

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Macarena Lopez	:	
	:	
v.	:	C-2025-3058499
	:	
Duquesne Light Company	:	

INITIAL DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the oral motion of Duquesne Light Company to dismiss the Formal Complaint because Macarena Lopez failed to appear at the initial hearing and prosecute her case.

HISTORY OF THE PROCEEDING

On October 30, 2025, Macarena Lopez (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Duquesne Light Company (Respondent or DLC). The Complaint concerns electric service provided to Complainant at the service address located in Pittsburgh, Allegheny County, Pennsylvania. Complainant alleged DLC threatened to shut off service or had already shut off electric service at the service address, there were incorrect charges on DLC's bills and she was not responsible for electric service because her

landlord was responsible to pay for electric service pursuant to a judge's order. For relief, Complainant requested immediate reconnection of electric service, removal of \$10,000 in unpaid charges over five years and a full investigation by the Commission.

In the Complaint, Complainant selected the option to receive all communications from the Commission via eService through an eFiling account she registered with the Commission. Complaint ¶ 9.

On December 3, 2025,¹ Respondent filed an Answer and New Matter, with a Notice to Plead, in which Respondent admitted it provided residential electric distribution service to the service address until October 17, 2024, when DLC terminated service because there was consumption without a contract for service. DLC averred it established service in Ms. Lopez' name on October 21, 2024. Respondent acknowledged it back-billed Complainant for electric service from May 1, 2022 to October 4, 2024, and notified Complainant that \$9,986.36 was billed to Complainant on October 24, 2024.² Respondent entered into a payment arrangement with Complainant on January 28, 2025. DLC admitted Complainant filed an informal complaint with the Commission's Bureau of Consumer Services (BCS) at BCS Case No. 4066933 on May 29, 2025, and the Commission provided a payment arrangement on June 10, 2025.³

¹ The Commission served the Complaint on Respondent on November 13, 2025.

² Respondent's Answer asserted Complainant did not receive notification about the back-billing until October 24, **2025**, but the presiding officer assumed the correct year was 2024, not 2025, based on a reading of the totality of the Answer. *See* Respondent's Answer, p. 4, ¶ 5.

³ The Complaint is not an appeal of a decision by BCS. On June 10, 2025, BCS dismissed Ms. Lopez' informal complaint in part and sustained it in part. BCS concluded: (1) electric service was active at the service address from April 20, 2021 to October 17, 2024 without a contract; (2) Complainant resided at the service address; (3) DLC could hold Complainant responsible for \$9,497.36 which accrued from May 1, 2022 through October 4, 2024; (4) DLC did not offer an amortization payment arrangement for the makeup bill; (5) DLC provided all required notifications prior to terminating service

In New Matter, DLC argued the Commission does not have jurisdiction over cases involving disputes between landlords and tenants because Complainant alleged her landlord was responsible to pay the electric bill. DLC requested the portion of the Complaint related to a dispute with Complainant's landlord should be stricken from the Complaint.

On January 7, 2026, the Office of Administrative Law Judge (OALJ) issued a Call-In Telephone Hearing Notice, which scheduled an initial hearing to be conducted on February 25, 2026, with Administrative Law Judge Katrina L. Dunderdale (presiding officer). The Hearing 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).

On January 7, 2026, 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 again stated the failure to appear warning. Additionally, the Prehearing Order

on May 27, 2025; (6) and the Commission would provide Complainant with a payment arrangement on the outstanding balance.

informed the parties about the applicable procedural rules and again included the procedure to follow to request a continuance.

The Hearing Notice and Prehearing Order were eServed to Complainant in the ordinary course of the Commission's business to the email address Complainant registered with the Commission. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

On February 18, 2026, counsel for DLC sent an email to Ms. Lopez, with a copy to the presiding officer, offering to assist Ms. Lopez in getting an interpreter based on at least one previous communication between the parties when an interpreter was present. Accordingly, the presiding officer advised the parties by email on February 24, 2026, that a Spanish interpreter would be available at the telephonic hearing on February 25, 2026.

