

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held February 19, 2026

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Fred and Reva Levy

C-2025-3053847
C-2025-3053848

v.

Pennsylvania American Water Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of Fred and Reva Levy (the Levys or Complainants) filed December 4, 2025, to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) Marta Guhl, issued on November 18, 2025, in the above-captioned proceeding. Replies to Exceptions were filed by Pennsylvania American Water

Company (PAWC) on December 19, 2025.¹ In the Initial Decision, the ALJ dismissed the Formal Complaints (Complaints)² of the Levys against PAWC, granting the oral motion of counsel for the Company, on the grounds that the Complainants failed to appear and prosecute the Complaint at a duly scheduled hearing. I.D. at 3, Tr. at 6.

For the reasons set forth below, we shall deny the Complainants' Exceptions, adopt the Initial Decision of ALJ Guhl, and dismiss the Complaint, consistent with this Opinion and Order.

I. History of the Proceeding

On February 26, 2025, the Levys filed the instant Complaints with the Commission naming PAWC as Respondent. In both Complaints, the Levys asserted that there were incorrect charges on their bill and that they were being overcharged for their water and wastewater service. I.D. at 1 (citing Complaints at 2).

The Complainants indicated in their Complaints that they would like to receive all communications from the Commission via First-Class mail at the address provided in the Complaints. I.D. at 2 (citing Complaints ¶ 9).

¹ As noted below, no Certificate of Service was included with the Complainants' Exceptions to indicate that PAWC had been properly served with the Complainants' Exceptions. Consequently, on December 9, 2025, the Commission issued a Secretarial Letter (*December 2025 Secretarial Letter*) serving the Exceptions on the Company and granted the Company until December 19, 2025 to file Reply Exceptions. *December 2025 Secretarial Letter* at 1.

² The Levys filed two Formal Complaints against PAWC in this matter. One Formal Complaint was related to PAWC's wastewater service, at Docket No. C-2025-3053847. The other Formal Complaint was related to PAWC's water service, at Docket No. C-2025-3053848.

On March 31, 2025, PAWC filed an Answer to the Complaints, denying the material averments set forth therein. PAWC specifically denied that it was charging excessive rates for its water and wastewater service. Answer at 1-2.

On April 3, 2025, the Office of Administrative Law Judge (OALJ) notified the Parties that an initial telephonic hearing was scheduled for May 28, 2025, at 10:00 a.m. The case was assigned to ALJ Guhl. I.D. at 2.

On April 4, 2025, the ALJ issued a Prehearing Order which, *inter alia*, advised the Parties that continuances would only be granted if requested, and only in rare situations where sufficient cause was shown to exist. In addition, the Order stated the potential consequences if a party failed to appear at the hearing and provided the procedure to follow to request a hearing continuance. I.D. at 2.

PAWC filed a Motion to Continue on May 19, 2025, requesting that the hearing be rescheduled to May 28, 2025, due to a scheduling conflict. The Levys did not object. ALJ Guhl granted the request and notified the Parties via telephone and electronic mail on May 27, 2025. I.D. at 2.

A Cancelled/Rescheduled Initial Telephonic Hearing Notice was served on the Parties on May 28, 2025, rescheduling the initial telephonic hearing to July 22, 2025, at 10:00 a.m. The hearing notice and the Prehearing Order specified how to call into the hearing on the scheduled day and at the scheduled time. The hearing notice indicated that the case would be dismissed if the Complainants failed to call into the hearing. Additionally, the notice provided the procedure to follow to request a continuance. Specifically, that all continuances will be granted only for good cause and must submit a written request at least five days before the hearing. I.D. at 2-3.

The ALJ stated that the hearing notices and Prehearing Order were served via U.S. First-Class Mail to the Complainants at the address provided by them to the Commission. The Commission did not receive any return mail that the hearing notice or the Prehearing Order were undeliverable. I.D. at 3.

The ALJ convened the telephonic hearing as scheduled on July 22, 2025, at 10:00 a.m. The Complainants failed to appear for the hearing. In addition, the Complainants failed to contact the Commission five days prior to the hearing to request a continuance or to explain why their failure to appear at the hearing was unavoidable. Counsel for PAWC was present and was prepared with one witness. Counsel for the Company made an oral motion to dismiss (Motion) due to the Complainants' failure to appear. I.D. at 3.

The ALJ noted on the record that the Motion would be taken under advisement. I.D. at 3.

