

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Matthew Weaver	:	
	:	
v.	:	C-2025-3054199
	:	
FirstEnergy Pennsylvania Electric Company	:	

INITIAL DECISION

Before
Mark A. Hoyer
Deputy Chief Administrative Law Judge

INTRODUCTION

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

HISTORY OF THE PROCEEDING

On March 25, 2025, Matthew Weaver (Complainant) filed a Formal Complaint (complaint) with the Pennsylvania Public Utility Commission (Commission) against FirstEnergy Pennsylvania Electric Company (Respondent or FirstEnergy). The complaint alleges the following: that the utility is threatening to shut off his service or has already shut off his service; that he would like a payment arrangement and that, “I sent in a money order for the amount due pulled a loan for it wanna know why it didn’t go towards my account.”

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

On April 14, 2025, Respondent filed an answer to the complaint. Respondent admitted that it issued a termination notice on February 10, 2025, for an outstanding balance of \$6,774.60, but halted termination efforts due to the filing of the instant complaint. Respondent denied all the other material averments contained in the complaint. Respondent requested, among other things, that the complaint be dismissed with prejudice.

On July 15, 2025, an Initial Telephonic Hearing Notice was served on the parties scheduling an initial telephonic hearing on August 25, 2025, 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.

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 July 15, 2025, a Prehearing Order for Telephone Hearing 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 August 20, 2025, I emailed Complainant and counsel for Respondent, Timothy K. McHugh, Esquire, because I had not been provided proposed exhibits by either party for the hearing scheduled on August 25, 2025. Later that same day, counsel for Respondent provided both Complainant and I electronic copies of Respondent's proposed exhibits for the scheduled hearing.

On August 21, 2025, Complainant filed a motion for a continuance of the scheduled hearing for the purpose of obtaining legal counsel. A certificate of service was not included with this filing.

On August 25, 2025, I convened the hearing as scheduled. Complainant appeared on his own behalf. Respondent was represented by Timothy K. McHugh, Esquire. The request for a continuance was addressed at the outset of the hearing. On the record, Mr. McHugh advised that he was unaware of Complainant's continuance request until the morning of August 25, 2025. Transcript (Tr.) 5. Mr. McHugh objected to the continuance request. Tr. 7. The continuance request was granted, no evidence was presented and the hearing was adjourned. Tr. 8.

On August 25, 2025, a Further Telephonic Hearing Notice was served on the parties scheduling a further telephonic hearing on October 8, 2025, at 10:00 a.m. The Further Hearing Notice provided the parties with the Toll-Free Bridge Number and the PIN to call and participate in the telephonic hearing. The Further 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 25, 2025, a Further Prehearing Order for Telephone Hearing was served on the parties which reminded the parties of the date and time of the further telephone hearing. The Further Prehearing Order also stated the potential consequences if a party failed to appear at the further hearing. Additionally, the Further Prehearing Order informed the parties about the applicable procedural rules, and again included the procedure to follow for hearing continuances.

On October 8, 2025, I convened the further hearing as scheduled. Timothy K. McHugh, Esquire, appeared on behalf of Respondent along with proposed witness, Todd Haslup, 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 further

hearing, Respondent moved to dismiss the complaint with prejudice for Complainant's failure to appear and prosecute his complaint. Tr. 19. I took this motion under advisement.

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

The record closed on October 17, 2025. This decision grants the Respondent's motion to dismiss the complaint with prejudice.

FINDINGS OF FACT

1. The Complainant is Mathew Weaver.
2. The Respondent is FirstEnergy Pennsylvania Electric Company.
3. On March 25, 2025, Complainant filed a Formal Complaint against Respondent.
4. On April 14, 2025, Respondent filed an answer.
5. On July 15, 2025, a Call-In Telephone Hearing Notice was served on Complainant scheduling an initial telephonic hearing on August 25, 2025, at 10:00 a.m.
6. On July 15, 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 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. On August 21, 2025, Complainant filed a motion for a continuance of the hearing scheduled for August 25, 2025.

11. On August 25, 2025, the initial hearing convened as scheduled. Complainant's continuance request was granted over objection by counsel for Respondent. No evidence was presented by either party.

12. On August 25, 2025, a Further Telephonic Hearing Notice was served on Complainant scheduling a further telephonic hearing on October 8, 2025, at 10:00 a.m.

13. On August 25, 2025, a Further Prehearing Order for Telephone Hearing was served on Complainant providing additional information to the parties regarding the hearing.

14. Both the Further Hearing Notice and Further Prehearing Order were served on Complainant by eService to the email address Complainant provided to and registered with the Commission.

15. Both the Further Hearing Notice and Further Prehearing Order provided the Complainant with the procedure for requesting a continuance and the possible consequences of failing to appear at the hearing.

16. Neither the Further Hearing Notice nor the Further Prehearing Order were returned to the Commission as undeliverable.

17. Complainant failed to appear and participate in the scheduled further telephonic hearing on October 8, 2025.

18. The court reporter, counsel for Respondent and its witness were present and prepared to proceed at the October 8, 2025, further hearing.

19. Complainant has not contacted the Commission to explain why his failure to appear at the further 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 August 25, 2025, the Commission served Complainant a Further Hearing Notice which advised the parties of the date and time of the further hearing, and how to participate. Second, on August 25, 2025, the Commission served Complainant a Further Prehearing Order which reminded the parties of the date and time

of the further hearing, and how to participate. Both documents advised the parties, *inter alia*, how to request a continuance prior to the further 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.

The Further Hearing Notice and Further Prehearing Order were eServed to the Complainant at the email address he registered with the Commission. Neither of these documents were 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 further 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); *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 further 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 further hearing was unavoidable.

Consequently, I find that Complainant waived the opportunity to participate in a further hearing on the matters raised in the complaint. 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 [with prejudice]. *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Williams v. PECO Energy Co.*, Docket No. C-2018-300734 (Opinion and Order entered Mar. 14, 2019) (citing *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995)). Accordingly, the merits of the complaint will not be addressed.

Respondent's motion to dismiss the complaint 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 further 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 with prejudice the Formal Complaint of Matthew Weaver v. FirstEnergy Pennsylvania Electric Company, at Docket Number C-2025-3054199 is granted.

2. That the Formal Complaint filed by Matthew Weaver in Matthew Weaver v. FirstEnergy Pennsylvania Electric Company, at Docket Number C-2025-3054199, is hereby dismissed with prejudice.

3. That the Secretary's Bureau shall mark Docket No. C-2025-3054199 as closed.

Date: January 8, 2026

/s/
Mark A. Hoyer
Deputy Chief Administrative Law Judge