed in connection with the hearing.<sup>7</sup>

The Complainant also had notice of the consequences if he did not appear and participate in the hearing. The Hearing Notice stated as follows:

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<sup>6</sup> 52 Pa. Code § 5.425.

<sup>7</sup> *Panepinto v. First Energy Electric Co.*, Docket C-2024-3051189 (Opinion and Order entered Oct. 9, 2025)(citing *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)).

**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.

Further, the counsel for the Company noted that he attempted to contact the Complainant by e-mail and by telephone. The Complainant did not respond to any of the Company’s attempts to communicate with him. Counsel further noted that he had served the Company’s proposed exhibits, which noted the date and time of the hearing, on the Complainant.<sup>8</sup>

In sum, the Commission afforded the Complainant an 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 and participate in the hearing.<sup>9</sup> If the Complainant could not appear, for any

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<sup>8</sup> Tr. 4-7.

<sup>9</sup> *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).

reason, then it was the Complainant's responsibility to notify the presiding officer immediately about the impediment or dilemma.<sup>10</sup>

Section 332(a) of the Public Utility Code<sup>11</sup> places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, the Complainant has the burden of demonstrating that the facts alleged in the complaint are true and that he is entitled to the relief that he requested. By not appearing for the scheduled hearing to present evidence, the 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 explanation. 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 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).

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<sup>10</sup> 66 Pa.C.S. § 332(a); *Herr v. West Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022); *Williams v. PECO Energy Co.*, Docket No. C-2018-3000734 (Opinion and Order entered Mar. 14, 2019).

<sup>11</sup> 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 received it. *Panepinto v. First Energy Electric Co.*, Docket C-2024-3051189 (Opinion and Order entered Oct. 9, 2025)(citing *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. By failing to appear at the scheduled hearing, the Complainant has waived his claims and has failed to sustain his 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 James King against Pennsylvania-American Water Company at Docket C-2025-3053689, is granted.

2. That the Formal Complaint of James King against Pennsylvania-American Water Company at Docket C-2025-3053689, is dismissed.

