

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jacqueline McKinney	:	
	:	
v.	:	C-2024-3052426
	:	
UGI Utilities, Inc. – Gas Division	:	

INITIAL DECISION

Before
Steven K. Haas
Administrative Law Judge

INTRODUCTION

This decision dismisses a Formal Complaint, without prejudice, due to the failure of Complainant to appear for the hearing and prosecute the Complaint.

HISTORY OF THE PROCEEDING

On December 3, 2024, the Complainant, Jacqueline McKinney (Complainant or Ms. McKinney) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against UGI Utilities, Inc. – Gas Division (Respondent or UGI). In her Complaint, Ms. McKinney alleges that she was billed for natural gas consumption during a time when she was not using any gas. Ms. McKinney alleges that she paid her bills each month but now seeks a refund of the amounts paid. The Complaint was served on UGI on December 6, 2024.

On her Complaint form, Ms. McKinney chose to be served all documents by First Class Mail and provided her address to which mail should be sent.

On December 23, 2024, UGI filed an Answer in which it denied the material allegations in the Complaint. Respondent requested that the Complaint be dismissed with prejudice.

By Initial Telephonic Hearing Notice dated January 2, 2025, the Commission scheduled a telephonic hearing for March 13, 2025, and assigned the case to me. This Hearing Notice was served on Ms. McKinney by First Class Mail to the address she provided on her Complaint form. Subsequently, by e-mail dated March 11, 2025, Ms. McKinney requested that the March 13, 2025, hearing be rescheduled because she was experiencing health issues. As there was no objection to this request from UGI, I agreed to cancel the March 13, 2025, hearing. Accordingly, by Rescheduled Initial Telephonic Hearing Notice dated March 12, 2025, the hearing was rescheduled for May 8, 2025.

By e-mail dated April 30, 2025, UGI requested that the May 8, 2025, hearing be rescheduled due to the unavailability of its witness. Counsel to UGI indicated in her e-mail that Ms. McKinney had no objection to the continuance request. Accordingly, I agreed to cancel the May 8, 2025, hearing and asked the parties to confer and to provide me with several dates on which they were both available for a rescheduled hearing.

By e-mail dated November 17, 2025, Counsel to UGI indicated that she had received no responses to her attempts to contact Ms. McKinney to discuss a new hearing date. UGI's Counsel did state in this e-mail, however, that Ms. McKinney asked previously that any new hearing date be scheduled in 2026 due to her health issues. Accordingly, by Rescheduled Initial Telephonic Hearing Notice dated November 26,

2025, I scheduled the hearing for February 4, 2026. Also on November 26, 2025, I served on the parties a Prehearing Order that contained various instructions for participation in the telephonic hearing.

Both the Hearing Notice and the Prehearing Order were sent to Ms. McKinney by First Class Mail at the address she provided on her Complaint form. Both documents contained the toll-free telephone number and PIN to use to connect to the telephonic hearing. Both the Hearing Notice and Prehearing Order contained the following instructions:

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 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).

As noted, both the Hearing Notice and Prehearing Order were served to Complainant in the ordinary course of the Commission’s business by First Class Mail to the address that was provided to the Commission by her.

On December 15, 2025, the November 26, 2025, Hearing Notice that was mailed to the Complainant was returned to the Commission with a notation stating: “Return to sender. Temporarily away.”

On February 4, 2026, I convened the hearing as scheduled. Alice Wade, Esquire, appeared on behalf of UGI along with one witness and was ready to proceed. The court reporter was also present. Ms. McKinney was not present at the start of the hearing. After a short recess to allow time for her to appear, the hearing proceeded in her absence. No testimony was taken, and no exhibits were introduced into the record. UGI moved for dismissal of the Complaint with prejudice due to Complainant's failure to appear and prosecute her Complaint. Tr. 8-9.

I advised the Respondent that I would wait several days before issuing a decision to give Ms. McKinney an opportunity to contact me or the Commission to explain why she was not available for the hearing if she so chose. Tr. 9. To date, Ms. McKinney has not contacted me or the Commission.

I closed the record on February 11, 2026, upon the filing of the transcript with the Commission. This decision grants the Respondent's motion to dismiss the Complaint, but without prejudice.

