

July 12, 2017

**Via Electronic Filing**

Rosemary Chiavetta, Esquire  
Secretary  
PA Public Utility Commission  
Commonwealth Keystone Building, 2 North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Docket No. C-2016-2565520  
Howard Weightman v. Pennsylvania Electric Company  
Motion for Sanctions of Penelec**

Dear Secretary Chiavetta:

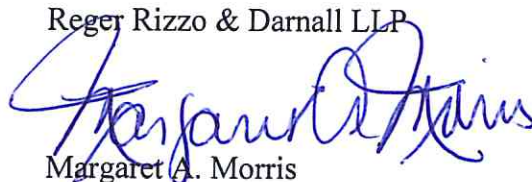
Attached for filing is the Motion of Pennsylvania Electric Company (Penelec) for Sanctions to be levied against Howard Weightman (Complainant) for failure to comply with the Order of the Honorable Mary D. Long in the above referenced proceeding.

A copy of the Motion for Sanctions has been forwarded to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/jmm  
Attachment

cc: The Hon. Mary D. Long, PA Public Utility Commission [w/enc.]  
Howard Weightman [w/enc.]

**Re: Docket No. C-2016-2565520  
Howard Weightman v. Pennsylvania Electric Company  
Motion for Sanctions of Penelec**

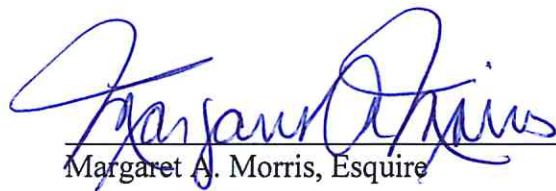
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing documents has been served upon the following person(s), in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**Via Electronic and First Class Mail**

Howard Weightman  
3192 Main Road  
Bedford, PA 15522  
[Howard.weightman1023@gmail.com](mailto:Howard.weightman1023@gmail.com)

Dated: July 12, 2017

  
Margaret A. Morris, Esquire

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

HOWARD WEIGHTMAN

v.

PENNSYLVANIA ELECTRIC COMPANY

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:  
:  
:

Docket No. C-2016-2565520

**NOTICE TO PLEAD**

Pursuant to 52 Pa.Code § 5.103, you are hereby notified that if you do not file a written response answering the enclosed Motion for Sanctions of Pennsylvania Electric Company within five (5) days from service of this notice, the facts set forth by Pennsylvania Electric Company in the Motion may be deemed to be true, whereby requiring no other proof. All pleadings, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Pennsylvania Electric Company, Margaret A. Morris, Esq., and to Administrative Law Judge Mary D. Long.

**File with:**

Rosemary Chiavetta, Esq.  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building – 2 North  
P.O. Box 3265  
Harrisburg, PA 17105

**With a copy to:**

Margaret A. Morris, Esq.  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104

The Hon. Mary D. Long  
PA Public Utility Commission  
Piatt Place, Suite 220  
301 Fifth Avenue  
Pittsburgh, PA 15222

Date: July 12, 2017



Margaret A. Morris, Esq.  
Attorney ID No. 75048  
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[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

*Counsel for Pennsylvania Electric Company*

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

HOWARD WEIGHTMAN	:	
	:	
v.	:	Docket No. C-2016-2565520
	:	
PENNSYLVANIA ELECTRIC COMPANY	:	

**MOTION FOR SANCTIONS OF PENNSYLVANIA ELECTRIC COMPANY  
AGAINST HOWARD WEIGHTMAN**

Pennsylvania Electric Company (Penelec or Respondent) by and through its attorneys, Reger Rizzo & Darnall LLP, and pursuant to 52 Pa. Code §§5.371-5.372, hereby files this Motion for Sanctions against Howard Weightman (Complainant) for his failure to comply with an order of the Honorable Mary D. Long (Judge Long). In support thereof, Penelec represents as follows:<sup>1</sup>

1. On or about September 7, 2016, the Pennsylvania Public Utility Commission (Commission) served the above-captioned Formal Complaint on Penelec. Central to the Complainant’s allegations against Penelec, as set forth in ¶4 of his Formal Complaint, is the allegation that there are incorrect charges on his account. On September 27, 2016, Penelec filed its Answer and New Matter to the formal Complaint denying the material allegations.

2. On May 23, 2017, Judge Long issued Interim Order on Motion In Limine and Scheduling Further Hearing (*Interim Order*) that the Complainant is barred from contesting any of the bills or charges, which accrued up to November 12, 2015. Judge Long ruled that the Complainant could challenge the accuracy of bills or his meter after November 12, 2015 up to the date he filed the instant complaint on September 6, 2016.

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<sup>1</sup> Only the history of proceedings relevant to the instant Motion is recited.

