

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120**

Public Meeting held April 16, 2026

Commissioners Present:

Stephen M. DeFrank, Chairman  
Kimberly Barrow, Vice Chair  
Kathryn L. Zerfuss  
John F. Coleman, Jr.  
Ralph V. Yanora

Karen Truax

F-2024-3051023

v.

PPL Electric Utilities Corporation

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of Karen Truax (Ms. Truax or Complainant), filed on December 9, 2025, to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) Mary D. Long, issued on November 21, 2025, in the above-captioned

proceeding. Replies to Exceptions were filed by PPL Electric Utilities Corporation (PPL) on December 24, 2025.<sup>1</sup>

In the Initial Decision, ALJ Long dismissed a Formal Complaint (Complaint) filed by Ms. Truax against PPL on August 22, 2024, and granted an oral motion made by counsel for PPL for dismissal, based on Ms. Truax's failure to appear at the scheduled hearing and prosecute her Complaint.

For the reasons set forth below, we shall grant the Exceptions and remand this matter to the Office of Administrative Law Judge (OALJ) for further proceedings as necessary, consistent with this Opinion and Order. In doing so, we find that Ms. Truax made a good faith effort to attend the hearing and has presented good cause for her failure to appear and prosecute her Complaint.

## **I. History of the Proceeding**

On August 22, 2024, Ms. Truax filed the instant Complaint<sup>2</sup> and made the following three allegations: (1) PPL was threatening to shut off, or had already terminated, her service; (2) there were incorrect charges included on her bill; and

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<sup>1</sup> As noted below, no Certificate of Service was included with the Complainant's Exceptions to indicate that PPL had been properly served with the Complainant's Exceptions. Consequently, on December 16, 2025, the Commission issued a Secretarial Letter (*December 2025 Secretarial Letter*) serving the Exceptions on the Company and granted the Company until December 26, 2025 to file Reply Exceptions. *December 2025 Secretarial Letter* at 1.

<sup>2</sup> The Complaint is a timely appeal from an informal decision of the Commission's Bureau of Consumer Services (BCS), issued on July 22, 2024, at BCS No. 3980848, as it was filed within thirty (30) days of the mailing of a Formal Complaint form by the Secretary of the Commission. *See*, 52 Pa. Code §56.172(c). Appeals of informal complaint decisions by BCS are subject to *de novo* review. 52 Pa. Code §56.173(a).

(3) PPL had mismanaged enrollment data from Ms. Truax' OnTrack program enrollment. Complaint at 2. The Complainant generally raised an alleged "confusing array of incorrect data and distressing communication gap" in the OnTrack program and requested that the Commission find that she had completed the OnTrack program and PPL should close her file "without further demand [for payment]." *Id.* at 5.

On September 25, 2024, PPL filed an Answer to the Complaint (Answer), denying the material averments of the Complaint filed by Ms. Truax. PPL specifically denied that: (1) the Company's OnTrack program data was inconsistent or incorrect; (2) Ms. Truax completed her obligations as part of the OnTrack program; (3) Ms. Truax is entitled to debt forgiveness based upon her participation in the OnTrack program; and (4) PPL had erred in the calculation of Ms. Truax's OnTrack eligibility limit. Answer at 2-4.

An Interim Order Setting Resolution Conference was issued on October 2, 2024, directing the Parties to attempt resolution of the Complaint with the assistance of a Commission mediator. Interim Order at 1-2.

By Call-In Telephone Hearing Notice dated February 18, 2025, the OALJ notified the Parties that an initial telephonic hearing was scheduled for April 22, 2025. The case was assigned to ALJ Mary D. Long. On February 19, 2025, the ALJ issued a Prehearing Order which, *inter alia*, advised the Parties that continuances would only be granted if requested, and only in rare situations where sufficient cause was shown to exist. I.D. at 2.

On Wednesday, April 16, 2025, the Complainant contacted the office of ALJ Long and stated she had not received the Hearing Notice or Prehearing Order in this matter. ALJ Long directed PPL, if it did not object to a continuance, to contact

Ms. Truax to reschedule. PPL reported to ALJ Long that the Parties had agreed to continue the April 22, 2025 hearing to July 15, 2025. I.D. at 2.

