

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Margie McFarland	:	
	:	
v.	:	C-2025-3055963
	:	
FirstEnergy Pennsylvania Electric Company	:	

**INITIAL DECISION**

Before  
Ann Quimby  
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 June 26, 2025, Margie McFarland (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against FirstEnergy Pennsylvania Electric Company (Respondent or FirstEnergy). Ms. McFarland indicated Respondent had shut off or was threatening to shut off service, she wanted a payment arrangement, and that a payment arrangement she had been offered exceeded her monthly income.

In the 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. Complainant listed the beginning of her email address in the Complaint as “hillybilydeluxe.” Complaint ¶ 9.

On July 17, 2025, Respondent filed an Answer. Respondent indicated Respondent provides service at the service address and that a termination notice had been issued, but termination was stayed due to the filing of the Complaint. Answer ¶ 4(a). Respondent denied Complainant was eligible for a payment arrangement and reported Complainant does not pay her bills in full or on time. Answer ¶ 4(b). Respondent requested Complainant’s Complaint be dismissed.

On July 25, 2025, an Initial Telephonic Hearing Notice was served on the parties scheduling an initial telephonic hearing on September 9, 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 to call and the pin number to use to 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 continuation, 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 25, 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 Complainant in the ordinary course of the Commission's business to an email address beginning with "hillbillydeluxe," which is slightly different than the address listed in the Complaint that starts with "hillbilydeluxe."<sup>1</sup> Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

On September 9, 2025, I convened the hearing as scheduled. Angelina Umstead, 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. A short recess was taken to allow time for Complainant to appear, but she did not appear. Due to the discrepancy between the email address listed on the Complaint and the email address used for service, the undersigned continued the hearing in order to ensure Complainant was properly served notice of the hearing.

On September 10, 2025, a new Telephonic Hearing Notice was served on the parties scheduling a telephonic hearing on November 3, 2025 at 10:00 a.m. The new Hearing Notice provided the parties with the toll-free bridge number to call and the pin number to use to participate in the telephonic hearing. The new Hearing Notice further provided the same language regarding failure to appear and continuances as the July 25, 2025 Hearing Notice.

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<sup>1</sup> The rest of both email addresses referenced was the same as what was listed in the Complaint.

On September 10, 2025, a new Prehearing Order was served on the parties which reminded the parties of the date and time of the hearing. The new Prehearing Order also stated the potential consequences if a party failed to appear at the hearing. Additionally, the new Prehearing Order informed the parties about the applicable procedural rules and again included the procedure to follow for hearing continuances.

The new Hearing Notice and new Prehearing Order were eServed to Complainant in the ordinary course of the Commission's business to the email address exactly as listed in the Complaint, and also to an email address beginning with "hillbillydeluxe"<sup>2</sup> instead of "hillbilydeluxe." The new Hearing Notice and new Prehearing Order were also served via U.S. First-Class Mail to Complainant at the street address provided by her to the Commission. Neither the new Hearing Notice nor the new Prehearing Order were returned to the Commission as undeliverable.

On November 3, 2025, I convened the rescheduled hearing as scheduled. Angelina Umstead, Esquire, again 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 for Complainant's failure to appear and prosecute her Complaint. Tr. at 7. I took this motion under advisement. Tr. at 7.

Complainant has not contacted the Commission to explain why her failure to appear at the hearings on September 9, 2025 and November 3, 2025 was unavoidable.

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<sup>2</sup> The remainder of the email address was the same as what was listed in the Complaint.

The transcript from the November 3, 2025 hearing was received on November 24, 2025, and I issued an Interim Order closing the record on December 1, 2025. This decision grants Respondent's motion to dismiss the Complaint.

#### FINDINGS OF FACT

1. Complainant is Margie McFarland.
2. Respondent is FirstEnergy Pennsylvania Electric Company.
3. On June 26, 2025, Complainant filed a Formal Complaint against Respondent.
4. On July 17, 2025, Respondent filed an Answer to the Complaint.
5. On July 25, 2025 an Initial Telephone Hearing Notice was served on Complainant scheduling an initial telephonic hearing on September 9, 2025 at 10:00 a.m.
6. On July 25, 2025, a Prehearing Order for Telephone Hearing was served on Complainant providing additional information to the parties regarding the hearing.
7. The email address Complainant provided to the Commission starts with “hillbilydeluxe.”
8. Both the July 25, 2025 Hearing Notice and July 25, 2025 Prehearing Order were served on Complainant by eService to an email address starting with “hillbilydeluxe,” and the remainder of the email address used was the same as the address listed in the Complaint.

9. Both the July 25, 2025 Hearing Notice and July 25, 2025 Prehearing Order provided Complainant with the toll-free bridge telephone number and pin number to use to participate in the hearing, and, *inter alia*, the procedure for requesting a continuance and the possible consequences of failing to appear at the hearing.