On July 25, 2025, the OALJ received written correspondence from the Complainants indicating that they were requesting a new hearing date. The correspondence did not provide a reason as to why the Complainants failed to appear for the hearing on July 22, 2025. The OALJ contacted the Complainants to instruct that they provide a reason for their request. I.D. at 4.

On August 8, 2025, PAWC filed a letter objecting to the Complainants' request for a new hearing date. I.D. at 4.

On August 13, 2025, the OALJ received a follow-up correspondence from the Complainants indicating that they were requesting a new hearing date because July 22, 2025, was one of their birthdays and that they did not "do hearings via Zoom on that date." I.D. at 4.

On August 15, 2025, the Complainants filed a response to PAWC's objections to their request for a new hearing date. I.D. at 4. In their response, the Complainants stated that they objected to a telephonic hearing, claiming that they had requested an in-person hearing to be held in Harrisburg. The ALJ noted that the OALJ had not received any prior request from the Complainants for an in-person hearing, nor was there any indication that the Complainants filed a request with the Secretary's Bureau. I.D. at 4, n.2.

The record closed on August 20, 2025, upon receipt of the seven-page hearing transcript. I.D. at 4.

On November 18, 2025, the Commission issued the Initial Decision of ALJ Guhl. Therein, the ALJ granted PAWC's Motion and dismissed the Complaint, with prejudice, based upon the failure of the Complainants to appear at the hearing and prosecute the Complaint. I.D. at 10, 12.

The Commission's Secretarial Letter accompanying the Initial Decision directed that Exceptions be filed within twenty (20) days of the date of the Secretarial Letter, and that Replies to Exceptions be filed within ten (10) days of the due date for Exceptions.

As previously noted, the Complainants filed Exceptions on December 4, 2025, however the Exceptions did not include a Certificate of Service. On December 9, 2025, the Commission issued the *December 2025 Secretarial Letter* serving the Exceptions on the Company and providing the Company until December 19, 2025 to file Reply Exceptions. *December 2025 Secretarial Letter* at 1.

On December 19, 2025, PAWC filed Reply Exceptions, consistent with the *December 2025 Secretarial Letter*.

II. Discussion

A. Legal Standards

1. Due Process

As an administrative agency of the Commonwealth, the Commission is required to provide due process to the parties appearing before it. *Schneider v. Pa. PUC*, 479 A.2d 10, 15 (Pa. Cmwlth. 1984) (*Schneider*), citing *Fusaro v. Pa. PUC*, 382 A.2d 794 (Pa. Cmwlth. 1978). Due process is satisfied when the parties are afforded notice and the opportunity to appear and be heard. *Schneider*, 479 A.2d at 15 (Pa. Cmwlth. 1984), citing *Township of Middleton v. The Institute District of the County of Delaware*, 293 A.2d 885 (Pa. Cmwlth. 1972), *aff'd* 450 Pa. 282, 299 A.2d 599 (Pa. Cmwlth. 1973). The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *Montefiore Hospital Ass'n of Western Pennsylvania v. Pa. PUC*, 421 A.2d 481, 484 (Pa. Cmwlth. 1980).

The Commission is required to fix the time and place of a hearing in a complaint proceeding and to serve notice thereof upon the parties in interest. *See*, 66 Pa.C.S. § 703(a)-(b). Service on interested persons is sufficient to provide notice. 52 Pa. Code § 5.201(a). Notice mailed to a party's last known address and not returned by the post office is presumed to have been received. *See Berkowitz v. Mayflower Securities, Inc.*, 455 Pa. 531, 317 A.2d 584 (Pa. 1974) (*Mayflower*); *Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review*, 645 A.2d 944, 946 (Pa. Cmwlth. 1994), *appeal denied*, 539 Pa. 696, 653 A.2d 1234 (1994); *Geary v. Verizon Pennsylvania Inc.*, Docket No. C-2009-2118625 (Opinion and Order entered September 16, 2010) (*Geary*).

Once a hearing is scheduled and duly notified by the Commission, it is the responsibility of the parties to appear and participate in the hearing. *Mumma v. PPL Electric Utilities Corporation*, Docket No. C-00014869 (Opinion and Order entered January 24, 2002) (*Mumma*); *Sentner v. Bell Tel. Co. of PA*, Docket No. F-00161106 (Opinion and Order entered October 25, 1993) (*Sentner*).

