

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

April Jackson

Public Meeting held July 12, 2018
2644080-ALJ

v.

Duquesne Light Company

Docket No. C-2018-2644080

STATEMENT OF CHAIRMAN GLADYS M. BROWN

Before the Commission today is the formal Complaint filed by April Jackson on January 12, 2018, against Duquesne Light Company claiming that “Incorrect charges are on my bill” and attaching a document raising other matters about service to a residence occupied by her daughter. Duquesne’s Answer contained Preliminary Objections claiming that the Complaint is insufficiently specific, pursuant to 52 Pa. Code § 5.101(a)(3)

The Administrative Law Judge (ALJ) dismissed the Complaint because the Complainant did not respond to the ALJ’s directive to file an amended complaint containing more detailed allegations. The ALJ ignored the precedent of *Elliott v PECO Energy Company*, Docket No. C-2010-2156422 (Order entered May 11, 2011) and relied on subsequent decisions dismissing complaints on preliminary objections, effectively denying the Complainant a hearing on the matter.


In *Elliott*, the complainant checked a box on the complaint form indicating “There are incorrect charges on my bill” but did not provide a further detailed explanation of the claim. The Commission in *Elliott* reversed the initial decision that granted PECO’s preliminary objection. The Commission reasoned that PECO’s billing records contained sufficient information for the Company to respond to the complaint and that pro se complainants should be given the opportunity to further explain their claims at hearings. Later revisions in the Commission’s complaint form notified complainants that their case *may* be dismissed without a hearing if specific information is not provided. The ALJ relies on recent exceptions to the *Elliott* decision concluding that the *Elliott* general rule has been changed by those new decisions so that a *pro se* litigant can be dismissed without a hearing whenever the complainant ignores an ALJ’s order to file an amended complaint.

This revised instruction on our complaint form and those subsequent decisions never reversed the underlying conclusion in *Elliott* that the public utility respondent has information sufficient to file an answer. The revised instructions grant discretion to dismiss a proceeding without a hearing, a harsh result because it means many *pro se* litigants may never have a hearing. There is no precedent tantamount to strict liability authorizing dismissal whenever a consumer checks the box but fails to provide exacting and detailed information.

Neither the revised form nor subsequent precedent should stand for the proposition that parties well-versed in legal administrative practice can avoid substantive consideration of a *pro se* opponent's claims with procedural devices filed with an ALJ to secure dismissal without a hearing. These procedural devices, normally the domain of parties represented by counsel, should not be utilized to deny *pro se* complainants access to be heard. This practice also undermines the legal principle that *pro se* litigants are given considerable leeway in court and agency proceedings given their lack of legal sophistication. *Byrne v. Cleveland Clinic*, 684 F. Supp. 2d 641 (3rd Cir. 2010), 2010 U.S. Dist. LEXIS 10085; *Barlow v. Pep Boys, Inc.*, 625 F. Supp. 130 (E.D. Pa. 1985), 1985 U.S. Dist. Lexis 1526. This Commission has long recognized the mitigating effect that *pro se* status confers upon litigants unlearned in the law when confronted with technical violations of its procedural rules. *Carlock v. The United Telephone Co. of Pa.*, Docket No. F-00163617 (July 14, 1993). Most important, the Commission has stated that it is in the public interest that all litigants, particularly *pro se* litigants, be afforded a meaningful opportunity to be heard. *Amir V. Williams v. PECO Energy Co.*, Docket No. C-2010-2190024 (January 13, 2011).

The revisions in our complaint form and precedent after *Elliott* never abandoned the holding that the respondent has account information sufficient to file an answer about incorrect charges, payment arrangements, or inadequate service. The ALJs are generally able to prompt *pro se* litigants to expand successfully upon their claims verbally at the hearing. Dismissing *pro se* litigants without hearings because they fail to meet the exacting practices and expectations reserved for parties represented by counsel is inequitable and should be avoided when possible.

July 12, 2018
Date



Gladys M. Brown, Chairman