

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Janet Louise Martin	:	
	:	C-2025-3052954
v.	:	C-2025-3052956
	:	C-2025-3052957
Pittsburgh Water and Sewer Authority	:	

INITIAL DECISION

Before
Emily I. DeVoe
Administrative Law Judge

INTRODUCTION

This decision dismisses the Formal Complaints for the failure of Complainant to appear for the hearing and prosecute the Complaints.

HISTORY OF THE PROCEEDING

First Formal Complaint, Docket No. C-2025-3052954

On December 26, 2024, Janet Louise Martin (Complainant or Ms. Martin) filed a Formal Complaint (First Complaint) with the Pennsylvania Public Utility Commission (Commission), against Pittsburgh Water and Sewer Authority (PWSA, Authority, or Respondent), at Docket No. C-2025-3052954, regarding service to a residence at 6729 Rowan Street, Pittsburgh, PA 15206 (service location). In the “other”

box, Complainant averred she had written prior correspondence and that she had questions regarding a courtesy non-access notice she received. First Complaint ¶ 4.

Under requested relief, she averred the water service to the service location had been turned off, and PWSA was engaged in “questionable treatment” and “questionable billing.” First Complaint ¶ 5. She also wrote she had questions regarding: (1) “impervious surface area”; (2) “leak protection, increased billing accuracy”; (3) “amount of run-off generated by the property, how this is determined”; (4) “advanced metering infrastructure”; (5) the new storm water fee; (6) “green infrastructure”; and (7) maintenance of catch basins. First Complaint ¶ 5. In the “Additional Space” section, she alleged PWSA had engaged in illegal behavior requiring police intervention, including trespassing, breaking and entering, and destruction of property. She claimed that PWSA had engaged in “racist disrespectful” behavior to her, her sister, and her neighbors. First Complaint at 9. Attached to the Complaint was a 10-Day Shut Off Notice for a service address of 5260 Center Avenue, Apartment 603, Pittsburgh, PA. Regarding service by the Commission, Complainant selected service by First-Class Mail, checking the box and initialing next to this option. First Complaint ¶ 9.

On February 3, 2025, PWSA filed an Answer admitting it issued termination notices due to Complainant’s failure to permit access to the meter. It explained that, on August 1, 2023, PWSA mailed Complainant a courtesy 37-Day Shut-Off Notice for Non-Access, explaining that PWSA plumbers needed to visit her property as part of the Advanced Metering Infrastructure (AMI) project and to verify that the water meter and remote reading device were working properly. Answer ¶ 4. It explained that on May 14, 2024, PWSA sent Complainant a 30-day Shut-off Notice for non-access, but did so in accordance with its tariff and the Commission’s regulations. *Id.* PWSA denied the other material allegations in the Complaint.

Second Formal Complaint, Docket No. C-2025-3052956

On December 26, 2024, Complainant filed a second Formal Complaint against PWSA at Docket No. C-2025-3052956 (Second Complaint), that is identical to the First Complaint except for an additional handwritten page attached at the end alleging that she had paid a shut-off fee, yet PWSA still terminated water service.

On February 3, 2025, PWSA filed an Answer which was substantially similar to the Answer filed in response to the First Complaint and again denied the material averments in the Second Complaint.

Third Formal Complaint, Docket No. C-2025-3052957

On December 26, 2024, Complainant filed a third Formal Complaint that was identical to the Second Complaint and at Docket No. C-2025-3052957.

On February 3, 2025, PWSA filed an Answer which was substantially similar to the Answers filed in response to the First and Second Complaints and again denied the material averments in the Third Complaint.

Proceedings before the Office of Administrative Law Judge

On February 4, 2025, Chief Administrative Law Judge Charles E. Rainey Jr., issued an Interim Order Setting Resolution Conference, at all three dockets, directing the parties to attempt to settle this matter.

The matters did not settle. Therefore, on June 25, 2025, the Commission issued a Hearing Notice (First Notice), assigning all three matters to me and scheduling an evidentiary hearing for August 13, 2025.

Also on June 25, 2025, I issued a Prehearing Order (First PHO), providing procedural information to the parties, including instructions on how to request a continuance.