A Cancelled/Rescheduled Initial Telephonic Hearing Notice was served on the Parties on April 18, 2025, rescheduling the initial telephonic hearing to July 15, 2025. I.D. at 2.

ALJ Long convened the telephonic hearing, as scheduled, on July 15, 2025. Ms. Truax failed to appear at the hearing, and after a recess, PPL motioned for the Complaint to be dismissed for a failure to appear at the hearing and prosecute the Complaint. I.D. at 2.

Ms. Truax subsequently contacted the office of ALJ Long on July 15, 2025 and, thereafter, provided a letter explaining that “she did not appear at the hearing because she believed she was in active settlement negotiations with PPL and was expecting a return call from counsel.” I.D. at 3. A copy of this letter was provided to PPL by ALJ Long.

PPL responded to Ms. Truax’s July 15, 2025 letter on July 25, 2025, and argued that it did not believe Ms. Truax’s absence was unavoidable. Despite this position, PPL clarified that it did not object to the scheduling of a third hearing in this matter. I.D. at 3.

ALJ Long issued a third Hearing Notice on July 24, 2025, scheduling a third telephonic hearing for September 30, 2025. I.D. at 3. A third Prehearing Order was also issued on July 24, 2025. Both of these documents outlined the possible consequences should a party fail to appear at the hearing. July 24, 2025, Telephonic Hearing Notice at 1; July 24, 2025, Prehearing Order at 1.

A telephonic hearing convened as scheduled on September 30, 2025. PPL appeared, with counsel. Ms. Truax did not appear or participate in the September 30, 2025 hearing. After a short recess to allow Ms. Truax to appear, the hearing was reconvened without Ms. Truax and PPL moved to dismiss the Complaint, with prejudice. I.D. at 3. ALJ Long advised PPL that she would take the Company's oral Motion to Dismiss the Complaint (Motion) under advisement. *Id.* at 3 (citing Tr. at 17).

Following the receipt of the hearing transcript, ALJ Long issued an Interim Order closing the record on October 21, 2025. I.D. at 3.

On November 21, 2025, the Commission issued the Initial Decision of ALJ Long. Therein, the ALJ granted PPL's Motion and dismissed the Complaint, based upon the failure of the Complainant to appear at the hearing and prosecute the Complaint. I.D. at 9-10.

The Commission's Secretarial Letter accompanying the Initial Decision directed that Exceptions be filed within twenty (20) days of the date of the Secretarial Letter, and that Replies to Exceptions be filed within ten (10) days of the due date for Exceptions.

As previously noted, the Complainant filed Exceptions on December 16, 2025. However, the Exceptions did not include a Certificate of Service. Also on December 16, 2025, the Commission issued the *December 2025 Secretarial Letter* serving the Exceptions on the Company and providing the Company until December 26, 2025 to file Reply Exceptions. *December 2025 Secretarial Letter* at 1.

On December 24, 2025, PPL filed Reply Exceptions, consistent with the *December 2025 Secretarial Letter*.

## II. Discussion

At the outset, we note that any issue not specifically addressed herein shall be deemed to have been duly considered and denied without further discussion. It is well-settled that the Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741, 744 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217, 1222-1223 (Pa. Cmwlth. 1984).<sup>3</sup>

### A. Legal Standards

#### 1. Administrative Due Process and Notice

As an administrative agency of the Commonwealth, the Commission is required to provide due process to the parties appearing before it. *Schneider v. Pa. PUC*, 479 A.2d 10, 15 (Pa. Cmwlth. 1984) (*Schneider*). Due process is satisfied when the parties are afforded notice and the opportunity to appear and be heard. *Schneider* (citing *Township of Middleton v. The Institute District of the County of Delaware*, 293 A.2d 885 (Pa. Cmwlth. 1972), *aff'd*, 299 A.2d 599 (Pa. 1973)).

