

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Alfred Stempo – Sammy Jo's Inc.

**Public Meeting October 6, 2016
2532581 – OSA**

v.

Docket No. C-2016-2532581

Metropolitan Edison Company

MOTION OF COMMISSIONER DAVID W. SWEET

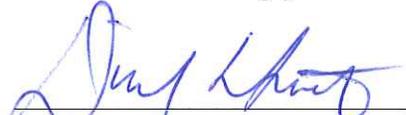
This case comes before us to review an Order Denying a Petition for Emergency Interim Relief and Certifying a Material Question to the Commission. The ALJ properly certified the question after correctly denying the petition for emergency interim relief, and our order today recognizes that the procedure provided in our regulations was followed appropriately. Section 3.10 of our regulations, 52 Pa. Code § 3.10, provides for Commission review of an order granting or denying a petition for an interim emergency order, and Section 5.305, 52 Pa. Code § 5.305, gives the Commission thirty days in which to act. Our decision today affirms the ALJ's order and directs that the case be returned to OALJ for further proceedings as necessary.

The Order denying the interim Emergency Relief was issued on September 6, 2016, which means that the Commission had until today, October 6, 2016, to act, or the lack of timely action would be deemed to be an affirmance of the ALJ's Order. The ALJ's Initial Decision in this matter was issued on September 29, 2016, a week before the Commission's review period would run. In this case, the Commission is affirming the Order which denies the petition for interim emergency relief, and there is no harm done. If the Commission's decision had been otherwise, there would be procedural confusion and due process issues which could have been avoided by following the timing set by the regulations. As it is, the Opinion and Order before us returns the case to OALJ for further proceedings. Since the return to OALJ is no longer necessary, I move that the ordering paragraph directing the return of the case to OALJ be removed, and that OSA prepare an appropriate order.

Therefore, I move that:

1. The ordering paragraph directing the return of the case to the Office of Administrative Law Judge be removed.
2. That OSA revise the Opinion and Order accordingly.

Date: October 6, 2016



David W. Sweet
Commissioner