On February 25, 2026, the presiding officer convened the hearing as scheduled. Sophia Al Rasheed, Esquire, appeared on behalf of Respondent along with two witnesses and was ready to proceed. The court reporter was also present, in addition to a Spanish interpreter. Complainant was not present at the start of the hearing and on two occasions the interpreter asked in Spanish if Ms. Lopez had joined the conversation. Each time, no one spoke up and introduced themselves as Ms. Lopez or someone representing Ms. Lopez. Tr. 4, 9. The hearing proceeded in Complainant's absence, after taking a recess until 10:15 a.m. Respondent noted it made unsuccessful attempts to communicate with Complainant prior to the hearing by telephone and by email. Respondent was able to speak with Complainant on one occasion on November 14, 2025. Respondent moved to dismiss the Complaint with prejudice for Complainant's failure to appear and prosecute her Complaint. Tr. 10-11. The presiding officer 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 February 25, 2026, at the conclusion of the hearing, pursuant to 52 Pa. Code § 5.431(a).⁴ On March 2, 2025, the transcript from the initial hearing, consisting of 14 pages, was received in the Commission's Secretary's Bureau. This decision grants Respondent's motion to dismiss the Complaint, in part, but grants the motion without prejudice given the evidence within the Complaint and Answer that English is not Complainant's native language and the large balance.

FINDINGS OF FACT

1. Complainant is Macarena Lopez.
2. Respondent is Duquesne Light Company.
3. On October 30, 2025, Complainant filed a Formal Complaint against Respondent concerning electric service provided at 2405 Jane Street, Apartment 1, Pittsburgh, Allegheny County, Pennsylvania (service address).
4. On December 3, 2025, Respondent filed its Answer and New Matter to the Complaint.
5. On January 7, 2026, OALJ served a Call-In Telephone Hearing Notice on Complainant scheduling an initial telephonic hearing on February 25, 2026, at 10:00 a.m.

⁴ 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."

6. On January 7, 2026, the presiding officer served a Prehearing Order for Telephone Hearing on Complainant providing additional information to the parties regarding the hearing.

7. The Commission served both the Hearing Notice and Prehearing Order on Complainant by eService to the email address Complainant provided to and registered with the Commission.

8. Both the Hearing Notice and 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 the hearing.

9. Neither the Hearing Notice nor the Prehearing Order was returned to the Commission as undeliverable.

10. Complainant failed to appear and participate in the scheduled telephonic hearing on February 25, 2026.

11. The court reporter, Counsel for Respondent, a Spanish interpreter and Respondent's two witnesses were present and prepared to proceed at the February 25, 2026 hearing.

12. 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 with notice and the opportunity to be heard. First, on January 7, 2026, Complainant was served a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on January 7, 2026, Complainant was served with 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 eServed to Complainant at the email address she registered with the Commission. Neither was returned to the Commission as undeliverable. Notice eServed to a party's registered email address with no notification that service failed is presumed to have been received. *Hu v. PECO Energy Co.*, Docket No. C-2019-3012075 (Order entered Dec. 19, 2019); *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered Apr. 7,

2017); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered Jan. 31, 2017).

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).

A 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 a party's failure to appear was unavoidable, a

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 hearing despite receiving notice from the Commission and from Respondent, and despite the undersigned allowing additional time at the hearing for Complainant to appear. To date, there has been no communication to OALJ or the presiding officer 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.

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 a respondent public utility is responsible or accountable for the problem described in a 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 that is more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

As the proponent of any request for relief, Complainant bears the burden of proof. By failing to participate and proffer any evidence to support the Complaint, Complainant has failed to meet this burden. Thus, it is appropriate to dismiss the Complaint. *Brown 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 the Complaint will be granted, however, the Complaint is dismissed without prejudice given the large balance and the evidence within the Complaint and Answer that English is not Complainant's native language.

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 eServed to a party's registered email address with no notification that service failed to be delivered to that email address is presumed to have been received. *Hu v. PECO Energy Co.*, Docket No. C-2019-3012075 (Order entered Dec. 19, 2019); *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered Apr. 7, 2017); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered Jan. 31, 2017).

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, a 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).

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).

