

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

**Ace Check Cashing, Inc. v.
Philadelphia Gas Works, Eddie and
Jennifer West, Indispensible Parties**

**Public Meeting – April 22, 2010
2056428-ALJ
Docket No. C-2008-2056428**

DISSENTING STATEMENT OF VICE CHAIRMAN TYRONE J. CHRISTY

Today the majority has reversed the well-reasoned Initial Decision of Administrative Law Judge Ky Van Nguyen in the above captioned proceeding. Additionally, and significantly, this action has set aside the holdings in a unanimous Commission decision in an Opinion and Order, adopted on April 9, 2008, in Afshari v. PPL Electric Utilities Corporation (Indispensible Party), Docket No. C20055547 (Pa. PUC April 9, 2008).

In Afshari, the Commission properly concluded:

In cases with similar fact patterns, this holding will be applied as follows. The utility will list the tenant's account with the property owner when foreign load is detected. The property owner will pay future bills for service to the tenant's premises until the foreign load is removed. However, the property owner may, at its discretion, file a complaint to contest the assignment of the full, past due balance, as opposed to a lesser amount attributable to foreign load. The landlord will have the burden of proof to show what portion of the bill was due to foreign load. The tenant shall be joined as an indispensable party to any such complaint. It will be incumbent upon the landlords and tenants in future cases to provide as much information as possible to the presiding ALJ so that a reasonable decision can be rendered. Proper development of the record will, of course, include a thorough foreign load investigation by the utility involved as has always been the procedure in these cases. The calculation of foreign load will then become a matter for the presiding ALJ and the Commission.

Opinion and Order p. 6

The Afshari decision was firmly grounded in the Public Utility Code and the Commission's regulations. I respectfully dissent from the majority's decision to reverse

the ALJ's Initial Decision in Ace Check Cashing, Inc. v. Philadelphia Gas Works, Eddie and Jennifer West, Indispensible Parties and the Commission's determination regarding foreign load set forth in Afshari.

4-22-10

DATE

Tyrone J. Christy
TYRONE J. CHRISTY, VICE CHAIRMAN