On August 6, 2025, Conor Farley, Esq., counsel for PWSA, filed a Motion to Continue the hearing (Motion) due to the unavailability of its witness, Julie Mechling, Director of Customer Service, who was scheduled to attend a public input hearing on August 13, 2025, for the Authority's pending base rate case at Docket No. R-2025-3055010. Mr. Farley explained that he considered substituting either Brittany Schact, Deputy Director of Customer Service and/or Reginald Brown, PUC Compliance Manager, as witnesses for this matter – but both are also unavailable on August 13, 2025, for the same reason. Mr. Farley explained he attempted to contact Complainant to discuss the continuance request, but all his calls have gone unanswered and Complainant's voicemailbox is full, rendering the option of leaving a voicemail message impossible.

On August 11, 2025, I issued an Interim Order denying the Motion explaining that I was one of the presiding officers assigned to the PWSA base rate case and would also be attending the public input hearing, so if Ms. Martin's hearing was not concluded by 12:30 p.m., a second day of hearing would be scheduled. I further noted, "To the extent PWSA is unable to present its case fully on August 13, 2025, either due to the unavailability of its witness(es) or due to the time constraint of a 12:30 p.m. end time, I will schedule a further hearing." August 11, 2025 Interim Order at 4.

The August 11, 2025 Interim Order also consolidated all three Complaints under Docket No. C-2025-3052954.

The hearing convened as scheduled on August 13, 2025. Mr. Conor Farley, Esquire, was present on behalf of the Authority. Complainant was not present.

Consistent with my standard practice, I reviewed the filings in this case to ensure Complainant received proper notice of the August 13, 2025 hearing. I discovered that the June 25, 2025, Notice and Prehearing Order were served upon Complainant by First-Class Mail at 2560 Centre Avenue, Apt. 603, Pittsburgh PA, which is the address appearing under Complainant's name on all three Complaints, but on the envelopes Complainant used to mail her Complaints, Complainant listed a return address in the upper left-hand corner of 5260 Centre Ave, Apt. 603, Pittsburgh, PA.

Mr. Farley noted that the address on Complainant's account was 5260 Centre Avenue, Apt. 603. Tr. 6. Mr. Farley also noted that the Company's records indicated that the service location is vacant. Tr. 10. Although Complainant averred in her Complaints that service had already been terminated at the service location, the Company's records indicated she did not reside there. I told Mr. Farley I was going to reschedule the hearing, sending a new notice and prehearing order to Complainant at both addresses. Tr. 11-12. Mr. Farley agreed to a reschedule date of September 2, 2025.

On August 13, 2025, a Further Hearing Notice (Second Notice) was served on the parties rescheduling the initial telephonic hearing for September 2, 2025, at 10:00 a.m.

On August 13, 2025, a Prehearing Order (Second PHO) was served on the parties which reminded the parties of the date and time of the hearing.

The August 13, 2025 Further Hearing Notice and Prehearing Order were served by First-Class Mail to Complainant at 2560 Centre Avenue, Apt. 603, Pittsburgh, PA, as well as 5260 Centre Ave, Apt. 603, Pittsburgh, PA. None of these mailings were returned to the Commission as undeliverable.

On August 25, 2025, the transcript from the August 13, 2025 proceeding was filed.

On September 2, 2025, I convened the hearing as scheduled. Mr. Farley was again 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 Complaints with prejudice due to Complainant's failure to appear and prosecute the Complaints. Tr. 20. I took this motion under advisement. Tr. 24.

On September 17, 2025, the transcript from the September 2, 2025, proceeding was filed.

On September 23, 2025, I received correspondence from Complainant. The correspondence is a copy of the August 13, 2025 Prehearing Order, with Complainant's handwritten marks throughout. On the last page, Complainant wrote she was requesting a continuance of "at least a month or more," explaining that she just got out of the hospital and has been suffering from multiple health conditions. She apologized for the delay but she has "TRULY been ill." (emphasis in original).

On September 25, 2025, I issued an Interim Order attaching Complainant's *ex parte* communication to the record, granting Complainant's request to reschedule the hearing, and directing the Authority to file a response to Complainant's request. The Interim Order stated:

Under the circumstances, and in order to ensure Complainant's due process rights are protected, I will reschedule the hearing. However, any additional requests from Complainant to reschedule or continue this matter

must be accompanied by signed documentation from a third-party supporting the reason(s) for the request. Furthermore, while I will grant the request to reschedule the hearing, I have not decided whether to grant the request that the hearing be delayed ‘at least a month or more.’ The Company also has due process rights I must protect. Therefore, the Company shall be afforded an opportunity to respond to Complainant’s request.

