

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Harrisburg, Pennsylvania 17105-3265**

**Miro Kamenik**  
**v.**  
**PECO Energy Company**

**Public Meeting - July 8, 2015**  
**2379058-OSA**  
**Docket No. C-2013-2379058**

**MOTION OF COMMISSIONER PAMELA A. WITMER**

Before the Public Utility Commission (Commission) today for consideration are the Exceptions of Miro Kamenik (Complainant) to the Initial Decision of Administrative Law Judge (ALJ) Cynthia Williams Fordham in the above-referenced proceeding. The Complainant filed a Formal Complaint alleging, *inter alia*, that PECO was threatening to terminate his service and requesting a payment arrangement. A Hearing Notice dated August 28, 2013, scheduled the hearing for November 12, 2013. On November 7, 2013, the Complainant sent a request for continuance to the ALJ citing a pressing family matter. He stated that he would provide further support for the continuance at a future hearing. The ALJ was out of the office the following day, and the Commission was then closed on November 11, 2013, for Veteran's Day. The ALJ had provided a copy of the continuance request to PECO's attorney, and asked her legal assistant to inform the Complainant that the hearing would be held as scheduled. The ALJ's legal assistant was unable to reach the Complainant and left a voice mail message.


The hearing convened as scheduled on November 12, 2013. The Complainant did not appear and PECO moved to dismiss the matter with prejudice for lack of prosecution. By Initial Decision issued on March 25, 2015, the ALJ granted PECO's motion and dismissed the Complaint with prejudice. The Complainant filed Exceptions on April 13, 2015 and PECO filed Replies to Exceptions on April 23, 2015.

It has been well established by the Commission that the public interest is better served when all litigants, particularly *pro se* litigants, are afforded a meaningful opportunity to be heard. The Complainant stated that his family situation prevented him from being able to attend the hearing, and he made an attempt to re-schedule five days prior to the scheduled hearing. There were other extenuating circumstances that may have prevented the Complainant's request from being accommodated or addressed. Accordingly, I believe that in this instance, a dismissal without prejudice is appropriate. This will allow the Complainant to refile the Complaint, should he so choose.

**THEREFORE, I MOVE THAT:**

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

**DATE: July 8, 2015**

  
**Pamela A. Witmer, Commissioner**