A party to a proceeding has the right to request a continuance of the hearing, which may be considered and granted by the presiding officer “only for good cause shown.” See 52 Pa. Code § 1.15(b). The party making the request must file a motion at least five days prior to the hearing date stating the facts on which the request is made, except that during a hearing, an oral request for hearing continuance may be made before the presiding officer in the hearing room. 52 Pa. Code § 1.15(b).

If a party fails to appear at a scheduled and duly notified hearing, the party will be deemed to have waived the opportunity to participate in a hearing in the matter. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a)-(b). This result is not applied to the party, however, if the presiding officer determines that the party’s failure to appear was “unavoidable” and the interests of the other party (or parties) and the public will not be “prejudiced” by permitting the reopening or further examination. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a)-(b). Also, this result may not be applied if the presiding officer or Commission determines that the complainant demonstrated a good faith attempt to attend the hearing. See, e.g., *Yomari Then v. Philadelphia Gas Works*, Docket No. F-2012-2318264 (Final Order entered June 13, 2013) (*Yomari Then*); see also *Windell C. Wiggins v. PECO Energy Company*, Docket No. C-2010-2190335 (Opinion and Order entered October 27, 2011) (*Wiggins*).

The public interest is prejudiced by the wasteful use of the agency’s and the respondent’s time and resources in addressing a complaint. See *Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Opinion and Order entered December 26, 1995)

(*Jefferson*); see also, e.g., *Charles Nichols III v. Bell-Atlantic-Pennsylvania*, Docket No. C-00956667 (Opinion and Order entered August 4, 1995) (*Nichols III*).

2. General Burden of Proof for Complaint Proceeding

As the party seeking affirmative relief from the Commission, the complainant in a formal complaint proceeding has the burden of proof. 66 Pa.C.S. § 332(a). The evidence necessary to meet that burden must be substantial. 2 Pa.C.S. § 704. “Substantial evidence” is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. *Consolidated Edison Company of New York v. National Labor Relations Board*, 305 U.S. 197, 229, 59 S.Ct. 206, 217. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

To establish a sufficient case and satisfy the burden of proof, the complainant must show that the respondent utility is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990) (*Patterson*). The offense must be a violation of the Code, a Commission Regulation or Order or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701. Such a showing must be by a “preponderance of the evidence.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 529 Pa. 654, 602 A.2d 863 (1992) (*Lansberry*). That is, the Complainant’s evidence must be more convincing, by even the smallest amount, than that presented by the respondent. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950) (*Se-Ling Hosiery*).

The burden of proof is comprised of two distinct burdens: (1) the burden of production; and (2) the burden of persuasion. *Hurley v. Hurley*, 2000 Pa. Super. 178, 754 A.2d 1283 (2000). The burden of production, also called the burden of going

forward with the evidence, determines which party must come forward with evidence to support a particular claim or defense. *Scott and Linda Moore v. National Fuel Gas Distribution*, Docket No. C-2014-2458555 (Initial Decision issued May 11, 2015) (*Moore*). The burden of production goes to the legal sufficiency of a party's claim or affirmative defense. *See Id.* The burden of production may shift between the parties during a hearing. A complainant may establish a *prima facie* case with circumstantial evidence. *See Milkie v. Pa. PUC*, 768 A.2d 1217, 1220 (Pa. Cmwlth. 2001) (*Milkie*). If a complainant introduces sufficient evidence to establish legal sufficiency of the claim, also called a *prima facie* case, the burden of production shifts to the utility to rebut the complainant's evidence. *See Moore*.

If the utility introduces evidence sufficient to balance the evidence introduced by the complainant, that is, evidence of co-equal value or weight, the complainant's burden of proof has not been satisfied and the burden of going forward with the evidence shifts back to the complainant, who must provide some additional evidence favorable to the complainant's claim. *See Milkie*, 768 A.2d at 1220; *see also Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 501 Pa. 433, 461 A.2d 1234 (1983).

Having produced sufficient evidence to establish legal sufficiency of a claim, the party with the burden of proof must also carry the burden of persuasion to be entitled to a favorable ruling. *See Moore*. While the burden of production may shift back and forth during a proceeding, the burden of persuasion never shifts; it always remains on a complainant as the party seeking affirmative relief from the Commission. *See Milkie*, 768 A.2d at 1220; *see also, Riedel v. County of Allegheny*, 633 A.2d 1325, 1328, n.11 (Pa. Cmwlth. 1993); *see also, Burleson*, 443 A.2d at 1375. It is entirely possible for a party to carry the burden of production but not be entitled to a favorable ruling because the party did not carry the burden of persuasion. *See Moore*. In determining whether a

complainant has met the burden of persuasion, the fact-finder³ may engage in determinations of credibility, may accept or reject testimony of any witness in whole or in part, and may accept or reject inferences from the evidence. *See Moore*, citing *Suber v. Pennsylvania Com'n on Crime and Delinquency*, 885 A.2d 678, 682 (Pa. Cmwlth. 2005) (*Suber*).