Interim Order, 9/25/25, at 6.

On October 3, 2025, the Authority filed a response to the Complainant’s September 23, 2025 correspondence. It noted the Authority did not oppose the Complainant’s request for a continuance. It explained it was unsuccessful in its attempts to discuss possible reschedule dates with Ms. Martin and provided a list of dates it was available.

On October 7, 2025, the Commission issued a Further Telephonic Hearing Notice (Third Notice), scheduling an evidentiary hearing for November 18, 2025.

Also on October 7, 2025, I issued a Prehearing Order (Third PHO).

The hearing convened on November 18, 2025, as scheduled. Ms. Lauren Burge, Esquire, was present on behalf of the Authority, as was one witness. Complainant was not present. Consistent with my usual practice, I reviewed the docket to ensure Complainant was properly served. Tr. 32. I reviewed the Third Notice and discovered that the parties’ list attached to the Third Notice indicated that Complainant was served at the 2560 Center Avenue address, but not the 5260 Center Avenue Address. Tr. 32-33. While the Commission’s internal records showed she was served at both addresses, this was inconsistent with the information appearing on the Third Notice’s parties’ list. Tr. 33. In order to ensure Complainant received proper notice, I explained to Ms. Burge that I

would need to reschedule the hearing yet again. Tr. 33. I assured Ms. Burge I would instruct staff to serve Ms. Martin at both addresses. Tr. 33.

On November 18, 2025, the Commission issued a Further Telephonic Hearing Notice (Fourth Notice), scheduling an evidentiary hearing for December 30, 2025.

The Fourth 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).

The Fourth Notice was served on Complainant by First-Class Mail at both 2560 Centre Avenue, Apt. 603 and 5260 Centre Avenue, Apt 603.

On December 5, 2025, the transcript of the November 18, 2025, proceeding was filed.

On December 10, 2025, I received handwritten, *ex parte* correspondence from Complainant. She reiterated many of the claims made in her three Complaints. Notably, she wrote her address as 5260 Centre Street, Suite 603, Pittsburgh PA.

On December 30, 2025, the hearing convened as scheduled. Ms. Burge again 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. 45. I took this motion under advisement. Tr. 46.

Complainant has not contacted the Commission to explain why her failure to appear at the December 30, 2025 hearing was unavoidable.

The record closed on December 30, 2025, at the conclusion of the hearing. 52 Pa. Code § 5.431(a).

The Transcript (Tr.) of the December 30, 2025, proceeding was filed on January 7, 2026.

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

FINDINGS OF FACT

1. Complainant is Janet Louise Martin.
2. Respondent is Pittsburgh Water and Sewer Authority.

3. On December 26, 2024, Complainant filed three nearly identical Formal Complaints against Respondent, at Docket Nos. C-2025-3052954, C-2025-3052956, and C-2025-3052957, alleging inaccurate billing and that the Authority had engaged in various improper and illegal actions.

4. On her Complaints, Complainant elected to be served by First-Class Mail and wrote her address on the Complaints as 2560 Centre Avenue, Apt. 603, Pittsburgh, PA.

5. The envelopes Complainant used to mail her Complaints to the Commission listed a return address of 5260 Centre Ave, Apt. 603, Pittsburgh, PA.

6. On February 3, 2025, Respondent filed Answers to the Complaints.

7. On June 25, 2025, the First Notice and First PHO were served on Complainant by First-Class Mail at 2560 Centre Avenue, Apt. 603, Pittsburgh, PA, scheduling an initial telephonic hearing on August 13, 2025.

8. Neither the First Notice nor the First PHO were returned to the Commission as undeliverable.

9. On August 11, 2025, an Interim Order was issued which, *inter alia*, consolidated the three Complaints at Docket No. C-2025-3052954.

10. The hearing convened as scheduled on August 13, 2025.

11. At the hearing on August 13, 2025, the discrepancy in Complainant's address was discovered and the hearing was rescheduled for September 2, 2025.

12. On August 13, 2025, a Second Notice and Second PHO scheduling a hearing on September 2, 2025, were served on Complainant by First-Class Mail at 2560 Centre Avenue, Apt. 603, Pittsburgh, PA, as well as 5260 Centre Ave, Apt. 603, Pittsburgh, PA.