3. By notice dated May 26, 2017, the Commission scheduled this matter for further hearing on July 19, 2017.

4. On May 31, 2017, in accordance with 52 Pa. Code §5.341, Penelec sent to the Complainant, *via* electronic and first class mail, interrogatories and requests for production of documents. In its requests, Penelec sought specific information related to his allegations of incorrect charges against Penelec for the period November 13, 2015 through September 6, 2016.

5. Answers to the discovery requests were due on or before June 20, 2017.

6. The Complainant did not object to any of the requests, nor did he provide any answers by the June 20, 2017 deadline.

7. On June 21, 2017, Penelec filed a Motion to Compel Discovery Responses requesting that the Complainant be directed to provide full and complete answers to the discovery within five (5) days after entry of an order granting the motion or have his Complaint dismissed (*Motion*).

8. By Order, dated July 3, 2017, Judge Long granted Penelec's Motion and directed the Complainant to provide answers and responses to the interrogatories and requests for production of documents on or before July 10, 2017 (*Interim Order on Motion to Compel*).

9. As of the date of this Motion and despite the directive contained in Judge Long's *Interim Order on Motion to Compel*, the Complainant still has not provided any responses to Penelec's discovery requests.<sup>2</sup>

10. The Commission's Regulations address sanctions at 52 Pa. Code §§ 5.371- 5.372.

11. 52 Pa. Code § 5.371(a) authorizes the presiding officer to issue an order when a party fails to respond to discovery requests.

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<sup>2</sup> A reminder email and voice message was sent to the Complainant on July 10, 2017 at 10:47 am.

12. 52 Pa. Code § 5.372(a)(3) provides that a judgment can be entered against the disobedient party.

13. The Commission as an administrative agency is required to provide due process to the parties appearing before them. Providing the parties notice and the opportunity to appear and be heard satisfies the due process requirement. *Schneider v. Pa. P.U.C.*, 479 A.2d 10 (Pa. Cmwlth. 1984).

14. Since the Complainant failed to comply with these standards, Penelec does not know what allegations it is defending itself against at the scheduled July 19, 2017 hearing which is a clear denial of due process of law.

15. A presiding officer's orders must be complied with, and a lack of compliance presents a sufficient basis to dismiss a complaint. *Treffinger v. PPL Electric Utilities Corp.*, Docket No. C-20027978 (Order entered March 3, 2003); *Snyderville Community Development Corp. v. PGW*, Docket No. C-20055032 (Order entered July 31, 2006); *Application of Black Diamond Cab Co.*, Docket No. A-00122566 (Order entered December 1, 1966).

16. Commission precedent is well settled and supports dismissal of the Complaint with prejudice for failure to comply with Judge Long's *Interim Order on Motion to Compel. Weisenberger, et al v PECO*, Docket No. C-2010-2182281, (Final Order entered December 22, 2011).

17. Commission precedent also supports dismissal of the Complaint with prejudice for the Complainant's refusal to respond to properly propounded Discovery. See, *Application of Santos E. Pineda*, Docket No. A-2009-2126367 (Final Order entered June 21, 2010); *Valez v. Verizon Select Services, Inc.*, Docket No. C-2008-2060020 (Order entered November 20, 2009)

(Complaint dismissed due to Complainant's failure to comply with Order directing the provision of discovery responses).

18. As a result of the Complainant's failure to provide discovery responses, which demonstrates his continuing lack of cooperation and compliance with Judge Long's *Interim Order on Motion to Compel* as required under the Commission's regulations, sanctions under those regulations are appropriate.

19. The Respondent avers that dismissal, with prejudice, of the Formal Complaint is the appropriate sanction. Dismissal in the public interest will prevent the Commission from wasting time, energy, and money scheduling and convening a hearing or otherwise expending further Commission resources on this case.

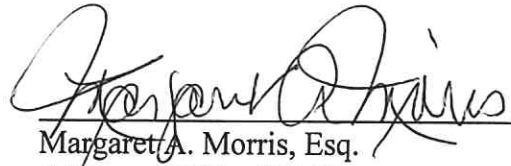
20. The Complainant's actions (or lack thereof) violate the Company's clear due process right to prepare for the hearing scheduled on July 19, 2017 and to present a defense.

**WHEREFORE**, for the reasons set forth above, Pennsylvania Electric Company respectfully requests that the Commission dismiss, with prejudice, the Formal Complaint of

Howard Weightman in its entirety and cancel the scheduled July 19, 2017 hearing.

Respectfully submitted,

Dated: July 12, 2016

A handwritten signature in black ink, appearing to read "Margaret A. Morris", written over a horizontal line.

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*Counsel for Pennsylvania Electric Company*