The Commission is required to fix the time and place of a hearing in a complaint proceeding and to serve notice thereof upon the parties in interest. *See* 66 Pa.C.S. § 703(a)-(b). Service on interested persons is sufficient to provide notice. 52 Pa. Code § 5.201(a). Notice eServed to a party's registered email address with no

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<sup>3</sup> *See also Metropolitan Edison Co. v. Pa. PUC*, 22 A.3d 353 (Pa. Cmwlth. 2011), *appeal denied*, 22 A.3d 353 (Pa. 2012) (citing *Wheeling & Lake Erie Railway Company v. Pa. PUC*, 778 A.2d 785, 794 (Pa. Cmwlth. 2001) for the proposition that the Commission is not required to expressly consider all of the arguments set forth by the parties in its Order).

notification that service failed is presumed to have been received. *See Hu v. PECO Energy Co.*, Docket No. C-2019-3012075 (Order entered December 19, 2019) (*Hu*); *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered April 7, 2017) (*Zirkel*); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered January 31, 2017) (*Morella*).

Once notice of a hearing and the opportunity to be heard have been provided by the Commission, it is the responsibility of the parties to appear and participate in the hearing. *Mumma v. PPL Electric Utilities Corporation*, Docket No. C-00014869 (Opinion and Order entered January 24, 2002) (*Mumma*).

A party to a proceeding has the right to request a continuance of the hearing, which may be granted by the presiding officer for “good cause.” *See* 52 Pa. Code § 1.15(b). Pursuant to the Commission’s Regulations, a continuance request is required to be in writing and filed with the presiding officer at least five days prior to the hearing date, except that, during a hearing, an oral request for hearing continuance may be made before the presiding officer in the hearing room. *Id.* When “good cause” is shown for a hearing continuance, the Commission has acknowledged that the public interest is better served when all litigants, particularly *pro se* litigants, are afforded a meaningful opportunity to be heard. *See, e.g., Laurie Loucks v. Metropolitan Edison Company*, Docket No. C-2017-2619974 (Opinion and Order entered May 16, 2018) (*Loucks*).<sup>4</sup>

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<sup>4</sup> In *Loucks*, the Commission reversed the presiding ALJ’s decision to dismiss the complaint, with prejudice, and remanded the matter for hearing because the complainant attended and participated in the first scheduled hearing, which was not completed due to a technical problem with the teleconference line, and the complainant sought a continuance of the rescheduled hearing to review the Company’s newly proffered exhibits for which there was question in record as to whether such exhibits had been timely served on the complainant pursuant to the prehearing order’s requirements. *Loucks* at 7-8, 15-17.

If a party fails to attend a scheduled hearing, such failure to appear will be deemed a waiver of the party's opportunity to participate in a hearing, unless the presiding officer determines that such failure was "unavoidable" and that the interests of the other parties and of the public would not be "prejudiced" by permitting such reopening or further examination. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a)-(b).

In prior cases, the Commission has held that to meet the "unavoidable" standard, a complainant must show, with supporting evidence, that the failure to appear was due to exigent circumstances. *See, e.g., Slebodnick v. Pennsylvania Electric Company*, Docket No. F-2019-3011514 (Opinion and Order entered December 17, 2020) (*Slebodnick*); *El-Ayazra v. West Penn Power Company*, Docket No. F-2015-2509292 (Opinion and Order entered June 30, 2016) (*El-Ayazra*).

Moreover, the Commission will exercise its discretion and excuse a complainant's failure to appear at a hearing if the complainant demonstrates that they made a good faith attempt to attend the hearing. *See, e.g., Yomari Then v. Philadelphia Gas Works*, Docket No. F-2012-2318264 (Opinion and Order entered June 13, 2013) (*Yomari Then*).<sup>5</sup> If a complainant's failure to appear was unavoidable or if the complainant made a good faith attempt to appear, the Commission has acknowledged that the public interest is better served when all litigants, particularly *pro se* litigants, are afforded a meaningful opportunity to be heard. *Yomari Then*.

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<sup>5</sup> In *Yomari Then*, the Commission vacated the ALJ's decision to dismiss the complaint, with prejudice, and remanded the matter for hearing because the complainant attempted to attend the scheduled hearing, and appeared in the correct building, but was unable to locate the hearing room in the building due to language challenges. *Yomari Then* at 5. *See also, e.g., Windell C. Wiggins v. PECO Energy Company*, Docket No. C-2010-2190335 (Opinion and Order entered October 27, 2011); and *Edward B. Ference v. Equitable Gas Company*, Docket No. C-20015840 (Order entered February 12, 2002).

