

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17105-3265

LeRoy James Watters III  
v.  
PECO Energy Company

Public Meeting held July 12, 2017  
2533996-ALJ  
Docket No. C-2016-2533996

MOTION OF CHAIRMAN GLADYS M. BROWN

On March 28, 2016, Mr. Watters filed a Complaint stating that PECO Energy Company is failing to complete pole work throughout West Norriton Township. Mr. Watters alleged that when PECO replaces electric poles due to vehicle damage or rot, it moves electric lines to the new poles but leaves the old poles standing with communication cables attached. Mr. Watters requested that PECO be required to contact all communication companies to have them relocate their cables. Mr. Watters also wants PECO to remove poles lying along the side of the road.

On April 18, 2016, PECO filed its Answer with new Matter. In the New Matter PECO asserted that Mr. Watters did not have legal standing to maintain his Complaint. On May 9, 2016, PECO filed a Motion for Judgment on the Pleadings requesting dismissal for lack of standing. Mr. Watters did not respond to PECO's Motion. By Initial Decision issued April 25, 2017, ALJ Calvelli granted the Motion for Judgment on the Pleadings finding that Mr. Watters lacked standing and dismissed the Complaint. The ALJ reasoned that Mr. Watters is not complaining about PECO's service to his own address and that Mr. Watters did not assert that he is a PECO customer; therefore, according to the ALJ, Mr. Watters does not have a discernable interest in the matter, other than the general interest of all citizens in seeking compliance with the law.

The Commission will grant a motion for judgment on the pleadings only if the pleadings show there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(d)(1). Only in a case where the moving party's right to prevail is so clear that a trial would be a fruitless exercise should judgment on the pleadings be granted. *Williams v. Lewis*, 466 A.2d 682 (Pa. Super. 1983); *Service Employees International Union, Local 69, AFL-CIO v. The Peoples Natural Gas Company, d/b/a Dominion Peoples*, Docket No. C-20028539 (Order entered December 19, 2003); *see also, Doran v. Pennsylvania American Water Company*, Docket No. C-2016-2529277 (Order entered July 14, 2016). Judgment on the pleadings should be entered only when the case is clear and free from doubt. *Reuben v. O'Brien*, 496 A.2d 913 (Pa. Super 1985).

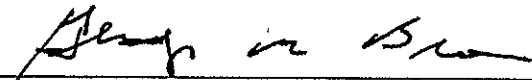
Based on the statements made in the Complaint as well as the lack of specificity in the wording of the Complaint, doubt exists regarding whether or not this *pro se* Complainant has the requisite standing to maintain this case. Whether Mr. Watters is a PECO customer is of course germane, but not conclusive as to standing. Whether one of these poles poses any risk to Mr. Watters' property, whether one of these poles poses any danger to Mr. Watters' safety, or whether any of these poles poses any risk to Mr. Watters' electric service due to the interconnected nature of the electric grid, are all facts that cannot be established absent a hearing. Therefore, this matter

should be remanded to the Office of the Administrative Law Judge for fact finding on Mr. Watters' Complaint.

**THEREFORE, I MOVE THAT:**

1. The ALJ's Initial Decision be reversed and remanded to the Office of Administrative Law Judge consistent with this Motion.
2. The Office of Special Assistants prepare and Opinion and Order consistent with this Motion.

July 12, 2017  
Date

  
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Gladys M. Brown, Chairman