Finally, we note that any argument or Exception that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

B. ALJ's Initial Decision

ALJ Long made nineteen (19) Findings of Fact and reached eight (8) Conclusions of Law. I.D. at 4-6, 10-11. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

In her disposition, ALJ Guhl addressed, *inter alia*, due process and the burden of proof. I.D. at 7-10.

³ In formal complaint proceedings, the Commission, not the ALJ, is the ultimate fact-finder; it weighs the evidence and resolves conflicts in testimony. When reviewing the initial decision of an ALJ, the Commission has all the powers that it would have had in making the initial decision except as to any limits that it may impose by notice or by rule. *Milkie*, 768 A.2d at 1220, n. 7 (citing, *inter alia*, 66 Pa.C.S. § 335(a)).

The ALJ explained that administrative agencies, including the Commission, are required to provide due process to parties appearing before them. Due process requires that Parties are afforded notice and the opportunity to be heard. I.D. at 7 (citing *Schneider*).

The ALJ noted the record evidence that the Complainants were provided notice and the opportunity to be heard. The ALJ explained that on April 3, 2025, the Commission served the Complainants a Hearing Notice which advised the Parties of the date and time of the hearing, and how to participate. I.D. at 7.

On April 4, 2025, the Commission served the Complainants a Prehearing Order which reminded the Parties of the date and time of the hearing, and how to participate. On May 28, 2025, the Commission served the Complainants with the Cancelled/Rescheduled Telephonic Hearing Notice. These documents advised the Parties, *inter alia*, how to request a continuance prior to the hearing if needed. Additionally, these documents advised the Complainants that failure to appear may result in the dismissal of the Complaints, with prejudice, which means that the Complainants would be barred from filing another complaint, raising the same claims and issues presented in the dismissed Complaints. I.D. at 7.

The ALJ highlighted that the Hearing Notice, Prehearing Order, and Cancelled/Rescheduled Telephonic Hearing Notice were each served by U.S. First-Class Mail to the address provided on the Complaints. None of the documents were returned as being undeliverable. Therefore, the ALJ concluded, it must be presumed that this mail was received by the Complainants. *Berkowitz v. Mayflower Sec., Inc.*, 317 A.2d 584 (Pa. 1974); *Meierdierck v. Miller*, 147 A.2d 406 (Pa. 1959); *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. 1997); *Judge v. Celina Mut. Ins. Co.*, 449 A.2d 658 (Pa. Super. 1982). I.D. at 7.

The ALJ further concluded that the Complainants had notice of the hearing and the opportunity to be heard in this proceeding. Accordingly, the ALJ found that the Complainants' due process rights have been fully protected. I.D. at 8 (citing *Sentner*).

The ALJ explained that 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. I.D. at 8 (citing *Mumma*). The ALJ further explained that both the 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. I.D. at 8 (citing 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a)). The ALJ noted that 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. I.D. at 8 (citing 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(b)).

The ALJ stated that the party who failed to appear at the hearing has the burden of explaining why their failure to appear was unavoidable. I.D. at 8 (citing 66 Pa.C.S. § 332(a); *Herr v. West Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered September 15, 2022)). The ALJ continued that when there are no facts in the record that the party's failure to appear was unavoidable, the complaint should be dismissed. I.D. at 8 (citing *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered April 22, 2022) (*Brown*); *Little v. Pittsburgh Water & Sewer Auth.*, Docket No. F-2021-3027107 (Opinion and Order entered February 7, 2022); *Williams v. PECO Energy Co.*, Docket No. C-2018-3000734 (Opinion and Order entered March 14, 2019) (*Williams*); *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered December 26, 1995) (*Jefferson*); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a)).

