

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Mary Beth Bawden	:	
	:	
v.	:	C-2025-3057610
	:	
Duquesne Light Company	:	

INITIAL DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

This decision dismisses the Formal Complaint with prejudice for the failure of Complainant to appear at a hearing and prosecute the Complaint.

HISTORY OF THE PROCEEDING

On September 19, 2025, Mary Beth Bawden (Ms. Bawden or Complainant) filed a Formal Complaint (Complaint) against Duquesne Light Company (DLC or Respondent), alleging DLC was threatening to shut off service or had already shut off service.¹ Ms. Bawden requested the Commission order DLC to adjust the account

¹ While the Complaint is related to a decision of the Commission’s Bureau of Consumer Services (BCS) concerning the Informal Complaint filed at BCS No. 4076392, Complainant did not indicate an intention to appeal the BCS decision on the Informal Complaint.

balance to remove the disputed charges. In the Complaint, Ms. Bawden requested to receive service of all documents by First Class Mail.

On October 14, 2025, DLC filed its Answer in which it admitted it issued a termination notice to Complainant but denied its actions were in violation of the Public Utility Code, the Commission's regulations, or DLC's Commission-approved tariff. DLC contended Complainant has a balance on the electric service account in the amount of \$5,039.65 and she has failed to comply with one Company-issued payment arrangement and one Commission-issued payment arrangement.

On October 20, 2025, the Office of Administrative Law Judge (OALJ) issued an Initial Call-In Telephone Hearing Notice, which scheduled an initial hearing to be conducted on December 15, 2025. The Hearing Notice, which was served on Complainant by eService, provided the parties with the Toll-Free Bridge Number to call and the PIN to enter to 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).

Also, on October 20, 2025, the presiding officer served a Prehearing Order on the parties which reminded the parties of the date and time of the hearing. The Prehearing Order was served on Complainant by eService. Similar to the Hearing Notice, the Prehearing Order stated the failure to appear warning. Additionally, the Prehearing Order informed the parties about the applicable procedural rules and again included the procedure to follow for requesting a continuance.

The Hearing Notice and Prehearing Order were served on Complainant in the ordinary course of the Commission's business to the eService account Complainant established with the Commission.² Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

The presiding officer convened the initial hearing as scheduled on December 15, 2025, at which time Complainant was not present. Respondent was represented by Sophia Al Rasheed, Esquire (Ms. Al Rasheed), who appeared with Roxanne Morris, a Supervisor of Regulatory Consumer Relations for DLC. The court reporter was also present. Complainant was not present at the start of the hearing and the hearing proceeded in Complainant's absence, after taking a recess until 10:15 a.m. No testimony was taken, and no exhibits were introduced into the record. The presiding officer noted the Hearing Notice and the Prehearing Order were served on Complainant via eService, instead of serving the documents by Complainant's requested preferred method through the United States Postal Service. Accordingly, the presiding officer ruled the proceeding would be rescheduled using the preferred method requested by Complainant.

Accordingly, on December 16, 2025, the OALJ issued an Initial Call-In Telephone Hearing Notice, which scheduled a hearing to be conducted on February 18,

² Complainant established an eService account with the Commission but in the Complaint specifically requested service of all documents by First Class Mail.

2026. The Hearing Notice dated December 16, 2025, contained the exact language as used in the initial Hearing Notice dated October 20, 2025. In addition, on December 16, 2025, the OALJ issued the Prehearing Order for Telephone Hearing, which was served on Complainant by First Class Mail, and which contained the exact language as used in the first Prehearing Order dated October 20, 2025.

Neither the Hearing Notice dated December 16, 2025, nor the Prehearing Order dated December 16, 2025, were returned to the Commission by the United States Postal Service as undeliverable.

The presiding officer convened the further hearing as scheduled on February 18, 2026, at which time Complainant was not present. Respondent was again represented by Ms. Al Rasheed, who appeared with Diana Kiesel, a Regulatory Consumer Relations Specialist for DLC. 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. The presiding officer noted the Hearing Notice and the Prehearing Order were served on Complainant via First Class Mail, which was Complainant's preferred method for service of documents. Respondent moved to dismiss the Complaint with prejudice for Complainant's failure to appear and prosecute the Complaint. Tr. 18. The presiding officer took this motion under advisement. Tr. 19.

The hearing record closed on February 18, 2026, at the conclusion of the hearing, pursuant to 52 Pa. Code § 5.431(a).³ This decision grants Respondent's motion to dismiss the Complaint with prejudice.

³ The provision at 52 Pa. Code § 5.431(a) states the hearing "record will be closed at the conclusion of the hearing unless otherwise directed by the presiding officer or the Commission."

