

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Atoya Pearson	:	
	:	
v.	:	C-2025-3056462
	:	
PPL Electric Utilities Corporation	:	

**INITIAL DECISION**

Before  
Erin L. Gannon  
Administrative Law Judge

**INTRODUCTION**

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

**HISTORY OF THE PROCEEDING**

On July 23, 2025, Atoya Pearson (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (Respondent or PPL). The Complaint indicates that the utility has threatened to terminate service or has terminated service and the Complainant seeks a payment arrangement. Complaint ¶ 4. Complainant states that she has fallen on hard times as a single mom and needs to restart her payment agreement to keep her electric on because her child uses a nebulizer every day. *Id.*

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

On August 12, 2025, Respondent filed an answer with new matter, properly endorsed with a notice to plead, in which it denied the material allegations of fact and conclusions of law in the Complaint. In its new matter, Respondent argued that Complainant is not entitled to a payment arrangement on the portion of her balance consisting of unpaid Customer Assistance Program arrears. Respondent requested that the Complaint be dismissed with prejudice.

Complainant did not file a reply to Respondent's new matter.

On September 19, 2025, a Call-In Telephonic Hearing Notice was served on the parties scheduling an initial telephonic hearing on October 27, 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. If you are unable to attend the hearing for any reason, you must request a continuance using the procedure described below.

**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).

Also on September 19, 2025, a Prehearing Order was served on the parties which reminded the parties 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.

The Hearing Notice and Prehearing Order were eServed to the Complainant in the ordinary course of the Commission's business to the email address that was registered with the Commission by Complainant. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

On October 27, 2025, I convened the hearing as scheduled. Megan E. Rulli, 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 with prejudice for Complainant's failure to appear and prosecute her Complaint. Tr. 8. I took this motion under advisement. *Id.*

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

The record closed on November 10, 2025, when I received the hearing transcript. Tr. 8.

This decision grants Respondent's motion in part. The Complaint will be dismissed but without prejudice.

### FINDINGS OF FACT

1. The Complainant is Atoya Pearson.
2. The Respondent is PPL Electric Utilities Corporation.
3. On July 23, 2025, Complainant filed a Formal Complaint against Respondent.
4. On August 12, 2025, Respondent filed an answer and new matter to the Complaint.
5. On September 19, 2025, a Call-In Telephone Hearing Notice was served on Complainant scheduling an initial telephonic hearing on October 27, 2025 at 10:00 a.m.
6. On September 19, 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 eService to the email address Complainant provided to and registered with 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 October 27, 2025.

11. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the October 27, 2025 hearing.

12. 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 September 19, 2025, the Commission served the Complainant a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on the same date, the Commission served the Complainant a 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 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.

Both the Hearing Notice and Prehearing Order were eServed to the Complainant at the email address she registered with the Commission. Neither was 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 (Final 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, 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 their 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) (*Brown*); *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) (*Williams*); *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995) (*Jefferson*); 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; Williams; Jefferson*. Accordingly, the merits of the Complaint will not be addressed.

Respondent's motion to dismiss will be granted. However, because of medical issues alleged in the Complaint and the fact that Complainant is unrepresented, PPL's motion will not be granted with prejudice.

## 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 (Final 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 PPL Electric Utilities Corporation's motion to dismiss the Formal Complaint of Atoya Pearson with prejudice, at Docket Number C-2025-3056462, is granted in part and denied in part.

2. That the Formal Complaint filed by Atoya Pearson in *Atoya Pearson v. PPL Electric Utilities Corporation*, Docket Number C-2025-3056462, is hereby dismissed but without prejudice.