## 2. Burden of Proof

As the party seeking affirmative relief from the Commission, the complainant in a formal complaint proceeding has the burden of proof. 66 Pa.C.S. § 332(a). The evidence necessary to meet that burden must be substantial. 2 Pa.C.S. § 704. “Substantial evidence” is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. *Consolidated Edison Company of New York v. National Labor Relations Board*, 305 U.S. 197, 229, 59 S.Ct. 206, 217. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

To establish a sufficient case and satisfy the burden of proof, the complainant must show that the respondent utility is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). The offense must be a violation of the Code, a Commission Regulation or Order or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701; *West Penn Power Co. v. Pa. PUC*, 478 A.2d 947, 949 (Pa. Cmwlth. 1984). Such a showing must be by a “preponderance of the evidence.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 529 Pa. 654, 602 A.2d 863 (1992). That is, the Complainant’s evidence must be more convincing, by even the smallest amount, than that presented by the respondent. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

The burden of proof is comprised of two distinct burdens: (1) the burden of production; and (2) the burden of persuasion. *Hurley v. Hurley*, 2000 Pa. Super. 178, 754 A.2d 1283 (2000). The burden of production, also called the burden of going forward with the evidence, determines which party must come forward with evidence to support a particular claim or defense. *Scott and Linda Moore v. National Fuel Gas Distribution*, Docket No. C-2014-2458555 (Initial Decision issued May 11, 2015)

(*Moore*). The burden of production goes to the legal sufficiency of a party's claim or affirmative defense. *See Id.* The burden of production may shift between the parties during a hearing. A complainant may establish a *prima facie* case with circumstantial evidence. *See Milkie v. Pa. PUC*, 768 A.2d 1217, 1220 (Pa. Cmwlth. 2001) (*Milkie*). If a complainant introduces sufficient evidence to establish legal sufficiency of the claim, also called a *prima facie* case, the burden of production shifts to the utility to rebut the complainant's evidence. *See, Moore*.

If the utility introduces evidence sufficient to balance the evidence introduced by the complainant, that is, evidence of co-equal value or weight, the complainant's burden of proof has not been satisfied and the burden of going forward with the evidence shifts back to the complainant, who must provide some additional evidence favorable to the complainant's claim. *See Milkie*, 768 A.2d at 1220; *see also Burlison v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 501 Pa. 433, 461 A.2d 1234 (1983) (*Burlison*).

Having produced sufficient evidence to establish legal sufficiency of a claim, the party with the burden of proof must also carry the burden of persuasion to be entitled to a favorable ruling. *See Moore*. While the burden of production may shift back and forth during a proceeding, the burden of persuasion never shifts; it always remains on a complainant as the party seeking affirmative relief from the Commission. *See Milkie*, 768 A.2d at 1220; *see also, Riedel v. County of Allegheny*, 633 A.2d 1325, 1328, n.11 (Pa. Cmwlth. 1993); *see also Burlison*, 443 A.2d at 1375. It is entirely possible for a party to carry the burden of production but not be entitled to a favorable ruling because the party did not carry the burden of persuasion. *See Moore*. In determining whether a

complainant has met the burden of persuasion, the fact-finder<sup>6</sup> may engage in determinations of credibility, may accept or reject testimony of any witness in whole or in part, and may accept or reject inferences from the evidence. *See Moore* (citing *Suber v. Pennsylvania Com'n on Crime and Delinquency*, 885 A. 2d 678, 682 (Pa. Cmwlth. 2005)).

## **B. ALJ's Initial Decision**

ALJ Long made eight (8) Findings of Fact and reached four (4) Conclusions of Law. I.D. at 4, 9-10. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

In the Initial Decision, ALJ Long granted PPL's oral Motion, that the Company made at the September 30, 2025, telephonic hearing.<sup>7</sup> I.D. at 1, 9-10. The ALJ concluded that Ms. Truax "was notified of the scheduled call-in procedure, date and time, as well as how to contact the Office of Administrative Law Judge..." but failed to appear or offer a credible excuse for failing to appear. *Id.* at 9.

