

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Travis McCain	:	
	:	
v.	:	C-2026-3059641
	:	
UGI Utilities Inc. – Gas Division	:	

INITIAL DECISION

Before
Emily A. Farren
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 January 7, 2026, Travis McCain (Mr. McCain or Complainant) filed a Formal Complaint against UGI Utilities Inc. -Gas Division (UGI, Respondent or Company).¹ Mr. McCain checked “other” as the reason for his Complaint and explained:

This complaint concerns a gas leak at my residence involving UGI Utilities on or about November 14-18. Due to the gas leak, the fire department was dispatched and forced entry into my home while I was not present. Firefighters conducted a safety sweep of the residence,

¹ The Secretary’s Bureau served the Complaint on January 8, 2026.

including gas readings, and then left. As a result, my door was damaged, my home was entered without my presence, my dog was inside the house at the time, and I had to leave school because of the incident.

Complaint ¶ 4.

As relief, the Complainant indicated:

I am requesting that the Pennsylvania Public Utility Commission review UGI Utilities' handling of the gas leak incident and order UGI to provide appropriate compensation for the damage and disruption caused. This includes reimbursement for the forced entry and damage to my door, recognition of the seriousness of the gas leak that required an emergency firefighter response, and a resolution that goes beyond \$100 bill credit offered by UGI. I also request that UGI be directed to properly document the incident, acknowledge the safety implications, and ensure that similar incidents are handled appropriately in the future.

Complaint ¶ 5.

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

On January 28, 2026, UGI filed an Answer that either admitted or denied the various material allegations of the Complaint. Answer ¶ 4.

Also on January 28, 2026, UGI filed a Preliminary Objection. In its Preliminary Objection, the Company requested that the portion of the Complaint pertaining to a request for monetary reimbursement be stricken from the Complaint.

A notice to plead appropriately accompanied the Preliminary Objection.

Mr. McCain did not file an answer to UGI's Preliminary Objection.

On February 25, 2026, a Motion Judge Assignment Notice was issued informing the parties that I was assigned as the Presiding Officer responsible to resolve any issues which may arise during the preliminary phase of the proceeding.

On March 5, 2026, I issued an Interim Order granting UGI's Preliminary Objection.

On March 5, 2026, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing on April 6, 2026 at 10:00 a.m. and the case 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 March 6, 2026, a Prehearing Order was served on the parties which reminded the parties 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.

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

On April 6, 2026, at 10:00 a.m., I convened the hearing as scheduled. Ms. Hayley Wilburn, Esquire, appeared on behalf of Respondent along with two witnesses 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. of 10:00 a.m. hearing at 7. I took this motion under advisement.

Following the hearing, I received email correspondence from Ms. Wilburn advising that Complainant reached out to her around 10:45 a.m. and asked if the hearing concluded. Both Complainant and Ms. Wilburn affirmatively responded to my email asking if the parties and their witnesses were available to reconvene at 1:00 p.m. Thus, on April 6, 2026, at 1:00 p.m., I reconvened the hearing as rescheduled. Tr. of 1:00 p.m. hearing at 3. Ms. Wilburn appeared, along with two witnesses, and was ready to proceed. The court reporter was also present. Complainant was again not present at the start of the hearing, and the hearing proceeded in Complainant's absence. No testimony was taken, and no exhibits were introduced into the record. At the rescheduled hearing, Respondent

moved to dismiss the Complaint with prejudice for Complainant's failure to appear and prosecute the Complaint. *Id.* at 6. I took this motion under advisement. *Id.*

Complainant has not contacted the Commission to explain why Complainant's failure to appear at the 10:00 a.m. hearing or the 1:00 p.m. rescheduled hearing was unavoidable.

The record closed on April 6, 2026.² This decision grants the Company's motion to dismiss the Complaint with prejudice.

FINDINGS OF FACT

1. The Complainant is Travis McCain.
2. The Respondent is UGI Utilities, Inc. – Gas Division.
3. On January 7, 2026, Complainant filed a Formal Complaint against Respondent.
4. On January 28, 2026, Respondent filed an answer to the Complaint.
5. On March 5, 2026, a Call-In Telephone Hearing Notice was served on Complainant scheduling an initial telephonic hearing on April 6, 2026 at 10:00 a.m.
6. On March 6, 2026, a Prehearing Order for Telephone Hearing was served on Complainant providing additional information to the parties regarding the hearing.

² The record closed at the conclusion of the 1:00 p.m. hearing. 52 Pa. Code § 5.431(a).

7. Both the Hearing Notice and Prehearing Order were served on Complainant by e-Service to the email address Complainant provided to and registered with the Commission.

8. Both the Hearing Notice 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.

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

10. Complainant failed to appear and participate in the scheduled telephonic hearing on April 6, 2026.

11. The court reporter, Counsel for Respondent and its witness(es) were present and prepared to proceed at the April 6, 2026 hearing.

12. 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 March 5, 2026, the Commission served the Complainant a Hearing Notice which advised the parties of the date and time of the hearing, and how to participate. Second, on March 6, 2026, the Commission served the Complainant 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 the dismissal of the Complaint 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 Complaint.

Both the Hearing Notice and Prehearing Order were e-Served to the Complainant at the email address Complainant registered with the Commission. Neither was returned to the Commission as undeliverable. Notice e-Served 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/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) (*Brown*); *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) (*Williams*); *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995) (*Jefferson*); 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 (1) allowing additional time for Complainant to appear; and (2) reconvening the hearing when Complainant confirmed his availability for 1:00 p.m. 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 or rescheduled 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; Williams* (citing *Jefferson*). 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 e-Served to a party with no notification that service failed is presumed 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 Complainant's burden of proof. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That UGI Utilities, Inc. – Gas Division's motion, to dismiss the Formal Complaint of Travis McCain with prejudice, at Docket No. C-2026-3059641 is granted.

2. That the Formal Complaint filed by Travis McCain in Travis McCain v. UGI Utilities, Inc. – Gas Division, Docket No. C-2026-3059641, is hereby dismissed with prejudice.