The ALJ stated that the Complainants failed to appear for the hearing despite receiving notice and despite the ALJ allowing additional time for the Complainants to appear. On July 25, 2025, the OALJ received written correspondence from the Complainants indicating that they were requesting a new hearing date. The correspondence did not provide a reason as to why the Complainants had failed to appear for the hearing on July 22, 2025. ALJ Guhl's legal assistant called the Complainants and instructed them to provide a reason for their request. On August 8, 2025, PAWC filed a letter objecting to the Complainants request for a new hearing date. On August 13, 2025, the OALJ received follow-up correspondence from the Complainants indicating that they were requesting a new hearing date because July 22, 2025 was one of their birthdays and that they did not "do hearings via Zoom on that date." On August 15, 2025, the Complainants filed a response to PAWC's objections to their request for a new hearing date. I.D. at 9.

Based on the information presented by the Parties, the ALJ did not find that the Complainants failure to appear for the hearing on July 22, 2025, was unavoidable. Rather, the ALJ found that the Complainants waived the opportunity to participate in a hearing on the matters raised in the Complaints, the Complainants' absence was not unavoidable, and the Complaints should be dismissed. I.D. at 9.

The ALJ noted that Section 332(a) of the Code, 66 Pa.C.S. § 332(a), provides that the party seeking relief from the Commission has the burden of proof. I.D. at 9. The ALJ continued that, to establish a sufficient case and satisfy the burden of proof, the complainant must show that the respondent public utility is responsible or accountable for the problem described in the complaint. I.D. at 9 (citing *Patterson; Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976)). Such a showing must be by a preponderance of the evidence. I.D. at 9 (citing *Lansberry*). A preponderance of the evidence is established by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. I.D. at 9-10 (citing *Se-Ling Hosiery*).

The ALJ noted that as the proponent of a request for relief, the Complainants bear the burden of proof. The ALJ reasoned that by failing to participate and proffer any evidence to support the Complaints, the Complainants have failed to meet this burden. The ALJ found that it is appropriate to dismiss the Complaints. I.D. at 10 (citing *Brown*; *Williams* (citing *Jefferson*)). The ALJ therefore declined to address the merits of the Complaints. The ALJ granted PAWC's Motion to Dismiss, with prejudice. I.D. at 10. In dismissing the Complaint with prejudice, the ALJ noted that if there are no facts in the record for finding that the Complainant's failure to appear and participate at the hearing was unavoidable, the Complaint should be dismissed with prejudice. I.D. at 11; COL No. 5 (citing *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered April 22, 2022); *Little v. Pittsburgh Water & Sewer Auth.*, Docket No. F-2021-3027107 (Opinion and Order entered February 7, 2022); *Williams v. PECO Energy Co.*, Docket No. C-2018- 3000734 (Opinion and Order entered March 14, 2019); *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered December 26, 1995)).

C. Exceptions and Replies

The Complainants' Exceptions⁴ consists of a one-page hand-written statement that reads:

We firmly appeal the decision and respectfully demand a hearing in person where we can present prima faci[e]

⁴ We acknowledge that the format of the Complainants' Exceptions does not strictly comply with Section 5.533(b) of our Regulations, 52 Pa. Code § 5.533(b), which requires that exceptions be numbered, identify the finding of fact and conclusion of law to which exception is taken, and cite to the relevant pages of the Initial Decision. Nevertheless, recognizing that the Complainants are appearing *pro se*, we will accept the Exceptions, as filed, pursuant to Section 1.2(a) of our Regulations, 52 Pa. Code § 1.2(a) in order to secure a just, speedy and economical determination.

evidence, witnesses & cross exam[ine], hope[ful]ly in spring of 2026 because of wintry weather.

Exc. at 1.

We note that the Complainants also sent a one-page hand-written correspondence that was received by the Commission on December 18, 2025.⁵ We will not consider this correspondence received after the December 9, 2025 deadline for Exceptions had passed. 52 Pa. Code 5.533(a).

In its Replies, PAWC notes that the Complainants' Exceptions focus solely on a request to reschedule the hearing to be in person, sometime in the "spring," to present evidence, witnesses, and to cross-examine PAWC's witnesses. R. Exc. at 3 (citing Exc. at 1). PAWC submits that the Complainants, through their Exceptions, fail to reconcile or justify their failure to appear at the July 22, 2025, Evidentiary Hearing, where the Levys would have had a prior opportunity to do so. PAWC notes that if the Complainants had participated in the Evidentiary Hearing they could have made their case as to why their Complaint should be sustained (which PAWC remains of the opinion should not be sustained). PAWC contends that the Complainants provided no reason as to why their failure to participate in the July 22, 2025, Evidentiary Hearing was unavoidable. Additionally, the Company points out that in their Exceptions, the Complainants do not argue that the ALJ erred with any Finding of Fact or Conclusion of Law in the Initial Decision. PAWC maintains that the Exceptions should be denied for these reasons alone. R. Exc. at 3.