The ALJ noted that the Commission electronically served both the Hearing Notice and Prehearing Order to Ms. Truax at the email address she registered with the

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<sup>6</sup> In formal complaint proceedings, the Commission, not the ALJ, is the ultimate fact-finder; it weighs the evidence and resolves conflicts in testimony. When reviewing the initial decision of an ALJ, the Commission has all the powers that it would have had in making the initial decision, except as to any limits that it may impose by notice or by rule. *Milkie*, 768 A.2d at 1220, n. 7 (citing, *inter alia*, 66 Pa.C.S. § 335(a)).

<sup>7</sup> The ALJ also noted Ms. Truax's failure to appear for the July 15, 2025, telephonic hearing. *See* I.D. at 2. However, based on the agreement of the Parties to reschedule that hearing for September 30, 2025, ALJ Long's Initial Decision addresses only the failure of the Complainant to appear on September 30, 2025.

Commission, and that neither the Hearing Notice, nor the Prehearing Order, were returned to the Commission as undeliverable. I.D. at 6-7. The ALJ recognized that, under such circumstances, the rebuttable presumption is that the Hearing Notice and the Prehearing Order had been received by Ms. Truax. I.D. at 7 (citing *Hu, Zirkel, and Morella*).

ALJ Long elaborated on this point and observed the Prehearing Order served on Ms. Truax “included my contact information and instructions for requesting a continuance of the hearing if the date and time was inconvenient.” I.D. at 7. Despite Ms. Truax having access to this information, the ALJ found that Ms. Truax only contacted ALJ Long’s office “[w]ell after the hearing was concluded...” *Id.* at 8. The ALJ was not swayed by Ms. Truax’s basis for failing to appear, and stated it was not credible under the circumstances. Namely, the ALJ observed:

The Complainant did not attempt to call in to the conference bridge during the twenty minutes that the hearing was in session. She did not contact my office during that twenty-minute period to report that she was having a problem being connected. *She did not report her claim that she attempted to call in until well after the hearing was concluded.*

*Id.* (emphasis added). Additionally, ALJ Long noted that Ms. Truax had experience contacting her office and had received instructions for requesting relief, including continuances on previous occasions. I.D. at 8.

The ALJ concluded that, 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. I.D. at 9 (citing *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993); *Mumma.*). The ALJ noted that both the 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. I.D. at 5 (citing 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a)).

Based on the failure of Ms. Truax to appear and prosecute the Complaint against PPL, the ALJ concluded that Ms. Truax failed to sustain her burden of proof. I.D. at 9. In light of the failure of Ms. Truax to appear for the hearing, the ALJ granted the oral Motion of PPL to dismiss the Complaint. *Id.* at 9-10.

### **C. Exceptions and Replies**

At the outset, we note that the format of the Exceptions does not strictly comply with Section 5.533(b) of the Commission’s Regulations, which requires that each exception be numbered and identify the finding of fact and conclusion of law to which exception is taken. 52 Pa. Code § 5.533(b). Nevertheless, recognizing that Ms. Truax is appearing *pro se*, we will exercise our discretion to accept the Exceptions, as filed, pursuant to Section 1.2(a) of our Regulations, and consider the merits. 52 Pa. Code § 1.2(a); *Steve Atuahene and Agnes Atuahene v. Philadelphia Gas Works*, Docket No. F-2018-3004665 (Opinion and Order entered October 11, 2019).

In her Exceptions, Ms. Truax states that the ALJ “ignores” her efforts to connect to the telephonic hearing. Exc. at 1. Ms. Truax states the following in attempting to excuse her failure to appear for the September 30, 2025, hearing:

- The conference call automation reported that, “...there are three parties in the conference, including [me]...”
- I was on-hold for approximately twenty-five minutes.
- Afterwards, I frantically searched for the ALJ’s phone number, and had dialed several before finally dialing the correct number.