10. Neither the July 25, 2025 Hearing Notice nor the July 25, 2025 Prehearing Order was returned to the Commission as undeliverable.

11. Complainant failed to appear and participate in the scheduled telephonic hearing on September 9, 2025.

12. The court reporter, Respondent's counsel and Respondent's witness were present and prepared to proceed at the September 9, 2025 hearing.

13. The undersigned continued the September 9, 2025 hearing to ensure Complainant was provided with adequate notice of the hearing.

14. On September 10, 2025, a new Call-In Telephone Hearing Notice was served on Complainant scheduling a telephonic hearing on November 3, 2025 at 10:00 a.m.

15. On September 10, 2025, a new Prehearing Order for Telephone Hearing was served on Complainant providing additional information to the parties regarding the hearing.

16. Both the September 10, 2025 Hearing Notice and September 10, 2025 Prehearing Order were served on Complainant by eService to the email address exactly as listed in the Complaint, which starts with "hillbilydeluxe," and also at the

email address beginning with “hillbillydeluxe” instead of “hillbilydeluxe,” (with the remainder of the email address the same as the address listed in the Complaint.)

17. Both the new Hearing Notice and the new Prehearing Order were served via First-Class mail to the mailing address provided by Complainant on her Complaint.

18. Both the new Hearing Notice and new Prehearing Order provided Complainant with the toll-free bridge telephone number and pin number to use to participate in the hearing, and, *inter alia*, the procedure for requesting a continuance and the possible consequences of failing to appear at the hearing.

19. Neither the new Hearing Notice nor the new Prehearing Order was returned to the Commission as undeliverable.

20. Complainant failed to appear and participate in the scheduled telephonic hearing on November 3, 2025.

20. The court reporter, Respondent’s counsel and Respondent’s witness were present and prepared to proceed at the November 3, 2025 hearing.

21. Complainant has not contacted the Commission to explain why her failure to appear at either scheduled 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. Initially, on July 25, 2025, the Commission served Complainant a Hearing Notice and a Prehearing Order which each advised the parties of the date and time of the hearing, and how to participate. Both documents advised the parties, *inter alia*, how to request a continuance prior to the hearing if needed, and 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 electronically served to an email address starting with “hillbilydeluxe.” However, the email address provided by Complainant to the Commission, which was typed into the Complaint, began with “hillbilydeluxe.” It is not clear which email address is correct; it is possible that Complainant mistyped her email, and it is also possible the email address listed in the Complaint is correct. When Complainant did not appear for the September 9, 2025 hearing, the undersigned continued the hearing in order to ensure Complainant was provided proper notice of the hearing.

The second Hearing Notice and Prehearing Order were issued on September 10, 2025. Again, these documents advised the parties how to request a

continuance prior to the hearing if needed, and both documents advised Complainant that failure to appear may result in the dismissal of the Complaint with prejudice.

The September 10, 2025 Hearing Notice and Prehearing Order were served electronically to the email address Complainant provided to the Commission on her Complaint, and also to an email address that replaced “hillbilydeluxe” with “hillbillydeluxe” (with the rest of the email address matching the email address that was listed on the Complaint). The September 10, 2025 Hearing Notice and Prehearing Order were also served by U.S. First-Class Mail to the address provided on the Complaint. Nothing 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). Further, as the documents sent via U.S. mail were not returned as undeliverable, it must be presumed that this mail was received by Complainant. *Berkowitz v. Mayflower Sec., Inc.*, 317 A.2d 584 (Pa. 1974); *Meierdierck v. Miller*, 147 A.2d 406 (Pa. 1959); *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. 1997); *Judge v. Celina Mut. Ins. Co.*, 449 A.2d 658 (Pa. Super. 1982).

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 give an indication 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).

While the first Hearing Notice could have been sent to the incorrect email address for the first hearing date, any issues with service were corrected when the second Hearing Notice was issued, and it is clear proper notice was given for that hearing. Complainant failed to appear for either hearing. I allowed for additional time for Complainant to appear at both hearings, but she did not 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 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 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. Notice mailed via U.S. First-Class Mail to a party and not returned to the Commission as undeliverable is presumed received. *Berkowitz v. Mayflower Sec., Inc.*, 317 A.2d 584 (Pa. 1974); *Meierdierck v. Miller*, 147 A.2d 406 (Pa. 1959); *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. 1997); *Judge v. Celina Mut. Ins. Co.*, 449 A.2d 658 (Pa. Super. 1982).
5. 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).

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 Margie McFarland, at Docket Number C-2025-3055963, is granted.

2. That the Formal Complaint filed by Margie McFarland in *Margie McFarland v. FirstEnergy Pennsylvania Electric Company*, Docket Number C-2025-3055963, is hereby dismissed.

3. That the Secretary's Bureau shall mark Docket No. C-2025-3055963 as closed.

Date: January 28, 2026

/s/  
Ann Quimby  
Administrative Law Judge