⁵ Further, the contents of the December 18, 2025 letter include arguments consistent with the Complaints and reinforce the Levys' request for an in-person hearing. In so much as any portions of the correspondence attempt to introduce new evidence we note that it is well-established that parties cannot introduce new evidence at the Exceptions stage. *Application of Apollo Gas Co.*, 1994 Pa. PUC LEXIS, at *8-14 (Order entered February 10, 1994) (*Apollo Gas*). Therefore, we also reject the December 18, 2025, letter pursuant to *Apollo Gas*.

PAWC further submits that the Complainants' primary reason for requesting a second Evidentiary Hearing is to conduct the hearing in-person. However, PAWC takes the position that the time for making such a request was prior to the scheduled July 22, 2025 Evidentiary Hearing, and not almost five months afterward. R. Exc. at 4.

D. Disposition

On review of the record evidence in this proceeding, we find that the Complainants have been provided due process. The Complainants have been served with several documents over the course of this proceeding, and there have been no returned notices or communications from the Commission. As such, we must presume that they received notice of the July 22, 2025 Evidentiary Hearing and the instructions on how to request a continuance. Additionally, the Complainants received information on the consequences for failure to participate in the July 22, 2025 Evidentiary Hearing, including the possibility of the dismissal of their Complaint. I.D. at 5-6.

Once a hearing is scheduled and the parties are notified, it is the responsibility of the parties, including the Complainants in this proceeding, to appear and participate in the hearing. *Mumma*. It is the Complainants' responsibility to provide communication explaining why their failure to appear was unavoidable. 66 Pa.C.S. § 332(a). The Complainants failed to appear at the hearing. When asked to provide a reason for their failure to appear, the Complainants provided that "they do not attend Zoom hearings on their birthday." This does not constitute an unavoidable reason for failure to appear. As such, the Complainants are not permitted to reopen the matter now, or to recall excused witnesses. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

Based on our review of the record in this proceeding, we concur with the ALJ's finding that the Complainants were provided with proper notice and the

opportunity to be heard. The Complainants were afforded due process throughout the proceeding. The Complainants had the opportunity to participate in the July 22, 2025 hearing, but chose not to attend and did not follow the proper procedures for requesting a continuance five days prior to the hearing. Indeed, the Complainants' first contact with the Commission regarding their failure to appear came three days after July 22, 2025.

Further, as noted above, if a complainant's failure to appear is not determined to be unavoidable, or if the complainant did not make a good faith attempt to attend the duly scheduled hearing, the Commission has recognized that any further procedural activity in the docket would prejudice the public interest due to the wasteful use of the agency's and the utility/respondent's time and resources in addressing the complaint. *See Jefferson*. We find that such is the case in this instant proceeding. Accordingly, we shall deny the Exception of the Levys, adopt the Initial Decision, and dismiss the Complaint.

Finally, because we agree with the ALJ that no facts in the record exist to support a finding that the Complainants' failure to appear was unavoidable, we will adopt the ALJ's Initial Decision to dismiss the Complaint. *See I.D. at 10; COL No. 5*.

III. Conclusion

Based on the forgoing discussion, we shall deny the Complainants' Exceptions and adopt the ALJ's Initial Decision that dismisses the Complaint, on the grounds that the Complainants failed to appear for the hearing and prosecute the Complaint; **THEREFORE**,

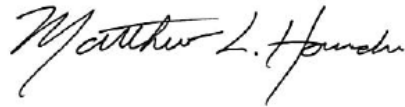
IT IS ORDERED:

1. That the Exceptions of Fred and Reva Levy, filed on December 4, 2025, to the Initial Decision of Administrative Law Judge Marta Guhl, issued on November 11, 2025, at Docket Nos. C-2025-3053847 and C-2025-3053848, are denied, consistent with this Opinion and Order.

2. That the Initial Decision of Administrative Law Judge Marta Guhl, issued on November 18, 2025, at Docket Nos. C-2025-3053847 and C-2025-3053848, is adopted, without modification, consistent with this Opinion and Order.

3. That the Formal Complaints filed by Fred and Reva Levy on February 26, 2025, against Pennsylvania American Water Company, at Docket Nos. C-2025-3053847 and C-2025-3053848, are dismissed.

BY THE COMMISSION



Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: February 19, 2026

ORDER ENTERED: February 19, 2026