

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

Ryan Ingham
v.
PECO Energy Company

Public Meeting held March 15, 2018
2579564 - OSA
Docket No. C-2016-2579564

MOTION OF COMMISSIONER DAVID W. SWEET

In this consumer complaint case, the complainant, Mr. Ingham, signed up for electronic filing and expected to be e-served with documents. However, the box for the election of e-service of documents was not checked, leaving the complainant under the impression that service of Commission documents would be electronic, and leaving the Commission under the impression that he had asked for service of hard copies. When an Initial Decision was later issued and mailed to the Complainant, it was returned to the Commission as undeliverable.

Upon discovery of the service issue, the Secretary re-served the Initial Decision and set a new exception schedule. Mr. Ingham filed exceptions and indicated that he had not been served with the Answer and Preliminary Objections and therefore, he had had no opportunity to file a response to them. In its Reply Exception, PECO maintains that it did serve its Answer and Preliminary Objection upon Mr. Ingham, that these documents were not returned as undeliverable, and that therefore they should be deemed to have been served consistent with the "mailbox rule."

Given the initial failure of service of the Initial Decision, and the dispute regarding service of the Answer and Preliminary Objections, it is prudent to reverse and remand this matter to the Office of Administrative Law Judge. Therefore, the correct action here is to return the case to where the earliest disputed failure of service occurred. As this was with the service of the PECO Answer and Preliminary Objections, this is where the case should be returned.

THEREFORE

I MOVE:

1. That the Initial Decision in this matter is revoked.
2. That the case captioned Ryan Ingham v. PECO Energy Company is remanded to the Office of Administrative Law Judge for proceedings consistent with this motion.
3. That Ryan Ingham shall file a response to the Preliminary Objections of PECO Energy Company within ten days of the entry of the Commission's Order directing it.

4. That the case shall proceed from that point consistent with Commission practice and regulations.
5. That the Office of Special Assistants prepare an appropriate order consistent with this Motion.

March 15, 2018
DATE



David W. Sweet
Commissioner