

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Mark Landi	:	
	:	
v.	:	F-2025-3054104
	:	
UGI Utilities, Inc. - Electric Division	:	

**INITIAL DECISION**

Before  
F. Joseph Brady  
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 March 18, 2025, Mark Landi (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against UGI Utilities, Inc. - Electric Division (Respondent) disputing the amount of a bill.<sup>1</sup>

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<sup>1</sup> The Complaint is a timely appeal from the determination of the Commission's Bureau of Consumer Services (BCS), at BCS No. 4027456, which dismissed Complainant's informal complaint. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

In the 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 April 10, 2025, Respondent filed an Answer in which it denied the material allegations of fact and conclusions of law in the Complaint. Respondent requested that the Complaint be dismissed.

By Interim Order dated April 16, 2025, Chief Administrative Law Judge Charles E. Rainey, Jr. set the matter for a resolution conference. The parties were unable to resolve the matter through mediation.

On August 18, 2025, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing on October 14, 2025, at 1:00 p.m., and the matter was assigned to me.

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 August 22, 2025, a Prehearing Order was served on the parties reminding them of the date and time of the hearing. The Prehearing Order also stated the potential consequences if a party failed to appear at the hearing. Additionally, the Prehearing Order informed the parties about the applicable procedural rules and again included the procedure to follow for hearing continuances.

On October 2, 2025, Respondent filed an unopposed Motion for Continuance due to a conflict in their schedule.

On October 15, 2025, an Order was issued granting Respondent's Motion for Continuance.

On October 17, 2025, a Cancelled/Rescheduled Initial Telephonic Hearing Notice was served on the parties rescheduling an initial telephonic hearing for December 18, 2025, at 10:00 a.m.

The Cancelled/Rescheduled Hearing Notice provided the parties with the Toll-Free Bridge Number and the PIN to call and participate in the telephonic hearing. The Cancelled/Rescheduled 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).

In the ordinary course of the Commission’s business, both Hearing Notices and the Prehearing Order were served via U.S. First-Class Mail to Complainant at the street address provided by Complainant to the Commission. The Commission did not receive any return mail that the Hearing Notices or the Prehearing Order sent to Complainant’s address were undeliverable.

On December 18, 2025, I convened the hearing as scheduled. Alice M. Wade, Esquire, appeared on behalf of Respondent and was ready to proceed. The court reporter was also present. Complainant was not present at the start of the hearing. After a short recess 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 the Complaint. Tr. 5-6. I took this Motion under advisement.

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

The record closed on January 5, 2026, upon the filing of the transcript with the Commission. This Decision grants Respondent's Motion to Dismiss the Complaint with prejudice.

## FINDINGS OF FACT

1. Complainant is Mark Landi.
2. Respondent is UGI Utilities, Inc. - Electric Division.
3. On March 18, 2025, Complainant filed a Formal Complaint against Respondent.
4. On April 10, 2025, Respondent filed an Answer to the Complaint.
5. On August 18, 2025, a Call-In Telephone Hearing Notice was served on Complainant scheduling an initial telephonic hearing on October 14, 2025, at 1:00 p.m.
6. On August 22, 2025, a Prehearing Order for Telephone Hearing was served on Complainant providing additional information to the parties regarding the hearing.
7. On October 15, 2025, an Order was issued granting Respondent's Motion for Continuance.
8. On October 17, 2025, a Cancelled/Rescheduled Initial Telephonic Hearing Notice was served on the parties rescheduling an initial telephonic hearing for December 18, 2025, at 10:00 a.m.
9. Both the Hearing Notices and Prehearing Order were served on Complainant by U.S. First-Class Mail to the postal address Complainant provided to the Commission.

10. Both the Hearing Notices and 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.

11. Neither the Hearing Notices nor the Prehearing Order were returned to the Commission as undeliverable.

12. On December 18, 2025, the hearing convened as scheduled.

13. Complainant failed to appear and participate in the scheduled telephonic hearing on December 18, 2025. Tr. 4.

14. The court reporter and Counsel for Respondent were present and prepared to proceed at the December 18, 2025 hearing. Tr. 4-5.

15. Complainant has not contacted the Commission to explain why Complainant's 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 August 18, 2025, the Commission served Complainant a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on August 22, 2025, the Commission served Complainant a Prehearing Order which reminded the parties of the date and time of the hearing, and how to participate. Third, on October 17, 2025, the Commission served Complainant a Cancelled/Rescheduled Hearing Notice which advised the parties of the date and time of the rescheduled hearing, and how to participate. Further, all documents advised the parties, *inter alia*, how to request a continuance prior to the hearing if needed. Finally, all 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 claims and issues presented in the dismissed Complaint.

Both the Hearing Notices and Prehearing Order were served by U.S. First-Class Mail to the address provided on the Complaint. None of the documents were 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. W. 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 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 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 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).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That UGI Utilities, Inc. - Electric Division's Motion to Dismiss with prejudice the Formal Complaint of Mark Landi, at Docket No. F-2025-3054104, is granted.