13. Neither the Second Notice nor the Second PHO were returned to the Commission as undeliverable.

14. The September 2, 2025, hearing convened as scheduled.

15. Complainant failed to appear and participate in the scheduled telephonic hearing on September 2, 2025.

16. On September 23, 2025, Complainant submitted handwritten correspondence on a copy of the Second PHO explaining, *inter alia*, she failed to appear at the September 2, 2025, hearing, because she had been in the hospital and requesting that the hearing be rescheduled.

17. On September 25, 2025, an Interim Order was issued, directing the Company to file a response to Complainant's request for a rescheduled hearing.

18. On October 3, 2025, the Company filed a response indicating, *inter alia*, it did not object to a rescheduled hearing.

19. On October 7, 2025, a Third Notice and Third PHO scheduling a hearing on November 18, 2025, was served on Complainant by First-Class Mail at 2560 Centre Avenue, Apt. 603, Pittsburgh, PA.

20. The Third Notice and Third PHO were not returned as undeliverable.

21. The November 18, 2025, hearing convened as scheduled.

22. At the hearing on November 18, 2025, a discrepancy in the Commission's records regarding the service of the Third Notice was discovered and the hearing was rescheduled.

23. On November 18, 2025, a Fourth Notice and Fourth PHO scheduling a hearing on December 30, 2025, were served on Complainant by First-Class Mail at 2560 Centre Avenue, Apt. 603, Pittsburgh, PA, as well as 5260 Centre Ave, Apt. 603, Pittsburgh, PA.

24. The Fourth Notice and Fourth PHO gave the time, date, and call-in instructions for the evidentiary hearing, and provided the instructions on how to request a continuance and the consequences for failing to appear.

25. The Fourth Notice and Fourth PHO were not returned as undeliverable.

26. The hearing convened as scheduled on December 30, 2025.

27. Complainant failed to appear at the hearing on December 30, 2025.

28. The court reporter, counsel for Respondent, and its witness were present and prepared to proceed at the December 30, 2025, hearing.

29. Complainant has not contacted the Commission to explain why her failure to appear at the December 30, 2025, 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 her Complaints, Complainant's address was inconsistent; she wrote 2560 Centre Avenue, Apt. 603, Pittsburgh, PA, on the first page of each Complaint, but listed 5260 Centre Ave, Apt. 603, Pittsburgh, PA, on the upper left of the envelope she used to mail them as the return address. As a result of the inconsistent addresses, and to ensure Complainant's due process rights were protected, I directed that Complainant be served at both addresses. On August 13, 2025, the Commission issued a Second Notice and Second PHO, both of which were served on Complainant by First-Class Mail at both addresses.

Complainant failed to appear at the hearing scheduled for September 2, 2025. On September 23, 2025, I received correspondence from Complainant, which was of a copy of the Second PHO with Complainant's handwritten marks throughout. This shows Complainant received the Second PHO at one of the addresses to which the Commission sent it and was aware of the process for how to request a continuance.

Due to inconsistent internal records in the Commission's docketing system, the hearing was ultimately rescheduled for December 30, 2025. The Fourth Notice was served on Complainant by First-Class Mail at both addresses. Notably, none of the notices, including the Fourth Notice, or PHOs mailed to Complainant throughout this

proceeding were returned as undeliverable. The Fourth Notice advised the parties of the date and time of the hearing and how to participate, as well as the process of how to request a continuance and the consequences for failing to appear at the hearing. Additionally, Complainant was aware of how to request a continuance because she had already successfully done so.

The Fourth Notice was served on the Complainant at the email address she registered with the Commission. The Fourth Notice was also served by First-Class Mail to both addresses and, since it was not returned as being undeliverable, it must be presumed that it was received by Complainant. *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). Furthermore, the fact Complainant received the Second Notice (which was also sent to both addresses), suggests that Complainant also received the Fourth Notice.

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 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 December 30, 2025 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. Complainant knew how to request a continuance since she had done so successfully after she failed to appear at the hearing on September 2, 2025. While Complainant had requested a continuance of “at least a month or more” when she requested a rescheduled hearing in her September 23, 2025, correspondence, I note that the December 30, 2025 hearing date was in fact more than three months after her September 23, 2025, correspondence.

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 mailed via U.S. First-Class Mail to a party and not returned to the Commission as undeliverable is presumed received. *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).

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).

