

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265**

**Tammy Gephart
v.
PPL Electric Utilities Corporation**

**PUBLIC MEETING
September 10, 2009
2076227-ALJ
Docket No. C-2008-2076227**

MOTION OF COMMISSIONER KIM PIZZINGRILLI

Before the Commission for consideration is the Initial Decision (ID) of an Administrative Law Judge (ALJ) dismissing the Complaint of Tammy Gephart (Complainant) with prejudice for failure to prosecute. In addition to dismissing the Complaint, the ALJ addressed the various merits of the complaint and adopted the prior BCS determination as the operative decision of the Commission.

While I agree with the ALJ's dismissal of the Complaint, the remainder of the ID, disposing of the merits, is inconsistent with current Commission policy stating that when a complainant fails to appear and prosecute her complaint, the complaint should be dismissed with prejudice without a discussion of the merits. Prior Commission Orders have held that dismissing a complaint for failure to prosecute fully adjudicates a complaint where the complainant fails to appear at the hearing. *Volgstadt v. UGI Penn Natural Gas, Inc.*, Docket No. F-02266429 (Order entered September 12, 2008).

Complainant was notified of the date scheduled for the hearing on her complaint by Hearing Notice, dated February 9, 2009 and Prehearing Order, dated February 10, 2009. (ID at 1) Since the Complainant failed to appear at the hearing and prosecute her complaint, the ALJ needed only to dismiss the Complaint, with prejudice, for Complainant's failure to prosecute. *Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Order entered December 26, 1995).

Accordingly, the discussion in the ID disposing of the merits¹ should be deleted and this case marked closed.

THEREFORE, I MOVE THAT:

1. The Initial Decision is modified consistent with this Motion.
2. The Office of Special Assistants prepare the appropriate Order.

September 10, 2009
Date

KIM PIZZINGRILLI, COMMISSIONER

¹ Findings of Fact 5-9; the final paragraph on page 4 (continuing onto page 5); Conclusion of Law 4; Ordering Paragraphs 3 and 4; First full paragraph on page 5; Conclusion of Law 5.