FINDINGS OF FACT

1. Complainant is Jacqueline McKinney.
2. Respondent is UGI Utilities, Inc. – Gas Division.
3. On December 3, 2024, the Complainant filed a Formal Complaint against Respondent.
4. On December 23, 2024, the Respondent filed an Answer to the Complaint.

5. On January 2, 2025, an Initial Telephonic Hearing Notice was served on the parties scheduling an initial telephonic hearing on March 13, 2025, at 10:00 a.m.

6. By e-mail dated March 11, 2025, Ms. McKinney requested that the hearing be rescheduled due to health issues she was experiencing. UGI had no objection to this request.

7. By Rescheduled Initial Telephonic Hearing Notice dated March 12, 2025, the March 13, 2025, hearing was rescheduled to May 8, 2025.

8. By e-mail dated April 30, 2025, UGI requested that the May 8, 2025, hearing be rescheduled due to the unavailability of its witness. As Ms. McKinney had no objection to this request, I canceled the May 8, 2025, hearing.

9. By Rescheduled Initial Telephonic Hearing Notice dated November 26, 2025, a new hearing was scheduled for February 4, 2026.

10. On November 26, 2025, a Prehearing Order was served on the parties which contained instructions for participating in the telephonic hearing.

11. Both the Hearing Notice and the Prehearing Order were served on Complainant by First Class Mail to the address she provided to the Commission.

12. Both the Hearing Notice and the Prehearing Order provided Complainant with the toll-free 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.

13. On December 13, 2025, the November 26, 2025, Hearing Notice that was mailed to the Complainant was returned to the Commission with a notation stating: “Return to sender. Temporarily away.”

14. The Complainant failed to appear and participate in the scheduled telephonic hearing on February 4, 2026.

15. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the February 4, 2026, hearing.

16. Complainant has not contacted me or the Commission to explain why her 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. 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. With respect to the February 4, 2026, hearing date, the Commission served Complainant a Hearing Notice on November 26, 2025, which advised the parties of the date and time of the hearing, and how to participate. Also on November 26, 2025, the Commission served a Prehearing Order which advised the parties of the date and time of the hearing, and how to participate. 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 claims and issues presented in the dismissed complaint.

Both the Hearing Notice and Prehearing Order were sent by First Class Mail to Complainant at the address she provided to the Commission. However, as indicated above, on December 13, 2025, the Hearing Notice sent to Ms. McKinney was returned to the Commission with a notation stating: “Return to sender. Temporarily away.” I note here that Ms. McKinney never contacted either me or the Commission to request that the February 4, 2026, hearing be continued or to provide an alternate address at which to serve documents. All documents from the Commission were sent to the Complainant by First Class Mail, as she directed, to the address provided by her. As explained above, the Complainant demonstrated previously that she knew how to request a continuance if she needed to reschedule the hearing. Further, parties are under an obligation to inform the Commission of any address changes. 52 Pa. Code § 1.53(d). She did neither. Accordingly, I find that the Complainant was provided adequate notice 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 with prejudice. *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 at the hearing despite notice having been mailed to her in the manner she requested. 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, under the circumstances, I find it appropriate to grant UGI's motion to dismiss the Complaint. However, due to the fact that the November 26, 2025, Hearing Notice was returned to the Commission, I will dismiss the Complaint without prejudice.

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. *Brown; Williams* (citing *Jefferson*). Accordingly, the merits of the Complaint will not be addressed.

Respondent's motion to dismiss the Complaint with prejudice will be granted in part in that the Complaint will be dismissed but it will be denied in part in that it will be dismissed 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. 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).

4. It is the obligation of parties before the Commission to inform the Commission of any address changes. 52 Pa. Code § 1.53(d).

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 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).

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).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion of UGI Utilities, Inc. – Gas Division to dismiss with prejudice the Formal Complaint of Jacqueline McKinney, at Docket No. C-2024-3052426, is granted in part and denied in part.

2. That the Formal Complaint filed by Jacqueline McKinney in the case of Jacqueline McKinney v. UGI Utilities, Inc. - Gas Division, Docket No. C-2024-3052426, is hereby dismissed without prejudice.

3. That the Secretary’s Bureau shall mark Docket No. C-2024-3052426 as closed.

Date: February 18, 2026

/s/
Steven K. Haas
Administrative Law Judge