

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kristen Flaherty	:	
	:	
v.	:	C-2025-3057471
	:	
FirstEnergy Pennsylvania Electric Company	:	

INITIAL DECISION

Before
Mary D. Long
Administrative Law Judge

INTRODUCTION

This decision dismisses, with prejudice, a complaint of a utility customer and bars her from filing further informal or formal complaints regarding her electric utility account balance until she pays her account balance in full. The complainant failed to appear for the hearing, and failed to prove that the Commission should grant her a further payment arrangement for her unpaid balance in excess of \$7,000. The complainant's conduct of filing numerous complaints, breaking payment arrangements, and other behavior constitutes an abuse of the administrative process calculated to avoid or delay the termination of her utility service.

HISTORY OF THE PROCEEDING

On September 16, 2025, Kristen Flaherty (Complainant) filed a formal complaint against FirstEnergy Pennsylvania Electric Company (Respondent) using the

Formal Complaint form. Complainant checked the boxes noting that her service was subject to termination and that she would like a payment arrangement. Complainant offered no further detail.

Respondent filed an Answer and New Matter on October 7, 2025.

Respondent admitted that it mailed a 10-day termination notice to Complainant, but took the position that Complainant had defaulted on previous payment arrangements and that the Commission should not order a further payment arrangement. In New Matter, Respondent stated that Complainant had a pattern of filing meritless complaints requesting payment arrangements and not appearing for scheduled hearings. According to Respondent, this pattern of conduct is an abuse of the Commission's process and that Complainant should be barred from filing further complaints until her current balance is paid in full. Respondent's New Matter included a notice to plead. Complainant did not respond.

By hearing notice dated November 17, 2025, the complaint was assigned to me and scheduled for a telephone hearing on January 13, 2026. On the same day, I issued a prehearing order which set forth the procedures for the conduct for the hearing.

The hearing convened as scheduled. Complainant did not appear. Respondent appeared and was represented by Margaet A. Morris, Esquire. Respondent moved to dismiss the Complaint with prejudice and moved to bar Complainant from filing further complaints. I granted Respondent's request to offer evidence in support of the motion to bar Complainant from filing further complaints. Respondent offered the testimony of Alison Walker, an Advanced Customer Service Compliance Specialist. Respondent offered 14 exhibits which were admitted into the record. The hearing produced a 42-page transcript. The record was closed by interim order entered on January 23, 2026.

FINDINGS OF FACT

1. Complainant is Kristen Flaherty, who receives electric service from the Respondent at 3998 Millers Run Road, McDonald, Pennsylvania.
2. Respondent, FirstEnergy Pennsylvania Electric Company, is a jurisdictional public utility.
3. On November 17, 2025, the Hearing Notice noting the date and time of the hearing was eServed to Complainant.
4. On November 17, 2025, a Prehearing Order for Telephone Hearing was eServed, emailed and mailed by First-Class Mail to Complainant providing additional information to the parties regarding the hearing.
5. Both the Hearing Notice and Prehearing Order were eServed on Complainant to the email address Complainant registered with the Commission.
6. 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, among other things, the procedure for requesting a continuance and the possible consequences of failing to appear at the hearing.
7. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.
8. The Complainant did not call the conference number at 1:00 p.m. on January 13, 2026, the date and time of the hearing.

9. Complainant did not contact the Office of Administrative Law Judge to explain her failure to appear.

10. Complainant's account was established effective April 3, 2019. Tr. 15; FE PA Ex. 1.

11. As of December 18, 2025, Complainant's balance is \$7,094.13. Tr. 18; FE PA Ex. 3.

12. Since 2021, Complainant has only made eight good payments. FE PA Exs. 3 and 4.

13. Complainant generally does not pay her amount due in full or on time. Tr. 18.

14. Complainant has not complied with a Commission-issued payment arrangement granted on August 19, 2019. Tr. 24; FE PA Ex. 5.

15. Complainant has not complied with a Company-issued payment arrangement that was extended in conformity with the Commission's Covid-19 emergency declaration at Docket M-2020-3019244. Tr. 22; FE PA Exs. 8, 14.

