

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Glenn Barrie

v.

PECO Energy Company

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C-2025-3055899

INITIAL DECISION

Before
Barbara Shadie Nause
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 23, 2025, Glenn Barrie (Complainant) filed a Formal Complaint (Complaint) against PECO Energy Company (PECO or Respondent) with the Pennsylvania Public Utility Commission (Commission). On the Complaint form, the Complainant alleged that PECO threatened to shut off his service if he did not pay the \$455 deposit and that incorrect charges were on his bill. Complaint ¶ 4. For relief, Complainant demanded \$2,000.00 to cover the expense of the food that was lost due to PECO's negligence; requested the Commission to fine PECO; requested the Commission to punish PECO by having PECO pay him the maximum allowable amount of monies for

the inconvenience, and to terminate all PECO representatives who mistreated him and mishandled his account. Complaint ¶ 5.

In his Complaint, Complainant selected the option to receive all communications from the Commission via email through an address he provided to the Commission. Complaint ¶ 9.

On July 14, PECO filed an Answer with New Matter and denied all material allegations of fact in the Complaint. In its New Matter, PECO argued that to the extent that Complainant sought an award of damages caused to his property, such relief was beyond the power of the PUC to order. Also on July 14, 2025, PECO filed a Preliminary Objection to the Complaint. In its Preliminary Objection, PECO requested that the Commission dismiss, with prejudice, the portions of the complaint seeking monetary damages.

On August 15, 2025, the Commission issued a Motion Judge Assignment Notice, assigning me as Presiding Officer over this proceeding.

By Order dated August 28, 2025, PECO's Preliminary Objection was granted, dismissing the portions of the Complaint seeking monetary damages. Subsequently, the matter was set for an evidentiary hearing on the remaining issues raised in the Complaint.

On August 28, 2025, an Initial Call-In Telephonic Hearing Notice was served on all parties electronically, setting an Initial Telephonic Hearing for November 20, 2025, at 10:00 a.m., and the matter was assigned to me. The Hearing Notice provided the parties with the Toll-Free Bridge Number and the Passcode 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).

On September 2, 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 electronically served to Complainant in the ordinary course of the Commission’s business to the email address he provided to the Commission. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

On November 20, 2025, I convened the hearing as scheduled. Khadijah Scott, 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 for Complainant's failure to appear and prosecute their Complaint. Tr. 5. 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 December 11, 2025, following the Commission's receipt of the transcript.

This Decision grants Respondent's Motion to Dismiss the Complaint.

FINDINGS OF FACT

1. The Complainant is Glenn Barrie.
2. The Respondent is PECO Energy Company.
3. On June 23, 2025, Complainant filed a Formal Complaint against Respondent.
4. On July 14, 2025, Respondent filed an Answer with New Matter to the Complaint.
5. On July 14, 2025, Respondent filed a Preliminary Objection.
6. By Order dated August 28, 2025, Respondent's Preliminary Objection was granted and the portions of the Formal Complaint seeking monetary damages were dismissed.

7. The matter was set for an evidentiary hearing on the remaining issues raised in the Formal Complaint.

8. On August 28, 2025, an Initial Telephonic Hearing Notice was served on all parties, setting an Initial Call-In Telephonic Hearing for November 20, 2025, at 10:00 a.m.

9. On September 2, 2025, a Prehearing Order was issued to all parties, again informing the Complainant of the date and time of the hearing and providing procedural information.

10. Both the Hearing Notice and the Prehearing Order were served electronically on Complainant to the email address provided to the Commission.

11. 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.

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

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

14. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the November 20, 2025, hearing.

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

16. Complainant did not request a continuance or provide a statement of "good cause" for his absence on the scheduled hearing date.

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). The essential elements of due process in an administrative proceeding are notice and an opportunity to be heard. *J.P. v. Dep't of Human Servs.*, 150 A.3d 173 (Pa. Cmwlth. 2016). Notice electronically served to a party with no notification that service failed is presumed received. *Hu v. PECO Energy Co.*, Docket No. C-2019-3012075 (Final Order entered Dec. 19, 2019) (*Hu*); *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered Apr. 7, 2017) (*Zirkel*); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered Jan. 31, 2017) (*Morella*).

The record shows that Complainant was provided notice and the opportunity to be heard. First, on August 28, 2025, the Commission served Complainants a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on September 2, 2025, the Commission served 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 electronically served to Complainant at the email address he provided to the Commission. Neither the Hearing Notice nor the Prehearing Order was returned to the Commission as undeliverable. Accordingly, it must be presumed that these documents sent to Complainant were received by Complainant. *Skow v. Metro. Edison Co.*, Docket No. F-2023-3042228 (Final Order entered May 7, 2024); *Hu; Zirkel; Morella*.

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. PECO 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 their 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. *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); *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.

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, Complainants bear the burden of proof. By failing to participate and proffer any evidence to support the Complaint, Complainants have failed to meet this burden. Thus, it is appropriate to dismiss the Complaint. *Brown; Williams* (citing *Jefferson*). Accordingly, the merits of the Complaint will not be addressed.

Respondent's Motion to Dismiss the Complaint will be granted.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter 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 electronically served to a party with no notification that service failed is presumed received. *Skow v. Metro. Edison Co.*, Docket No. F-2023-3042228 (Final Order entered May 7, 2024); *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. *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 2, 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 affirmative relief from the Commission, the Complainant bears the burden of proof. 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).

