

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Stephen Merrigan
v.
PECO Energy Company

Public Meeting held December 19, 2013
2373941-ALJ
Docket No. F-2013-2373941

MOTION OF COMMISSIONER GLADYS M. BROWN

Before the Commission for consideration, is the Initial Decision issued in the above-captioned case. The Complainant filed a Formal Complaint requesting a lower payment arrangement. A hearing was set for October 10, 2013. On October 7, 2013, the Complainant faxed the Office of Administrative Law Judge (OALJ) a request that the hearing be cancelled because he was unable to take the time off from work.¹ On October 8, 2013, the Complainant faxed a request for a continuance to the OALJ. PECO filed objections to both of the Complainant's requests.


The ALJ denied the Complainant's requests because the Complainant failed to comply with the July 30, 2013 Prehearing Order which stated that any request for a change of the scheduled hearing date must be submitted no later than five business days prior to the hearing, and would be granted only for good cause.² The Complainant did not attend the hearing and the ALJ dismissed the case, with prejudice, for failure to carry the burden of proof.

Given the Complainant's *pro se* status,³ and given his apparent good faith attempts to continue the hearing, I believe that the Complaint should instead be dismissed, without prejudice.⁴

THEREFORE, I MOVE THAT:

1. The Initial Decision be modified consistent with this Motion.
2. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

December 19, 2013
Date



Gladys M. Brown, Commissioner

¹ The ALJ treated the request as a Petition for Leave to Withdraw Complaint without Prejudice. (Initial Decision at 2).

² The Complainant also faxed a letter to the OALJ on October 13, 2013, providing a more detailed reason for his request to postpone the hearing.

³ The Commission has long recognized the mitigating affect *pro se* status confers upon litigants unlearned in the law when confronted with technical violations of its procedural rules. *Carlock v. The United Telephone Company of Pa.*, Docket No. F-00163617 (July 14, 1993).

⁴ See, *Robert Redinger v. West Penn Power Co.*, F-2009-2112766 (December 11, 2009) (dismissing *pro se* litigant's untimely request for continuance, without prejudice).