FINDINGS OF FACT

1. Complainant is Mary Beth Bawden.
2. Respondent is Duquesne Light Company.
3. On September 19, 2025, Complainant filed a Complaint against Respondent.
4. On October 14, 2025, Respondent filed the Answer to the Complaint generally denying the Complaint.
5. On October 20, 2025, the OALJ served, by eService, an Initial Call-In Telephone Hearing Notice scheduling an initial telephonic hearing on December 15, 2025.
6. On October 20, 2025, the presiding officer issued a Prehearing Order, by eService, providing additional information to the parties regarding the hearing.
7. On December 15, 2025, the presiding officer convened the initial hearing at which Respondent appeared with its witness, but Complainant did not appear.
8. On December 15, 2025, the presiding officer ordered the initial hearing to be rescheduled using the preferred method of service, after noting the OALJ did not serve Complainant using Ms. Bawden's preferred method of receiving service of documents.

9. On December 16, 2025, the OALJ served, by First Class Mail, an Initial Call-In Telephone Hearing Notice scheduling an initial telephonic hearing on February 18, 2026.

10. On December 16, 2025, the presiding officer issued a Prehearing Order, by First Class Mail, providing additional information to the parties regarding the hearing scheduled for February 18, 2026.

11. The Commission served both the December 16, 2025 Hearing Notice and December 16, 2025 Prehearing Order on Complainant by First-Class Mail to the mailing address Complainant provided in the Complaint.

12. Neither the December 16, 2025 Hearing Notice nor the December 16, 2025 Prehearing Order were returned to the Commission as undeliverable.

13. Both the December 16, 2025 Hearing Notice and December 16, 2025 Prehearing Order provided Complainant with the toll-free bridge 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 a hearing.

14. The presiding officer convened the hearing on February 18, 2026, at which time Complainant was not present and Respondent was present with its witness.

15. Complainant failed to appear and participate in the scheduled telephonic hearing on February 18, 2026.

16. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the February 18, 2026 hearing.

17. Respondent made an oral motion to dismiss the Complaint with prejudice due to Complainant's failure to appear and for failure to prosecute the Complaint. Tr. 18.

18. Complainant has not contacted 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. First, on December 16, 2025, Complainant was served a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on December 16, 2025, Complainant was served 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 dismissal 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 complaints. Both the Hearing Notice and Prehearing Order were served by U.S. First Class Mail to the address provided on the Complaint. Neither document was returned as being undeliverable. Accordingly, it must be presumed that this mail 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). Complainant had notice of the hearing and an opportunity to be heard in this proceeding. Therefore, Complainant's due process rights have been fully protected. *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993).

Failure to Appear, Waiver and the "Unavoidable" Standard

Once a hearing is scheduled and the parties are duly notified by the Commission, it is the responsibility of the parties to appear and participate in the hearing. *Mumma v. PPL Elec. Utils. Corp.*, Docket No. C-00014869 (Opinion and Order entered Jan. 28, 2002). Both the Public Utility Code and the Commission's regulations provide that, after being notified, a party who fails to appear at a scheduled hearing shall be deemed to have waived the opportunity to participate in the hearing and shall not be permitted to later reopen the matter or be permitted to recall excused witnesses. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

However, these provisions in the Code and in the Commission's regulations do not apply if the presiding officer determines that the party's failure to appear at the hearing was unavoidable and that the interests of the other parties and of the public would not be prejudiced by permitting the reopening or further examination. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(b).

The party who failed to appear at the hearing has the burden of explaining why his/her failure to appear was unavoidable. 66 Pa.C.S. § 332(a); *Herr v. West Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022). When there are no facts in the record that the party's failure to appear was unavoidable, the complaint should be dismissed 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); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

Complainant failed to appear for the hearing despite receiving notice. To date, there has been no communication to the Office of Administrative Law Judge or the presiding officer by, or on behalf of, Complainant explaining why Complainant's failure to appear at the hearing on February 18, 2026, was unavoidable. Consequently, the presiding officer finds 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 for failure to appear and for failure to prosecute the Complaint.

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, the 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. Further, the Hearing Notice and in the Prehearing Order notified Complainant that dismissal with prejudice might result if Complainant failed to appear and meet the burden of proof. Lastly, Complainant has not communicated to the presiding officer since the hearing to indicate she was unavailable to appear and to request a new hearing. Thus, it is appropriate to dismiss the Complaint and to dismiss the Complaint with prejudice. *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Williams v. PECO Energy Co.*, Docket No. C-2018-300734 (Opinion and Order entered Mar. 14, 2019) (citing *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995)). Accordingly, the merits of the Complaint will not be addressed.

Respondent's motion to dismiss with prejudice will be granted.

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. 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).

