

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Roxane Leaveck	:	
	:	
v.	:	C-2025-3054597
	:	
Aqua Pennsylvania, Inc.	:	

INITIAL DECISION

Before
Chad L. Allensworth
Administrative Law Judge

INTRODUCTION

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

HISTORY OF THE PROCEEDING

On April 16, 2025, Roxane Leaveck¹ (“Complainant”) filed a Formal Complaint (“complaint”) with the Pennsylvania Public Utility Commission (“Commission”) against Aqua Pennsylvania, Inc. (“Respondent” or “Aqua PA”). The complaint alleges that Respondent was threatening to shut off or already had shut off service, Respondent had incorrect charges on her bill and Respondent was committing fraud. Complaint ¶ 4.

¹ Complainant refers to herself with the title of Roxane Leaveck, Benefice in the complaint. Complaint ¶ 1.

In her complaint, Complainant selected the option to receive all communications from the Commission via First-Class Mail at the address provided by the Complainant on the complaint. Complaint ¶ 9.

On May 6, 2025, Respondent filed an answer and new matter in which it denied the material allegations of fact and conclusions of law in the complaint. Respondent requested that the complaint be dismissed.

On May 27, 2025, Complainant filed a response to the new matter.

On June 10, 2025, an Initial Telephonic Hearing Notice and a Prehearing Order were served on the parties scheduling an initial telephonic hearing on August 13, 2025 at 10:00 a.m. and the case was assigned to me.

On August 11, 2025, Respondent filed a certificate of satisfaction advising the Commission that Complainant no longer wanted to pursue the complaint.

Also, on August 11, 2025, Complainant filed a disagreement with the certificate of satisfaction wherein she objected to having a telephone hearing. I treated this filing as an objection to the certificate of satisfaction.

On August 12, 2025, a Cancellation Notice was served on the parties canceling the hearing scheduled for August 13, 2025.²

Based on Complainant's objection to having a telephonic hearing and attempt to raise issues outside of the Commission's jurisdiction, I decided to schedule a prehearing conference with the parties to address those issues. On August 25, 2025, a

² I was not made aware of the Complainant's objection to the certificate of satisfaction until after the August 13, 2025 hearing was canceled.

Telephonic Prehearing Conference Notice was served on the parties scheduling a telephonic prehearing conference for October 14, 2025. The notice provided the parties with the Toll-Free Bridge Number and the PIN to call and participate in the telephonic prehearing conference.

Also, on August 25, 2025, a Prehearing Conference Order was served on the parties reiterating the date, time and call in information for the telephonic prehearing conference. The order advised the parties that the conference would address scheduling of the hearing, whether the matter should be scheduled for an in-person hearing or telephonic hearing and issues prohibited from being raised at the hearing. The order further advised that failure to attend the prehearing conference would constitute a waiver of all objections to matters decided at the prehearing conference.

On October 14, 2025, I convened the prehearing conference as scheduled. Margaret Morris, Esq., appeared on behalf of Respondent. Complainant failed to appear for the prehearing conference.

On October 15, 2025, an Initial In-Person Hearing Notice was served on the parties scheduling the matter for an in-person hearing on December 11, 2025 at 11:00 a.m. The hearing notice provided the address and hearing room assigned for the hearing.

Also, on October 15, 2025, a Prehearing Order for In-Person Hearing was served on the parties that reiterated the date, time and location of the in-person hearing. The order also authorized Respondent to present the testimony of Heather Harrison telephonically and required Complainant to file a status report by December 1, 2025, confirming that she still wanted an in-person hearing. Complainant was advised that failure to file a status report would result in the in-person hearing being converted to a telephonic hearing.

Complainant failed to file a status report on or before December 1, 2025.

On December 2, 2025, an Interim Order Converting Hearing from In-Person to Telephonic was served on the parties converting the hearing scheduled for December 11, 2025 from an in-person hearing to a telephonic hearing.

Also, on December 2, 2025, an Initial Hearing Type Change Notice was served on the parties scheduling the matter for a telephonic hearing. The notice provided the parties with the Toll-Free Bridge Number and the PIN to call and participate in the telephonic hearing. The 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).

Additionally, on December 2, 2025, a Second Prehearing Order for Telephone Hearing was served on the parties which reiterated the date, time and call in information for the hearing. The order also stated the potential consequences if a party failed to appear at the hearing. Additionally, the order informed the parties about the applicable procedural rules and again included the procedure to follow for hearing continuances.

In the ordinary course of the Commission's business, the Initial Hearing Type Change Notice and Second Prehearing Order were served via U.S. First-Class Mail to Complainant at the street address provided by her to the Commission. The Commission did not receive any returned mail that the Initial Hearing Type Change Notice or the Second Prehearing Order sent to Complainant's address were undeliverable.

On December 10, 2025, Complainant sent an email correspondence to me advising that she did not believe the Commission had personal or subject matter jurisdiction in this matter.

On December 11, 2025, I convened the telephonic hearing as scheduled. Margaret Morris, Esq., appeared on behalf of Respondent along with three witnesses and was ready to proceed. The court reporter was also present. Complainant was not present at the start time for the hearing. After a short delay to allow time for Complainant to appear, 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 for Complainant's failure to appear and prosecute her complaint. Tr. 20. I took this motion under advisement.

