

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Josie Channell	:	
	:	
v.	:	F-2025-3055477
	:	
FirstEnergy Pennsylvania Electric Company	:	

**INITIAL DECISION**

Before  
John M. Coogan  
Administrative Law Judge

**INTRODUCTION**

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

**HISTORY OF THE PROCEEDING**

On May 27, 2025, Josie Channell (Complainant or Ms. Channell) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission), against FirstEnergy Pennsylvania Electric Company – Met-Ed Rate District (FE PA, Company, or Respondent).<sup>1</sup> In her Complaint, Ms. Channell alleges that the Company is threatening to shut off her service or has already shut off her service, and

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<sup>1</sup> The Complaint is a timely appeal from the determination of the Commission’s Bureau of Consumer Services (BCS), at BCS No. 4065331, which dismissed Complainant’s informal complaint. A timely BCS appeal is subject to de novo review. 52 Pa. Code § 56.173(a).

that she would like a payment agreement. As relief, Ms. Channell states that she is looking for a manageable payment plan.

The Complaint was served on FE PA by the Commission's Secretary's Bureau on May 30, 2025. The deadline for FE PA to file its answer was June 19, 2025. 52 Pa Code § 5.61(a). By June 19, 2025, FE PA had not filed an answer.

On July 11, 2025, FE PA filed an answer and new matter as well as a Motion to File Answer and New Matter *Nunc Pro Tunc* (Motion). In its Motion, FE PA admits that its responsive pleading was filed late, but, due to an administrative-related oversight, the Respondent is filing its answer and new matter beyond the due date. The Motion contained a notice to plead, directing Complainant to file a response to the Motion within 20 days of service. No response to the Motion was received.

In its answer, FE PA admits that Complainant's service was terminated on May 21, 2025, and that a Commission payment arrangement is permitted for the arrears. FE PA asserts that Complainant declined a Commission payment arrangement. Respondent denies that the termination of service was not lawful. In its new matter, Respondent requests that this matter be referred to the Office of Administrative Law Judge's Mediation Unit. The answer and new matter contains a notice to plead, directing Complainant to file a response to the new matter within 20 days of service. No response to the new matter was received.

On August 11, 2025, the Commission issued an interim order setting conference between parties.

On September 4, 2025, the Commission issued a Hearing Notice, setting a formal call-in telephonic hearing for this matter for Monday, November 3, 2025 at 10:00 a.m. and assigning me as the presiding officer. 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).

In anticipation of the November 3, 2025 hearing, I issued a Prehearing Order on September 4, 2025 setting forth various rules that would govern that proceeding. 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.<sup>2</sup> Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

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<sup>2</sup> In her Formal Complaint, Ms. Channell selected the option to receive all communications from the Commission via email. Complaint ¶ 9. However, Commission records indicate Ms. Channell registered for eFiling.

On September 23, 2025, I issued an order granting FE PA's Motion.

On November 3, 2025, I convened the hearing as scheduled. Margaret Morris, 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. 7. 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 November 24, 2025, upon the filing of the hearing transcript. This decision grants the Respondent's motion to dismiss the Complaint with prejudice.

#### FINDINGS OF FACT

1. The Complainant is Josie Channell.
2. The Respondent is FirstEnergy Pennsylvania Electric Company.
3. On May 27, 2025, Complainant filed a Formal Complaint against Respondent.
4. On July 11, 2025, Respondent filed an answer to the Complaint.

5. On September 3, 2025, an Initial Call-In Telephonic Hearing Notice was served on Complainant scheduling an initial telephonic hearing on November 3, 2025, at 10:00 a.m.

6. On September 3, 2025, a Prehearing Order for Telephonic 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 November 3, 2025.

11. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the November 3, 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 3, 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 September 3, 2025, 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 claim(s) and issues(s) 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 (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 with prejudice. *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) (*Little*); *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 with prejudice.

### **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 with prejudice. *Brown; Little; Williams; Jefferson*. Accordingly, the merits of the Complaint will not be addressed.

Respondent's motion to dismiss with prejudice will be granted.

### 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. 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 with prejudice. *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 FirstEnergy Pennsylvania Electric Company's motion to dismiss the Formal Complaint of Josie Channell with prejudice, at Docket Number F-2025-3055477, is granted.

2. That the Formal Complaint filed by Josie Channell in Josie Channell v. FirstEnergy Pennsylvania Electric Company, Docket Number F-2025-3055477, is hereby dismissed with prejudice.

3. That the Secretary's Bureau shall mark Docket No. F-2025-3055477 as closed.

Date: December 17, 2025

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/s/  
John M. Coogan  
Administrative Law Judge