- Mary Swarner, the legal assistant to ALJ Mary Long, had answered the phone. Our conversation had occurred sometime between 10:45 AM and 11:05 AM
- She had reassured me that my not having been patched-in to the hearing, “...was just a fluke ...and reflected no deliberateness on their part...”. She then recommended that I immediately email ALJ Mary Long, plus include every email address of all legal counsel for the utility company. She was patient while clearly instructing what I should mention in the email. (Please refer to the attached copy of the email.)
- Email sent to ALJ and legal counsel, by 11:35 AM

*Id.* (formatting in original). The Complainant does not request a rehearing in her Exceptions, nor does she contest a specific finding of fact or conclusion of law. Appended to the Exceptions is a partial email transcript, which ostensibly shows Ms. Truax’s attempts to contact ALJ Long and PPL regarding her difficulty connecting to the call.

As noted, *supra*, PPL filed Reply Exceptions on December 24, 2025. In its Reply Exceptions, PPL asks the Commission to deny Ms. Truax’s Exceptions, adopt the Initial Decision of ALJ Long without modification, and dismiss Ms. Truax’s Complaint, with prejudice. R. Exc. at 1. In support for this position, PPL asserts that ALJ Long “properly afforded Complainant due process throughout this proceeding...” and ALJ Long “properly dismissed the Complaint because the Complainant’s failure to appear was not unavoidable...” *Id.* at 5-6.

PPL also notes that based on precedent, to meet the “unavoidable” standard, the Commission requires a complainant to show, with supporting information, that the failure to appear was due to exigent circumstances. R. Exc. at 6 (citing *Panepinto v. First Energy Elec. Co.*, Docket C-2024-3051189 (Opinion and Order entered October 9, 2025) at 7). PPL argues that Ms. Truax’s “prior participation in the proceeding demonstrates her ability to review the Commission’s orders and use the

call-in number and PIN...” required to participate in a telephonic hearing or request a continuance. R. Exc. at 6 (citing Exc. at 1, I.D. at 8). Here, states PPL, Ms. Truax did not present a credible reason for her failure to appear and ALJ Long found that at the scheduled time of the hearing, Ms. Truax did not attempt to call in for the hearing, contact ALJ Long’s office, or report her claim that she attempted to call into the hearing. R. Exc. at 6.

Additionally, PPL objects to Ms. Truax’s attempts to introduce and rely on evidence that is not a part of the record. R. Exc. at 7. PPL asserts the email record appended to Ms. Truax’s Exceptions is not in the record of this proceeding and cannot be introduced at the Exceptions stage. R. Exc. at 7 (citing *Application of Apollo Gas Co.*, 81 PA PUC 475 at 478-490 (Order entered February 10, 1994) (*Apollo Gas*)).<sup>8</sup> PPL contends that by presenting this evidence at the Exceptions stage, Ms. Truax has denied PPL an opportunity to inspect the evidence, and insists that reliance on it by the Commission would violate PPL’s due process rights. PPL asks the Commission to decline to consider this extra-record evidence and argues in the alternative that should the Commission consider the evidence, it does not meet the evidentiary burden necessary to find Ms. Truax’s failure to appear was unavoidable. R. Exc. at 8.

#### **D. Disposition**

On review of the record evidence in this proceeding, we shall grant the Exceptions of Ms. Truax and remand this matter to the OALJ for further proceedings as necessary, consistent with the following discussion.

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<sup>8</sup> In *Apollo Gas*, the Commission denied a party’s attempt to introduce extra-record evidence in its exceptions.

First, insomuch as the Complainant attempts in her Exceptions to introduce extra-record evidence, we decline to review such evidence. *Apollo Gas* at 478-90. Therefore, we shall not consider the partial email record appended to Ms. Truax's Exceptions. However, we do note that parts of the new information in the Exceptions relate to Ms. Truax's failure to appear at the hearing. Based on this, we exercise our discretion, consistent with 52 Pa. Code 1.2(a), to complete our inquiry of whether Ms. Truax's failure to appear was unavoidable.

The Commission has previously held that once notice of a hearing and the opportunity to be heard has been provided by the Commission, it is the responsibility of the parties to appear and participate in the hearing. *See Mumma; Sentner*. The parties to a proceeding have the right to request a continuance of the hearing, and a continuance request may be granted by the presiding officer for "good cause." *See* 52 Pa. Code § 1.15(b). When "good cause" is shown in a request for a continuance, the Commission has acknowledged that the public interest is better served when all litigants, particularly *pro se* litigants, are afforded a meaningful opportunity to be heard. *See Loucks, supra*.

