

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Karen Hendrickson	:	
	:	
v.	:	C-2025-3059807
	:	
FirstEnergy Pennsylvania Electric Company	:	

INITIAL DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

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

HISTORY OF THE PROCEEDING

On January 7, 2026, Karen Hendrickson (Ms. Hendrickson or Complainant) filed a Formal Complaint (Complaint) against FirstEnergy Pennsylvania Electric Company (FE PA or Respondent), alleging Ms. Hendrickson would like a payment arrangement she can afford. In the Complaint, Ms. Hendrickson requested to receive service of all documents by First Class Mail.

On February 3, 2026, Respondent filed its Answer in which it generally denied its actions were in violation of the Public Utility Code, the Commission’s

regulations, or FirstEnergy Pennsylvania Electric Company's Commission-approved tariff. FE PA admitted Complainant did make payments most months, but contended those payments were not on time and are not for the full amount due. Respondent contended Complainant has a balance on the electric service account in the amount of \$3,212.23. FE PA acknowledged the Commission's Bureau of Consumer Services (BCS) issued a payment arrangement to Ms. Hendrickson on September 18, 2025, at BCS Case No. 4092479, which directed Complainant to pay the monthly budget bill amount plus \$46.00 for a payback period of 60-months. Respondent alleged the payment arrangement defaulted due to lack of timely and in-full payments.

On February 6, 2026, the Office of Administrative Law Judge (OALJ) issued an Initial Call-In Telephone Hearing Notice, which scheduled an initial hearing to be conducted on March 24, 2026. The Hearing Notice, which was served on Complainant by First Class Mail, provided the parties with the Toll-Free Bridge Number to call and the PIN to enter to 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).

Also, on February 10, 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 was served on Complainant by First Class Mail. Similar to the Hearing Notice, the Prehearing Order stated the failure to appear warning. Additionally, the Prehearing Order informed the parties about the applicable procedural rules and again included the procedure to follow for requesting a continuance.

The Hearing Notice and Prehearing Order were served on Complainant in the ordinary course of the Commission's business, which were served on Complainant by First Class Mail. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission by the United States Postal Service as undeliverable.

The presiding officer convened the initial hearing as scheduled on March 24, 2026, at which time Complainant was not present. Respondent was represented by Timothy K. McHugh, Esquire (Mr. McHugh), who appeared with Laurie Parker, an Advanced Customer Service Compliance Specialist for FE PA. The court reporter was also present. Complainant was not present at the start of the hearing and the hearing proceeded in Complainant's absence, after taking a recess until 10:16 a.m. No testimony was taken, and no exhibits were introduced into the record. Respondent noted the parties engaged in settlement discussions on March 19, 2026, at which time Respondent reminded Complainant about the initial hearing. Respondent also noted it sent proposed exhibits to Complainant on March 6, 2026 and noted the scheduled hearing in its cover letter. FE PA orally moved to dismiss the Complaint with prejudice for Complainant's failure to appear and prosecute the Complaint. The presiding officer took this motion under advisement.

The hearing record closed on March 24, 2026, at the conclusion of the hearing, pursuant to 52 Pa. Code § 5.431(a).¹

On April 10, 2026, the Commission received the transcript from the initial hearing.

This proceeding is now ready for disposition, and this decision grants Respondent's motion to dismiss the Complaint with prejudice.

FINDINGS OF FACT

1. Complainant is Karen Hendrickson.
2. Respondent is FirstEnergy Pennsylvania Electric Company.
3. On January 7, 2026, Complainant filed a Complaint against Respondent.
4. On February 3, 2026, Respondent filed the Answer to the Complaint generally denying the Complaint.
5. On February 6, 2026, the Office of Administrative Law Judge served, by First Class Mail, an Initial Call-In Telephone Hearing Notice scheduling an initial telephonic hearing on March 24, 2026.

¹ 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 February 10, 2026, the presiding officer issued a Prehearing Order, by First Class Mail, providing additional information to the parties regarding the hearing.

7. On March 24, 2026, the presiding officer convened the initial hearing at which Respondent appeared with its witness, but Complainant did not appear.

8. The Commission served both the February 6, 2026 Hearing Notice and the February 10, 2026 Prehearing Order on Complainant by First-Class Mail to the mailing address Complainant provided in the Complaint.

9. Neither the February 6, 2026 Hearing Notice nor the February 10, 2026 Prehearing Order were returned to the Commission as undeliverable.

10. Both the February 6, 2026 Hearing Notice and the February 10, 2026 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 a hearing.

11. Complainant failed to appear and participate in the scheduled telephonic hearing on March 24, 2026.

12. The court reporter, Counsel for Respondent and its witness were present and prepared to proceed at the March 24, 2026 hearing.

13. Counsel for Respondent noted the proposed exhibits were sent to Complainant on March 16, 2026, with a cover letter that included the hearing date.

14. Counsel for Respondent noted on the hearing record that a conversation took place between Counsel and Complainant on March 19, 2026, during which conversation Counsel provided Complainant with information on how to connect to the hearing.

15. Respondent made an oral motion to dismiss the Complaint with prejudice due to Complainant's failure to appear and for failure to prosecute the Complaint.

16. 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 February 6, 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 February 10, 2026, Complainant was served 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 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, a 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. To date, there has been no communication to the Office of Administrative Law Judge or the presiding officer by, or on behalf of, Complainant explaining why Complainant's failure to appear at the hearing on March 24, 2026 was unavoidable. Consequently, the presiding officer finds 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 for failure to appear and for failure to prosecute the Complaint.

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, the 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. Further, the Hearing Notice and the Prehearing Order notified Complainant that dismissal with prejudice might result if Complainant failed to appear and meet the burden of proof. Lastly, Complainant has not communicated to the presiding officer since the hearing to indicate she was unavailable to appear and to request a new hearing.

Thus, it is appropriate to dismiss the Complaint and 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 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).

