

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

William Schneider	:	
	:	C-2024-3049849
v.	:	C-2024-3051310
	:	
Pennsylvania-American Water Company	:	

INITIAL DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

This decision dismisses two Formal Complaints for the failure of Complainant to appear at the hearing and prosecute the Complaints.

HISTORY OF THE PROCEEDING

On July 1, 2024, William Schneider (Complainant) filed a Formal Complaint (Complaint #1) at Docket No. C-2024-3049849, with the Pennsylvania Public Utility Commission (Commission) against Pennsylvania-American Water Company (Respondent or PAWC). In Complaint #1, Complainant alleged PAWC improperly shut off water service and ordered Complainant to replace the service line at the first service address: 1212 Greensburg Street, Pittsburgh, Pennsylvania (Service Address #1). Complainant requested reimbursement for the cost of replacing the service line. In the 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 July 24, 2024, Respondent filed the Answer to Complaint #1 (Answer #1) in which PAWC admitted a leak occurred in the customer-owned service line and water service was discontinued pending repairs. Respondent further alleged Complainant began repairing the service line, but the Company directed its contractor to perform the replacement after it was determined the service line was a galvanized service line. Respondent requested the Commission assign the matter to Mediation.

On September 23, 2024, Complainant filed a second Formal Complaint (Complaint #2) at Docket No. C-2024-3051310, with the Commission against PAWC concerning the second service address: 506 East Warrington Avenue, Pittsburgh, Pennsylvania (Service Address #2). In Complaint #2, Complainant alleged PAWC refused to re-establish water service for over two weeks without cause. Complainant requested the Commission order PAWC to re-establish service. In the 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 October 14, 2024, Respondent filed the Answer to Complaint #2 (Answer #2) in which PAWC admitted Complainant requested a turn-on of water service, but Respondent determined the curb box serving the property first needed to be replaced. PAWC asserted the replacement of the curb box could not occur until PAWC coordinated with a local trolley company. PAWC alleged that work was in process. Respondent requested the Commission assign the matter to Mediation.

On November 18, 2025, the Office of Administrative Law Judge (OALJ) served a Call-In Telephone Hearing Notice on the parties scheduling an initial telephonic hearing on January 7, 2026. 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 November 18, 2025, the presiding officer served a Prehearing Order on the parties which reminded the parties of the date and time of the hearing. The Prehearing Order again stated the failure to appear warning. Additionally, the Prehearing Order informed the parties about the applicable procedural rules and again included the procedure to follow for requesting a continuance.

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

On January 7, 2026, I convened the hearing as scheduled. Michael A. Gruin, 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.

The hearing proceeded in Complainant's absence, after taking a recess until 10:15 a.m. Respondent noted it made attempts in June and July of 2025 to communicate with Complainant and Complainant's property manager but the attempts were unsuccessful. Respondent noted it made a last attempt on December 22, 2025, by sending an email to Complainant. Respondent asserted the email was not returned as undeliverable and Complainant did not respond to the email dated December 22, 2025. Respondent's counsel acknowledged he provided Complainant with the date and time for the hearing on January 7, 2026. No testimony was taken, and no exhibits were introduced into the record. Respondent moved to dismiss the two Complaints with prejudice for Complainant's failure to appear and prosecute his Complaints. Tr. 8. The presiding officer 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 January 7, 2026, at the conclusion of the hearing, pursuant to 52 Pa. Code § 5.431(a).¹ This decision grants Respondent's motion to dismiss the Complaints.

FINDINGS OF FACT

1. Complainant is William Schneider.
2. Respondent is Pennsylvania-American Water Company.

¹ The provision at 52 Pa. Code § 5.431(a) states the hearing "record will be closed at the conclusion of the hearing unless otherwise directed by the presiding officer or the Commission."

3. On July 1, 2024, and on September 23, 2024, respectively, Complainant filed two Formal Complaints against Respondent concerning water service at two service addresses: 1212 Greensburg Street, Pittsburgh, Pennsylvania; and 506 East Warrington Avenue, Pittsburgh, Pennsylvania.

4. On July 24, 2024, and on October 14, 2024, respectively, Respondent filed the Answers to the two Complaints.

5. On November 18, 2025, OALJ served a Call-In Telephone Hearing Notice on Complainant scheduling an initial telephonic hearing on January 7, 2026, at 10:00 a.m.

6. On November 18, 2025, the presiding officer served a Prehearing Order for Telephone Hearing on Complainant providing additional information to the parties regarding the hearing.

7. The Commission served both the Hearing Notice and Prehearing Order 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 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 was returned to the Commission as undeliverable.

10. Complainant failed to appear and participate in the scheduled telephonic hearing on January 7, 2026.

11. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the January 7, 2026 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. First, on November 18, 2025, Complainant was served a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on November 18, 2025, Complainant was served 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 dismissal 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 complaints.

Both the Hearing Notice and Prehearing Order were eServed to Complainant at the email address he 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).

A 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 a party's failure to appear was unavoidable, a 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 hearing despite receiving notice from the Commission and from Respondent, and despite the undersigned allowing additional time at the hearing for Complainant to appear. To date, there has been no communication to OALJ 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 Complaints, Complainant's absence was not unavoidable, and the Complaints 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 a

respondent public utility is responsible or accountable for the problem described in a 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 that is 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 Complaints, Complainant has failed to meet this burden. Thus, it is appropriate to dismiss the Complaints 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 Complaints will not be addressed.

Respondent's motion to dismiss the Complaints 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, a 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).

