

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Wraygan Lank	:	
	:	
v.	:	F-2025-3055505
	:	
FirstEnergy Pennsylvania Electric Company	:	

INITIAL DECISION

Before
Emily I. DeVoe
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 May 23, 2025, Wraygan Lank (Complainant or Ms. Lank) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission against FirstEnergy Pennsylvania Electric Company (FE PA, Company, or Respondent).¹ She checked the box averring there were incorrect charges on her bill. Complaint ¶ 4. In the “other” box, she alleged her bills have been “astronomical” and are too high for a two-person household. *Id.* She further averred, *inter alia*, the Company offered to perform a

¹ The Complaint is a timely appeal of an informal complaint filed with the Commission’s Bureau of Consumer Services at No. 4056128. The instant Complaint is being considered *de novo*. 52 Pa. Code § 56.173 (a).

meter test, but did not do so. As relief, she requested she have an affordable monthly bill that reflects her actual kilowatt usage. Complaint ¶ 5.

Regarding service by the Commission, Ms. Lank elected to be served by email checking the box and initialing next to this option.² Complaint ¶ 9.

On June 23, 2025, Respondent filed an Answer to the Complaint, denying the material averments made in the Complaint. Further, it explained it performed the meter test as Complainant requested, and found the meter was functioning within Commission accuracy guidelines. Answer ¶ 4.

On June 30, 2025, Chief Administrative Law Judge Charles E. Rainey, Jr. issued an Interim Order Setting Resolution Conference.

The matter did not settle, so on December 17, 2025, the Commission issued an Initial Call-In Telephonic Hearing Notice (Hearing Notice), scheduling an evidentiary hearing for January 29, 2026, at 1:00 p.m.

The December 17, 2025 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:

² When Complainant requested to be served by email, she agreed to the following terms and conditions:

EMAIL: You agree to receive all documents by email (using the email address you provided on page 1). Keep in mind, you will only be able to receive documents by email from the PUC. You will not be able to email documents to the Commission.

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 17, 2025, I issued a Prehearing Order (PHO) which reminded the parties of the date and time of the hearing and informed the parties about the applicable procedural rules. The December 17, 2025 PHO also stated the potential consequences if a party failed to appear at the hearing and included the procedure to follow to request a continuance.

The December 17, 2025 Hearing Notice and December 17, 2025 PHO were served on Complainant by email consistent with her election on the Complaint. *See* Complaint ¶ 9.

Neither the December 17, 2025 Hearing Notice nor the December 17, 2025 PHO were returned as undeliverable.

On January 29, 2026, I convened the hearing as scheduled. Ms. Margaret Morris, Esquire, was present 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. No testimony was taken, and no exhibits were introduced into the record. At the hearing,

Respondent moved to dismiss the Complaint without prejudice due to Complainant's failure to appear and prosecute her Complaint. Tr. 9. I took this motion under advisement. *Id.*

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

The record closed on January 29, 2026, at the conclusion of the hearing. 52 Pa. Code § 5.431(a).

The Transcript (Tr.) was filed on February 9, 2026, and is ten pages in length.

This decision grants the Respondent's motion to dismiss the Complaint.

FINDINGS OF FACT

1. Complainant is Wraygan Lank.
2. Respondent is FirstEnergy Pennsylvania Electric Company.
3. On May 23, 2025, Complainant filed a Formal Complaint against Respondent.
4. On June 23, 2025, Respondent filed an Answer to the Complaint.
5. On December 17, 2025, a Hearing Notice was served on Complainant scheduling an initial telephonic hearing for January 29, 2026, at 1:00 p.m.

6. On December 17, 2025, a PHO was served on Complainant providing additional information to the parties regarding the hearing.

7. Both the December 17, 2025 Hearing Notice and December 17, 2025 PHO were served on Complainant by email, consistent with her election on the Complaint.

8. Neither the December 17, 2025 Hearing Notice nor the December 17, 2025 PHO were returned as undeliverable.

9. The January 29, 2026, hearing convened as scheduled.

10. Complainant failed to appear and participate in the scheduled telephonic hearing on January 29, 2026.

11. The court reporter, counsel for Respondent, and its witness were present and prepared to proceed at the January 29, 2026, hearing.

12. Complainant has not contacted the Commission to explain why her failure to appear at the January 29, 2026, 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. On December 17, 2025, the Commission served a Hearing Notice on Complainant by email which advised the parties of the date and time of the hearing, and how to participate. On December 17, 2025, the Commission the PHO on Complainant by email 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.

Both the December 17, 2025 Hearing Notice and December 17, 2025 PHO were electronically served to the email address provided by Complainant to the Commission. Neither 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 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).

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. *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 January 29, 2026, hearing despite receiving notice. To date, there has been no communication to the Office of

Administrative Law Judge or me by, or on behalf of, Complainant explaining why her 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 and 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. Accordingly, the merits of the Complaint will not be addressed.

Respondent's motion to dismiss the Complaint without 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 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. 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).

6. 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).