16. Complainant's account was enrolled in Respondent's customer assistance program (PCAP) on March 17, 2022, but was removed from PCAP, effective June 16, 2024. Tr. 22; FE PA Ex. 2 at 7.

17. Since August 2019, Complainant has filed three informal complaints and six formal complaints seeking relief from the Commission in the form of payment arrangements. FE PA Ex. 14.

18. Two formal complaints were resolved by certificates of satisfaction. Tr. 30-31; FE PA Exs. 9, 10, 14.

19. Complainant failed to appear for three payment arrangement formal complaint hearings. FE PA Exs. 11, 12, 13.

DISCUSSION

Due Process and Notice

Administrative agencies, such as the Commission, are 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.¹

The record shows that Complainant was provided notice and the opportunity to be heard. First, on November 17, 2025, the Commission served Complainant a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on the same day, 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

¹ *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

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.²

Both the Hearing Notice and Prehearing Order were eServed to 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.³

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.⁴

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.⁵ 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.⁶ 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

² Prehearing Order ¶ 2.

³ *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 *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993).

⁵ *Mumma v. PPL Elec. Utils. Corp.*, Docket No. C-00014869 (Opinion and Order entered Jan. 28, 2002).

⁶ 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

that the interests of the other parties and of the public would not be prejudiced by permitting the reopening or further examination.⁷

The party who failed to appear at the hearing has the burden of explaining why his/her failure to appear was unavoidable.⁸ When there are no facts in the record that the party's failure to appear was unavoidable, the complaint should be dismissed.⁹

Complainant failed to appear for the hearing despite receiving notice. Further, counsel for Respondent made numerous attempts to contact Complainant by telephone and by email to discuss the Complaint and counsel reported Complainant did not respond to any of her telephone calls or emails.¹⁰ 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.

Therefore, 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 with prejudice.

⁷ 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(b).

⁸ 66 Pa.C.S. § 332(a); *Herr v. West Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022).

⁹ *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).

¹⁰ Tr. 6-7.

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.¹¹ 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.¹² Such a showing must be by a preponderance of the evidence.¹³ A preponderance of the evidence is established by presenting evidence more convincing, by even the smallest amount, than that presented by the other party.¹⁴

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 with prejudice.¹⁵ Accordingly, the merits of the Complaint will not be addressed.

Respondent's Motion to Dismiss with prejudice will be granted.

Abuse of Process/Complainant Bar

Respondent asserts that Complainant has abused the Commission's administrative process and requests that she be barred from filing further complaints until her entire account balance has been paid. In support of its position, Respondent points to

¹¹ 66 Pa.C.S. § 332(a).

¹² *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).

¹³ *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

¹⁴ *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

¹⁵ *Brown; Williams* (citing *Jefferson*).

Complainant's large balance, poor payment history and failure to comply with payment arrangements. Respondent also argues Complainant's pattern of filing formal and informal complaints point to a pattern of using the Commission's process to avoid termination.

An order barring a customer from filing further complaints until the customer pays an account balance in full may seem like a harsh result. However, the Commission must also consider the interests of the utility and the utility's other customers. Unpaid bills are included in the utility's uncollectible expenses. A utility's customers pay this expense as part of the utility's rates.¹⁶

Abuse of the Commission's administrative process can occur in various forms. The Commission has barred complaints from individuals who frequently request hearing continuances and afterward fail to appear.¹⁷ The Commission will also consider the number and nature of complaints filed by a customer, the number of defaulted payment arrangements, a complainant's payment history and the use of tactics to avoid payments and service terminations.¹⁸

Complainant has a substantial unpaid balance: \$7,094.13. Since 2021, Complainant has only made eight good payments, and she generally does not pay her amount due in full or on time. She has not complied with a Commission-issued payment arrangement granted on August 19, 2019, or the Company-issued payment arrangement that was extended in conformity with the Commission's Covid-19 emergency declaration

¹⁶ *E.g., Bolt v. Duquesne Light Co.*, Docket No. Z-08721758 (Order entered Apr. 8, 1988).

¹⁷ *Grossman v. Bell Tel. Co. of Pa.*, 67 Pa.P.U.C. 714 (1988).

