

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

**Susan Groff v. PECO Energy Company**

**Public Meeting held July 28, 2011  
2132719-ALJ**

**Docket No. F-2009-2132719**

**MOTION OF COMMISSIONER WAYNE E. GARDNER**

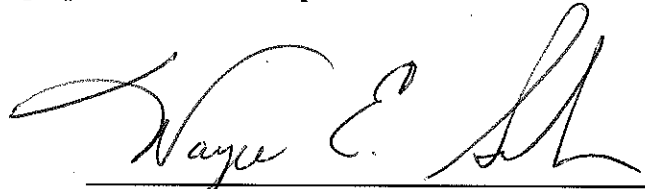
Before us today for consideration is the Initial Decision issued in the above-captioned case. On the day of the scheduled hearing, Ms. Groff failed to appear, and the case was dismissed, with prejudice, for failure to prosecute.

While I generally agree with dismissing a case with prejudice when complainants fail to appear, I do not believe it is the proper decision here. On January 21, 2011, Ms. Groff filed a Petition to Withdraw her complaint explaining that the issue was resolved by virtue of her and her ex-husband's bankruptcy filing. This Petition was filed approximately three weeks before the scheduled hearing and was timely. As such, I believe the proper course of action in this case is to tentatively grant withdrawal of the Complaint and allow PECO the opportunity to express any disagreement. If no adverse comments are received within 20-days from the entry date of the Tentative Order, then the Order will become final without further Commission action.<sup>1</sup>

**THEREFORE, I MOVE THAT:**

1. The Office of Special Assistants prepare a Tentative Opinion and Order consistent with this Motion.

**July 28, 2011**  
**Date**

  
\_\_\_\_\_  
**Wayne E. Gardner, Commissioner**

---

<sup>1</sup> 52 Pa. Code § 5.94(a) allows 20 days from the date of service to object to a petition to withdraw.