

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jason Mesler	:	
	:	
v.	:	C-2025-3055881
	:	
FirstEnergy Pennsylvania Electric Company	:	

INITIAL DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

The undersigned grants Respondent’s oral motion to dismiss the Formal Complaint because Complainant failed to appear at the initial hearing and prosecute his case.

HISTORY OF THE PROCEEDING

On June 23, 2025, Jason Mesler (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against FirstEnergy Pennsylvania Electric Company (Respondent or FE PA). The Complaint concerns electric service provided to Complainant at the service address located in Seward, Westmoreland County, Pennsylvania. Complainant alleged FE PA threatened to shut off service or had already shut off electric service at the service address, and he had

been misled about the total account balance. For relief, Complainant requested a reduction in the account balance and in the monthly payments due.

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 14, 2025, Respondent filed an Answer in which Respondent admitted it provides residential electric distribution service to Complainant under another occupant's name as customer of record (Complainant is an authorized contact). FE PA admitted sending Complainant a notice of pending termination of service for undisputed delinquent charges but denied payments received were not properly posted. Respondent noted the Commission provided the customer of record with a payment arrangement on April 17, 2023, which defaulted due to non-payment.

On December 4, 2025, the Office of Administrative Law Judge (OALJ) issued a Call-In Telephone Hearing Notice, which scheduled an initial hearing to be conducted on January 23, 2026, with Administrative Law Judge Katrina L. Dunderdale (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.

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 December 4, 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 to request 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 23, 2026, I convened the hearing as scheduled. Margaret A. 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 and the hearing proceeded in Complainant’s absence, after taking a recess until 10:16 a.m. Respondent noted it made unsuccessful attempts to communicate with Complainant prior to the hearing by telephone and by email. Respondent moved to dismiss the Complaint with prejudice for Complainant’s failure to appear and prosecute his Complaint. 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 23, 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 Complaint with prejudice.

FINDINGS OF FACT

1. Complainant is Jason Mesler.
2. Respondent is FirstEnergy Pennsylvania Electric Company.
3. On June 23, 2025, Complainant filed a Formal Complaint against Respondent concerning electric service provided to Respondent's customer, Lola Baird, at 228 Thompson Street, Apartment B, Seward, Westmoreland County, Pennsylvania (service address).
4. Complainant is an authorized contact on the service account in the name of Lola Baird, who resides with Complainant at the service address.
5. On July 14, 2025, Respondent filed its Answer to the Complaint.
6. On December 4, 2025, OALJ served a Call-In Telephone Hearing Notice on Complainant scheduling an initial telephonic hearing on January 23, 2026, at 10:00 a.m.

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."

7. On December 4, 2025, the presiding officer served a Prehearing Order for Telephone Hearing on Complainant providing additional information to the parties regarding the hearing.

8. 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.

9. 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.

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

11. Complainant failed to appear and participate in the scheduled telephonic hearing on January 23, 2026.

12. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the January 23, 2026 hearing.

13. 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. Cmwlt. 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 December 4, 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 December 4, 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 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 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 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 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, 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).

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).