¹⁸ *See Hogan v. W. Penn Power Co.*, Docket F-2019-3012920 (Final Order entered Mar. 10, 2020); *Potora v. UGI Penn Nat. Gas, Inc.* Docket No. C-2018-3003485 (Opinion and Order entered Aug. 8, 2019); *DiFilippo v. PECO Energy Co.*, Docket No. C-20027116 (Final Order dated Oct. 3, 2002).

at Docket M-2020-3019244 on April 5, 2021. Since August 2019, four months after she established her account, Complainant has filed three informal complaints and six formal complaints seeking relief from the Commission in the form of payment arrangements. Two formal complaints were resolved by certificates of satisfaction. Complainant failed to appear for four hearings, including the hearing scheduled for the present complaint. This pattern of behavior is similar to behavior the Commission considered inappropriate and determined that the customer was attempting to improperly avoid termination of utility service.

The Commission has recently barred individuals with high unpaid balances from filing additional complaints in similar circumstances to those presented here. In *Herr v. West Penn Power Company*,¹⁹ the Commission barred a complainant who had a very high unpaid balance, a poor payment history, had not complied with several Commission-issued payment arrangements and had tendered numerous checks that were returned as unpayable. Complainant Herr also had filed eight informal complaints and two formal complaints seeking a payment arrangement. Complainant Herr failed to appear for hearings scheduled for her benefit. The Commission dismissed the complaint with prejudice because the complainant did not appear, and barred the complainant from filing further complaints seeking a payment arrangement until her past-due balance was paid in full. Similarly, in *Potora v. UGI Penn Natural Gas, Inc.*,²⁰ the Commission agreed with the administrative law judge, who found complainant appeared to have a history of abusing the Commission's process. Complainant Potora had filed ten complaints with the Commission, requested multiple continuances and failed to appear at many of the scheduled hearings. Consequently, the Commission precluded Complainant

¹⁹ Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022).

²⁰ Docket No. C-2018-3003485 (Opinion and Order entered Aug. 8, 2019).

Potora from filing further complaints against UGI on her arrearages, whether informal or formal, until she paid her account in full.²¹

In sum, Complainant's substantial balance, poor payment history and conduct in proceedings before the Commission constitutes a pattern of activity calculated to avoid or delay termination of her utility service. Respondent deserves to be paid for the service it has provided to Complainant. Respondent's other customers should not be responsible for Complainant's failure to make any good faith effort to pay for her service. Therefore, I find that she has abused the Commission's administrative process and should be barred from filing further formal or informal complaints until her balance is paid in full.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa.C.S. § 701.
2. Complainant as the proponent of a rule or order has the burden of proof. 66 Pa.C.S. § 332(a).
3. 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).

²¹ See also *Nitch v. FirstEnergy Pennsylvania Electric Co.*, Docket No. C-2025-3055390 (Final Order entered Feb. 10, 2026); *Hogan v. W. Penn Power Co.*, Docket No. F-2019-3012920 (Final Order entered Mar. 10, 2020); *Potora v. UGI Penn Nat. Gas, Inc.* Docket No. C-2018-3003485 (Opinion and Order entered Aug. 8, 2019); *DiFilippo v. PECO Energy Co.*, Docket No. C-20027116 (Final Order dated Oct. 3, 2002).

4. 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).

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. 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 with prejudice. *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).

7. 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).

8. The Commission may preclude a complainant from filing further complaints until all account arrearages are paid in full when the Commission determines that a complainant has abused the Commission's administrative process. *Nitch v. FirstEnergy Pa. Elec. Co.*, Docket C-2025-3055390 (Final Order entered Feb. 10, 2026); *Herr v. West Penn Power Co.*, Docket C-2021-3028202 (Opinion and Order entered Sept.

15, 2022); *Hogan v. W. Penn Power Co.*, Docket F-2019-3012920 (Final Order entered Mar. 10, 2020); *Potora v. UGI Penn Nat. Gas, Inc.*, Docket No. C-2018-3003485 (Opinion and Order entered Aug. 8, 2019); *DiFilippo v. PECO Energy Co.*, Docket No. C-20027116 (Final Order dated Oct. 3, 2002).