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

The record closed on December 12, 2025.³ This decision grants Respondent's motion to dismiss the complaint with prejudice.

³ I stated at the hearing that I would hold the record open to allow time for Complainant to contact the Office of Administrative Law Judge to explain her absence, and the record would close on December 12, 2025. Tr. 21. *See* Pa. Code § 5.431(a) (providing that the record will be closed at the conclusion of the hearing unless otherwise directed by the presiding officer or the Commission).

FINDINGS OF FACT

1. The Complainant is Roxane Leaveck.
2. The Respondent is Aqua Pennsylvania, Inc.
3. On April 16, 2025, Complainant filed a complaint against Respondent.
4. On May 6, 2025, Respondent filed an answer to the complaint along with new matter.
5. On May 27, 2025, Complainant filed a reply to the new matter.
6. On June 10, 2025, an Initial Telephonic Hearing Notice was served on Complainant scheduling an initial telephonic hearing on August 13, 2025.
7. On August 11, 2025, Respondent filed a certificate of satisfaction in this matter.
8. On August 11, 2025, Complainant filed a disagreement with the certificate of satisfaction.
9. On August 12, 2025, a Cancellation Notice was served on the parties canceling the hearing scheduled for August 13, 2025.
10. On August 25, 2025, a Telephonic Prehearing Conference Notice was served on the parties scheduling a telephonic prehearing conference for October 14, 2025.

11. On October 14, 2025, a prehearing conference was held.
12. Complainant failed to attend and participate in the prehearing conference.
13. On October 15, 2025, an Initial In-Person Hearing Notice was served on the parties scheduling the matter for an in-person hearing on December 11, 2025 at 11:00 a.m.
14. On October 15, 2025, a Prehearing Order for In-Person Hearing was served on the parties that, *inter alia*, required Complainant to file a status report by December 1, 2025, advising whether she still wanted an in-person hearing or the hearing would be converted to telephonic.
15. Complainant failed to file a status report on or before December 1, 2025.
16. On December 2, 2025, an Interim Order Converting Hearing from In-Person to Telephonic was served on the parties converting the scheduled hearing from an in-person hearing to a telephonic hearing.
17. On December 2, 2025, an Initial Hearing Type Change Notice was served on the parties scheduling the matter for a telephonic hearing.
18. On December 2, 2025, a Second Prehearing Order for Telephone Hearing was served on the parties providing additional information to the parties regarding the hearing.

19. Both the Initial Hearing Type Change Notice and the Second Prehearing Order were served on Complainant by U.S. First-Class Mail to the postal address Complainant provided to the Commission.

20. Both the Initial Hearing Type Change Notice and the Second Prehearing Order provided the 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 the hearing.

21. Neither the Initial Hearing Type Change Notice nor the Second Prehearing Order were returned to the Commission as undeliverable.

22. Complainant failed to appear and participate in the scheduled telephonic hearing on December 11, 2025.

23. The court reporter, Counsel for Respondent and its witnesses were present and prepared to proceed at the December 11, 2025 hearing.

24. 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 2, 2025, the Commission served the Complainant an Initial Hearing Type Change Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on December 2, 2025, the Commission served the Complainant a Second Prehearing Order which reiterated the date and time of the hearing, and how to participate. Further, both documents advised the parties, *inter alia*, how to request a continuance prior to the hearing if needed. Finally, both documents advised Complainant that failure to appear may result in the dismissal of the Complaint with prejudice, which means that Complainant would be barred from filing another complaint raising the same claim(s) and issues(s) presented in the dismissed complaint.

Both the Initial Hearing Type Change Notice and Second 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) (*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).

I note here that, on December 10, 2025, Complainant sent an email and attachment to me, which I forwarded to counsel for Aqua PA, wherein Complainant averred that she did not believe the Commission had personal or subject matter jurisdiction in this matter. Tr. 20. Specifically, Complainant stated in the attachment, *inter alia*:

4. This Court lacks Personal Jurisdiction: I do Not appear as a Civilian, Citizen, Resident, Customer, nor Consumer. I appear as Bishop Roxane-Corpus-Christi for the AEthereal House of the Dawn, Royal Order of the Elohim; a status Formally Recognized by Pennsylvania Courts in CV-25-1542. Any Court's attempt to assert jurisdiction over a Consecrated Ecclesiastical Office is a Juridical Nullity.

5. This Court lacks Subject Matter Jurisdiction: The Matter at bar involves a Sacred Trust, sealed by vow, blood, and Ecclesiastical Office. Such matters fall under Equity and Ecclesiastical Jurisdiction, not Consumer nor Civil Law, under Canon 1417, Section 1. I have lawfully invoked the Supreme Tribunal of the Apostolic Signatura, which holds Exclusive Jurisdiction over this terrain.

Complainant failed to appear for the hearing despite receiving notice and despite the undersigned allowing additional time for Complainant to appear. 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, I find that Complainant waived the opportunity to participate in a hearing on the matters raised in the complaint, Complainant's absence was not unavoidable, and the complaint should be dismissed with prejudice.

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 with prejudice. *Brown; Williams* (citing *Jefferson*). 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).