We note that it is within the discretion of the ALJ to decide whether the Complainants' failure to appear was unavoidable and whether permitting further proceedings after the failure to appear would prejudice the public interest or other parties. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a)-(b). Here, ALJ Long found it appropriate to dismiss the Complaint, finding that Ms. Truax had not provided good cause for failure to appear and failed to participate in the hearing or to provide evidence in support of her Complaint. I.D. at 8-9.

From an administrative due process standpoint, the Commission examines whether the Complainant's failure to appear at a scheduled and duly noticed hearing shall be deemed the Complainant's waiver of the opportunity to participate in a hearing in this Complaint proceeding, pursuant to 66 Pa.C.S. § 332(f) and 52 Pa. Code § 5.245(a)-(b).

Whether the Complainant failed to appear at the hearing due to “unavoidable” circumstances is a fact-based question. Where a complainant’s failure to appear at a scheduled hearing is unavoidable, the ALJ has the discretion to recognize that, and to reschedule the hearing. However, if a complainant fails to bring the situation to the attention of the presiding officer prior to the issuance of the Initial Decision, the record closes and the presiding officer can no longer exercise that discretion. *See, e.g., Alice Anderson v. PECO Energy Company*, Docket No. F-2017-2614241 (Opinion and Order entered July 18, 2018).

The Commission’s Regulations provide that the Commission may reopen and conduct further examination in a proceeding where the failure to appear was “unavoidable” and other parties would not be “prejudiced,” or where a party made a good faith attempt to attend the hearing. 52 Pa. Code §5.245(b); *Yomari Then*.

At the exceptions stage of the proceeding, the record is closed, and the party filing exceptions is charged with not only challenging the findings and conclusions set forth in the Initial Decision, but also with providing a compelling explanation of why they failed to raise their excuse in a timely fashion so that the ALJ could determine whether to reschedule the hearing.

In this present case, the Complainant did not appear for the hearing scheduled in this matter. The Commission also notes that Ms. Truax was aware of the process for contacting ALJ Long’s office to request a continuance. Indeed, Ms. Truax had previously contacted ALJ Long’s office on April 16, 2025, stating she had not received pre-hearing documents for the first hearing in this matter, scheduled for April 22, 2025. I.D. at 2. After discussion with ALJ Long’s office, Ms. Truax was instructed to file a request for a continuance with the Commission and did so via eFile on April 18, 2025. *Id.* at 2, n.2.

Additionally, the record indicates that the Commission eServed both the Hearing Notice and Prehearing Order to Ms. Truax at the email address she registered with the Commission and that these documents were not returned to the Commission as undeliverable. I.D. at 4. Absent evidence to the contrary, it is presumed Ms. Truax received these documents and had notice of their contents. *See Id.* at 7; *Hu, Zirkel, Morella.*

However, we note that Ms. Truax did not believe a continuance was necessary and, in her Exceptions, she relayed the steps she took attempting to join the telephonic hearing on September 30, 2025. More specifically, Ms. Truax explains that technical difficulties prevented her from joining the telephonic hearing in a timely fashion and that she was on hold for twenty-five (25) minutes awaiting connection to the hearing. After having trouble connecting to the telephonic hearing, or approximately thirty (30) minutes after the hearing had concluded, Ms. Truax avers that she contacted ALJ Long's office, at which time she was advised to email ALJ Long and the other Parties to this matter. Within two hours of the scheduled hearing, Ms. Truax had followed the steps relayed by ALJ Long's staff. Exc. at 1.

Based on the assertions made by Ms. Truax, and the lack of evidence countering her assertions in both the Initial Decision and the Company's Reply Exceptions, the Commission is compelled to find exigent circumstances existed, which precluded Ms. Truax from joining the telephonic hearing on September 30, 2025. *See Slebodnick; El-Ayazra.* Specifically, Ms. Truax has alleged that she called in to the telephonic bridge for the hearing, waited on hold, and was disconnected from the call without being added. Exc. at 1. These technical difficulties meet the standard for exigent circumstances, especially in light of the lack of evidence contradicting Ms. Truax's claims.