9. Complainant's conduct constitutes an abuse of administrative process in order to avoid or delay the termination of her utility service. *Nitch v. FirstEnergy Pa. Elec. Co.*, Docket No. C-2025-3055390 (Final Order entered Feb. 10, 2026); *Herr v. West Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022); *Hogan v. W. Penn Power Co.*, Docket No. F-2019-3012920 (Final Order entered Mar. 10, 2020); *Potora v. UGI Penn Nat. Gas, Inc.*, Docket No. C-2018-3003485 (Opinion and Order entered Aug. 8, 2019); *DiFilippo v. PECO Energy Co.*, Docket No. C-20027116 (Final Order dated Oct. 3, 2002).

10. It is appropriate to preclude Complainant from filing further complaints regarding her account balance until her account balance is paid in full. *Nitch v. FirstEnergy Pa. Elec. Co.*, Docket No. C-2025-3055390 (Final Order entered Feb. 10, 2026); *Herr v. West Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022); *Hogan v. W. Penn Power Co.*, Docket No. F-2019-3012920 (Final Order entered Mar. 10, 2020); *Potora v. UGI Penn Nat. Gas, Inc.*, Docket No. C-2018-3003485 (Opinion and Order entered Aug. 8, 2019); *DiFilippo v. PECO Energy Co.*, Docket No. C-20027116 (Final Order dated Oct. 3, 2002).

ORDER

THEREFORE,

IT IS ORDERED:

1. That FirstEnergy Pennsylvania Electric Company's motion to dismiss the Formal Complaint of Kristen Flaherty with prejudice and bar her from filing any informal or formal complaints related to the account balance at Docket No. C-2025-3057471, until the arrearage balance on the account is paid in full, is granted.

2. That the Formal Complaint of Kristen Flaherty filed in Kristen Flaherty v. FirstEnergy Pennsylvania Electric Company in Docket No. C-2025-3057471 is dismissed with prejudice.

3. That Kristen Flaherty is precluded from filing further informal or formal complaints with the Commission regarding the arrearages on her account for electric service rendered by FirstEnergy Pennsylvania Electric Company until such time as the outstanding arrearages in the amount of \$7,094.13 are paid in full, and that the filing of any complaint pertaining to those arrearages which are the subject of this proceeding shall be rejected without further proceedings.

4. That the filing of any other pleading related to this case, concerning the same subject matter be, and hereby is, deemed not to stay implementation of this Order.

5. That Commission staff (including but not limited to the Bureau of Consumer Services and the Secretary's Bureau) shall reject any formal or informal complaint that is filed with the Commission by Kristen Flaherty or any member of her household, pertaining to electric service provided to Kristen Flaherty at 3998 Millers Run Road, McDonald, Pennsylvania, until the outstanding arrearages in the amount of \$7,094.13 are paid in full.

6. That any filing of a new informal or formal complaint by Kristen Flaherty against FirstEnergy Pennsylvania Electric Company must include proof that the arrearages in the amount of \$7,094.13 have been paid in full (e.g., billing statement, account statement, receipt of payment, cancelled check, bank statement, proof of discharge of the arrearages in bankruptcy, or correspondence with the utility confirming payment in full).

7. That, if proof that the outstanding arrearages have been paid in full is not provided, the Secretary's Bureau and Bureau of Consumer Services are directed to reject a complaint, without a hearing before the Office of Administrative Law Judge.

8. That the failure of Kristen Flaherty to pay the outstanding arrearages in the amount of \$7,094.13, in full, shall be grounds for FirstEnergy Pennsylvania Electric Company to take any necessary steps and actions under the Pennsylvania Public Utility Code and Commission Regulations, including but not limited to, termination of service, to address Kristen Flaherty's outstanding balance.

9. That a copy of this decision/order shall be served to the Commission's Bureau of Consumer Services and the Secretary's Bureau.

10. That the case at Docket No. C-2025-3057471 shall be marked closed.

Date: February 17, 2026

_____/s/
Mary D. Long
Administrative Law Judge