

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

James King	:	
	:	
v.	:	C-2025-3056065
	:	
Duquesne Light Company	:	

INITIAL DECISION

Before
Emily I. DeVoe
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 2, 2025, James King (Complainant or Mr. King) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Duquesne Light Company (DLC, Company, or Respondent), alleging that the Company was threatening to shut off service or had already shut off service and there were incorrect charges on his bill. Complaint ¶ 4. Complainant averred he had entered into a payment arrangement (PAR) with DLC, but he was now being charged an incorrect amount since the agreement was made. Complaint ¶ 5. As relief, he requested the service termination be halted until the correct amount of money owed could be calculated. *Id.*

Regarding service by the Commission, Mr. King elected to be served by eService.¹ Complaint ¶ 9.

On July 22, 2025, Respondent filed an Answer and New Matter to the Complaint, denying the material averments of the Complaint. It averred, *inter alia*, it issued Complainant a termination notice for an outstanding balance, but did so consistent with Commission regulations. Answer ¶ 5. It further alleged that Complainant had received and defaulted on eleven Company PARs and last made a payment on the account on December 26, 2024, with and payments returned due to insufficient funds on March 4, 2025 and May 27, 2025. *Id.*

In its New Matter, DLC averred Mr. King filed for Chapter 13 Bankruptcy on July 13, 2025, and argued the Commission lacked jurisdiction over any PARs involving pre-petition balances. New Matter ¶¶ 14-15, 19-20.

¹ When Complainant registered for an eFiling account he 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).

The New Matter contained a Notice to Plead, directing Complainant to file a response within twenty days.

Complainant did not file a response to the New Matter.

On August 28, 2025, an Initial Telephonic Hearing Notice was served on the parties scheduling the initial telephonic hearing for October 16, 2025, at 1:00 p.m. 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 August 28, 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 August 28, 2025 Hearing Notice and Prehearing Order were served on Complainant by eService consistent with his election on the Complaint. *See* Complaint ¶ 9.

Neither the August 28, 2025 Hearing Notice nor the August 28, 2025 Prehearing Order were returned as undeliverable.

On October 16, 2025, I convened the hearing as scheduled. Ms. Sophia Al Rasheed, Esquire, was present 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, and 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 due to Complainant's failure to appear and prosecute his Complaint. Tr. 7. I took this motion under advisement. *Id.*

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

The record closed on October 16, 2025, at the conclusion of the hearing. 52 Pa. Code § 5.431(a).

The Transcript (Tr.) was filed on October 31, 2025, and is nine pages in length.

This decision grants the Respondent's motion to dismiss the Complaint but without prejudice.

FINDINGS OF FACT

1. Complainant is James King.
2. Respondent is Duquesne Light Company.
3. On July 2, 2025, Complainant filed a Formal Complaint against Respondent.
4. On July 22, 2025, Respondent filed an Answer and New Matter to the Complaint.
5. On August 28, 2025, an Initial Telephonic Hearing Notice was served on Complainant scheduling an initial telephonic hearing on October 16, 2025, at 1:00 p.m.
6. On August 28, 2025, a Prehearing Order was served on Complainant providing additional information to the parties regarding the hearing.
7. Both the August 28, 2025 Hearing Notice and August 28, 2025 Prehearing Order were eServed on Complainant.
8. Neither the August 28, 2025 Hearing Notice nor the August 28, 2025 Prehearing Order was returned as undeliverable.
9. The October 16, 2025, hearing convened as scheduled.
10. Complainant failed to appear and participate in the scheduled telephonic hearing on October 16, 2025.

11. The court reporter, counsel for Respondent, and its witness were present and prepared to proceed at the October 16, 2025, hearing.

12. Complainant has not contacted the Commission to explain why his 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. On August 28, 2025, the Commission issued a Notice and Prehearing Order and served Complainant by eService.

The Hearing Notice served on August 28, 2025, advised the parties of the date and time of the hearing, and how to participate. The Prehearing Order 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 claim(s) and issues(s) presented in the dismissed complaint.

The Notice and Prehearing Order served on Complainant by eService on August 28, 2025 were not returned as undeliverable. Accordingly, it must be presumed that these documents were received by Complainant. *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, 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 October 16, 2025, hearing despite receiving notice. To date, there has been no communication to the Office of Administrative Law Judge or me by, or on behalf of, Complainant explaining why his 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 and Complainant's absence was not unavoidable.

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. Accordingly, the merits of the Complaint will not be addressed.

Respondent's motion to dismiss the Complaint with prejudice will be granted in part such that the Complaint is dismissed, but without 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 (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. 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).

6. 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).

7. 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 Duquesne Light Company's motion to dismiss with prejudice the Formal Complaint of James King, at Docket Number C-2025-3056065, is granted in part such that the Complaint is dismissed and denied in part such that it is dismissed without prejudice.

2. That the Formal Complaint filed by James King in James King v. Duquesne Light Company, Docket Number C-2025-3056065, is hereby dismissed without prejudice.

3. That the Secretary's Bureau shall mark Docket No. C-2025-3056065 as closed.

Date: December 3, 2025

_____/s/
Emily I. DeVoe
Administrative Law Judge