Considering this Commission’s holding in *Yomari Then*, we also believe that Ms. Truax made a good faith effort to attend the hearing.<sup>9</sup> In *Yomari Then*, the Complainant arrived at the location of the in-person hearing but was unable to find the correct room because of difficulties understanding English. *Yomari Then* at 5. Here, Ms. Truax alleges that she called into the hearing but was never connected. As in *Yomari Then*, Ms. Truax arrived at the correct location but was unable to be connected, through no fault of her own. As in *Yomari Then*, we also consider Ms. Truax’s *pro se* status and acknowledge the public interest is better served when *pro se* litigants are given meaningful opportunities to be heard by the Commission.

Finally, the Commission believes that Ms. Truax acted promptly to remedy the situation caused by her failure to appear. While the ALJ stated that Ms. Truax contacted ALJ Long’s office “well after the hearing,” Ms. Truax avers she contacted ALJ Long’s office and spoke with a staff member within one hour of the scheduled hearing. Exc. at 1. The ALJ’s vague reference to the Complainant’s contact “long after the hearing” apparently formed the basis for concluding that the time which had lapsed since the hearing was too long to reflect a credible attempt by the Complainant to attend the hearing. *See* I.D. at 8. However, Ms. Traux’s assertion reflects what appears to have been a reasonable lapse of time. After speaking with a staff member, Ms. Truax was advised to email ALJ Long and PPL to advise them of what had occurred. Exc. at 1. Ms. Truax indicates in her Exceptions that she followed the instructions given to her by the staff member and sent an email to ALJ Long and PPL less than two hours after the hearing was concluded. These actions taken by Ms. Truax are evidence of a good faith effort to appear and, thereafter, remedy her failure to appear.

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<sup>9</sup> As previously noted, in formal complaint proceedings, the Commission, not the ALJ, is the ultimate fact-finder; it weighs the evidence and resolves conflicts in testimony. When reviewing the initial decision of an ALJ, the Commission has all the powers that it would have had in making the initial decision, except as to any limits that it may impose by notice or by rule. *Milkie*, 768 A.2d at 1220, n. 7 (citing, *inter alia*, 66 Pa.C.S. § 335(a)).

Although not required, as a practical matter, we note that where a hearing is conducted by telephonic bridge, if a party does not call in or does not appear to be connected to the bridge, the ALJ may call the party to ensure that the party is not experiencing technical difficulties.

The Commission finds that Ms. Truax made a good faith effort to appear and has offered sufficient good cause for her failure to appear. Therefore, based on the foregoing, the Commission shall grant the Exceptions filed by Ms. Truax. In doing so, this matter is remanded to the OALJ for further proceedings, as may be deemed necessary. We recognize that the hearing in this matter has been rescheduled several times. Accordingly, Ms. Truax is advised to follow all procedures outlined in any order sent to her by the OALJ and that failure to appear at further scheduled hearings may result in the outright dismissal of her Complaint.

### **III. Conclusion**

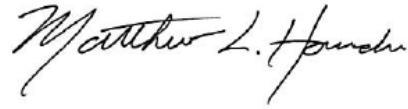
Based on the foregoing discussion, we shall grant the Complainant's Exceptions and remand this matter to the Office of Administrative Law Judge for further proceedings, as deemed necessary; **THEREFORE,**

#### **IT IS ORDERED:**

1. That the Exceptions of Karen Truax, filed on December 16, 2025, to the Initial Decision of Administrative Law Judge Mary D. Long, issued on November 21, 2025, at Docket No. F-2024-3051023, are granted, consistent with this Opinion and Order.

2. That this matter, at Docket No. F-2024-3051023, is remanded to the Office of Administrative Law Judge for further proceedings, as deemed necessary.

**BY THE COMMISSION**

A handwritten signature in black ink, reading "Matthew L. Homsher". The signature is written in a cursive style with a large initial "M".

Matthew L. Homsher  
Secretary

(SEAL)

ORDER ADOPTED: April 16, 2026

ORDER ENTERED: April 16, 2026