

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kelly Melter	:	
	:	
v.	:	F-2025-3056231
	:	
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 July 9, 2025, Kelly Melter (Complainant or Ms. Melter) 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 boxes averring the utility was threatening to shut off her service or had

¹ The Complaint is a timely appeal of an informal complaint filed with the Commission’s Bureau of Consumer Services at No. 4060991. The instant Complaint is being considered *de novo*. 52 Pa. Code § 56.173 (a).

already done so and that she would like a payment arrangement (PAR). Complaint ¶ 4. Additionally, she checked the “other” box, averring,

My husband racked up all the bills by not paying them and then left me to pay all overdue bills. I can't afford to pay all 5000 of his electric bill. I would like to start over in my name but they will not let me unless I pay the bills he never did. I do not have current bills as he got them sent paperless and I do not have access to email.

Id.

As relief, she requests, *inter alia*, that the Company seek payment from her husband for the past due amount and allow her to open service in her name with a security deposit, or in the alternative, provide her with a reasonable PAR. Complaint ¶ 5.

Regarding service by the Commission, Ms. Melter elected to be served by eService,² checking the box next to this option. Complaint ¶ 9.

² When Complainant registered for an eFiling account she agreed to the following terms and conditions:

I agree that I will accept electronic service in the Commission proceeding in which I am a party of record. By creating this account, notification of filings via electronic mail shall constitute valid service of Commission documents. I understand that such electronic service of any and all documents will be substituted for service by mail. I agree to be served via email with all subsequent filings. I agree that email notices will be sent on the same day the document is posted.

By clicking on the ‘Create Account’ button below, [I am] agreeing to all the Terms and Agreements listed above.

eFiling Registration Page, <https://efiling.puc.pa.gov/Accounts/Create?accountType=I> (last visited Jan. 2, 2026).

On July 30, 2025, Respondent filed an Answer to the Complaint, denying the material averments made in the Complaint. It admitted it issued a termination notice to Complainant but argued it did so due to an outstanding balance. Answer ¶ 4. Further, it denied Complainant was entitled to a PAR. *Id.*

On August 8, 2025, Chief Administrative Law Judge Charles E. Rainey, Jr. issued an Interim Order Setting Resolution Conference.

The matter did not settle, so on November 18, 2025, the Commission issued an Initial Call-In Telephonic Hearing Notice (Hearing Notice), scheduling an evidentiary hearing for January 6, 2026, at 10:00 a.m.

On November 18, 2025, I issued a Prehearing Order which provided procedural information to the parties.

On December 2, 2025, Margaret Morris, Esquire, filed a notice of appearance in this matter.

On December 5, 2025, counsel for the Company filed a Motion of FirstEnergy Pennsylvania Electric Company (Motion), requesting the hearing for January 6, 2026 be rescheduled due to Ms. Morris being unavailable on January 6, 2026.

On December 8, 2025, I emailed both parties advising that the Motion would be granted and directing the parties to confer and find a mutually agreeable date for a rescheduled hearing.

On December 16, 2025, I sent a follow-up email since I had not heard from the parties. Later that day, I received an email from counsel advising she had attempted

to contact Ms. Melter, but was unsuccessful. Additionally, counsel provided her availability.

On December 18, 2025, the Commission issued a Cancelled/Rescheduled Initial Telephonic Hearing Notice, cancelling the hearing on January 6, 2026, and rescheduling it for 10:00 a.m. on February 3, 2026.

The December 18, 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:

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 18, 2025, a PHO was served on the parties which reminded them of the date and time of the hearing and informed the parties about the applicable procedural rules. The December 18, 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 18, 2025 Hearing Notice and December 18, 2025 PHO were eServed on Complainant consistent with her election on the Complaint. *See* Complaint ¶ 9.

Neither the December 18, 2025 Hearing Notice nor the December 18, 2025 PHO were returned as undeliverable.

On February 3, 2026, I convened the hearing as scheduled. Ms. Morris 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 with prejudice due to Complainant's failure to appear and prosecute her Complaint. Tr. 10. I took this motion under advisement. *Id.* at 11.

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

The record closed on February 3, 2026, at the conclusion of the hearing. 52 Pa. Code § 5.431(a).

The Transcript (Tr.) was filed on February 6, 2026, and is twelve pages in length.

This decision grants the Respondent's motion to dismiss the Complaint, but without prejudice.

FINDINGS OF FACT

1. Complainant is Kelly Melter.
2. Respondent is FirstEnergy Pennsylvania Electric Company.
3. On July 9, 2025, Complainant filed a Formal Complaint against Respondent.
4. On July 30, 2025, Respondent filed an Answer to the Complaint.
5. On December 18, 2025, a Hearing Notice was served on Complainant scheduling an initial telephonic hearing for February 3, 2026, at 10:00 a.m.
6. On December 18, 2025, a PHO was served on Complainant providing additional information to the parties regarding the hearing.
7. Both the December 18, 2025 Hearing Notice and December 18, 2025 PHO were served on Complainant by eService, consistent with her election on the Complaint.
8. Neither the December 18, 2025 Hearing Notice nor the December 18, 2025 PHO were returned as undeliverable.
9. The February 3, 2026, hearing convened as scheduled.
10. Complainant failed to appear and participate in the scheduled telephonic hearing on February 3, 2026.

11. The court reporter, counsel for Respondent, and its witness were present and prepared to proceed at the February 3, 2026, hearing.

12. Complainant has not contacted the Commission to explain why her failure to appear at the February 3, 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 18, 2025, the Commission eServed a Hearing Notice on Complainant which advised the parties of the date and time of the hearing, and how to participate. On December 18, 2025, the Commission eServed the PHO on Complainant 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 18, 2025 Hearing Notice and December 18, 2025 PHO were eServed to the Complainant at the email address she 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).

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 February 3, 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 with prejudice will be granted in part such that the Complaint is dismissed, but without prejudice.

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. 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).

7. 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 with prejudice the Formal Complaint of Kelly Melter, at Docket No. F-2025-3056231, is granted in part such that the Complaint is dismissed, and denied in part such that it is dismissed without prejudice.

2. That the Formal Complaint filed by Kelly Melter in *Kelly Melter v. FirstEnergy Pennsylvania Electric Company*, Docket No. F-2025-3056231, is hereby dismissed without prejudice.

