

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

William Plange	:	
	:	
v.	:	F-2025-3056250
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial 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 July 9, 2025, William Plange (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (Respondent or PECO). The Complainant alleges that the utility was threatening to shut off or had already shut off his utility service and requested a payment arrangement.¹

¹ The Complaint is a timely appeal from the determination of the Commission's Bureau of Consumer Services (BCS), at BCS No. 4066215, which dismissed Complainant's informal complaint. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

In his Complaint, Complainant selected the option to receive all communications from the Commission via email at the email address provided by Complainant on the Complaint. Complaint ¶ 9. The Complainant also requested eService of his documents by the Commission so all Notices and Orders were sent via email and eServed.

On July 31, 2025², 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.

On August 8, 2025, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing on October 24, 2025 at 1:00 p.m. and the matter was assigned to Special Agent Michael Mzrocka. 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).

² The Secretary’s Bureau served the Complaint on the Respondent on July 11, 2025.

On August 8, 2025, a Prehearing Order was served on the parties. 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 September 25, 2025, a Judge Change Notice was issued and the matter was reassigned to the undersigned presiding officer. All other information remained the same including the hearing date and time and call-in information.

On October 22, 2025, the Complainant contacted my office via email to request a continuance of the October 24, 2025 hearing due to a family emergency. PECO had no objection to his request, and I granted it via email on October 23, 2025.

On October 24, 2025, a Rescheduled Initial Telephonic Hearing Notice was served on the parties rescheduling the initial telephonic hearing to January 5, 2026, at 10:00 a.m. 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).

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

On January 5, 2026, I convened the hearing as scheduled. Margaret Morris, Esquire, appeared on behalf of Respondent along with one witness and was ready to proceed. The court reporter was also present. Neither the Complainant nor an attorney on his behalf was 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 his Complaint. Tr. 5. I took this motion under advisement.

On January 5, 2026, the Complainant contacted my office to indicate that he had trouble calling in to the hearing and that he was kept in a "waiting room." PECO objected to the request for another hearing date. I am denying the Complainant's request for another hearing date.

The record closed on January 26, 2025, when I received my copy of the hearing transcript. This Initial Decision grants Respondent's Motion to Dismiss the Complaint with prejudice.

FINDINGS OF FACT

1. The Complainant is William Plange.

2. The Respondent is PECO Energy Company.
3. On July 9, 2025, Complainant filed a Formal Complaint against Respondent.
4. On July 31, 2025, Respondent filed an Answer to the Complaint.
5. On August 8, 2025, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing before Special Agent Michael Mzrocka on October 24, 2025 at 1:00 p.m.
6. On August 8, 2025, a Prehearing Order was served on the parties.
7. On September 25, 2025, a Judge Change Notice was issued and the matter was reassigned to the undersigned presiding officer.
8. On October 22, 2026, the Complainant contacted my office via email to request a continuance of the October 24, 2025 hearing due to a family emergency.
9. PECO had no objection to the Complainant's continuance request and I granted it via email on October 23, 2025.
10. On October 24, 2025, a Reschedule Initial Telephonic Hearing Notice was issued which rescheduled the matter for an initial telephonic hearing on January 5, 2026 at 10:00 a.m.

11. Both the Hearing Notices and the Prehearing Order were served on Complainant by eService to the email address Complainant provided to and registered with the Commission.

12. Both the Hearing Notices and Prehearing Order provided Complainant with the date, time and location to participate in the hearing, and, *inter alia*, the procedure for requesting a continuance and the possible consequences of failing to appear at the hearing.

13. Neither the Hearing Notices nor the Prehearing Orders were returned to the Commission as undeliverable.

14. Complainant failed to appear and participate in the scheduled in-person hearing on January 5, 2026.

15. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the January 5, 2026 hearing.

16. On January 5, 2026, the Complainant contacted my office to indicate that he had trouble calling in to the hearing and that he was kept in a “waiting room.”

17. The system used by my office for telephonic hearings does not have a waiting room feature and parties are directly connected to the conference call.

18. PECO objected to the Complainant’s request to reschedule the hearing a second time.

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 8, 2025, the Commission eServed Complainant a Hearing Notice which advised the parties of the date and time of the October 24, 2025 hearing, and how to participate. Second, on August 8, 2025, the Commission eServed Complainant a Prehearing Order which indicated how to request a continuance and a warning that the Complaint could be dismissed if the parties failed to participate in the hearing. Lastly, the Commission eServed Complainant a Rescheduled Hearing Notice which advised the parties of the new evidentiary hearing date of January 5, 2026 and the time and call-in information to participate in the hearing. The documents advised the parties, *inter alia*, how to request a continuance prior to the hearing if needed. The documents also 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 the Prehearing Order were eServed to the Complainant at the email address he 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).

The party who failed to appear at the hearing has the burden of explaining why his 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. *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. On January 5, 2026, the Complainant contacted my office to indicate that he had trouble calling in to the hearing and that he was kept in a “waiting room.” However, my conference bridge does not have a waiting room feature and parties are connected directly to the conference call. PECO also objected to Complainant’s request for a new hearing date because he had been previously granted a continuance in the case and the information to call in for the hearing was provided to the Complainant on a number of occasions, including by PECO and its counsel. Tr. 5.

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 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. *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Williams v. PECO Energy Co.*, Docket No. C-2018-300734 (Opinion and Order entered Mar. 14, 2019) (citing *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995)). Accordingly, the merits of the Complaint will not be addressed.

Respondent's Motion to Dismiss, with prejudice, will be granted.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding. 66 Pa.C.S. § 701.

2. The Commission is required to provide due process to the parties appearing before them; this due process requirement is satisfied when the parties are provided notice and the opportunity to be heard. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

3. Notice 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, 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 PECO Energy Company's Motion to Dismiss with prejudice the Formal Complaint of William Plange, at Docket Number F-2025-3056250, is granted.

2. That the Formal Complaint filed by William Plange in William Plange v. PECO Energy Company, Docket Number F-2025-3056250, is hereby dismissed with prejudice.

3. That the Secretary's Bureau shall mark Docket No. F-2025-3056250 as closed.

Date: April 22, 2026

/s/
Marta Guhl
Administrative Law Judge