

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Deree J. Norman	:	
Complainant	:	
v.	:	No. C-2018-2640719
	:	
Philadelphia Gas Works	:	
Respondent	:	

COMPLAINANT’S MOTION FOR DISQUALIFICATION

AND NOW, Deree J. Norman (“Complainant”) files this Motion for the Disqualification of Administrative Law Judge Eranda Vero (“ALJ Vero”) from the above captioned matter, and in support thereof states as follows:

Complainant incorporates herein by reference, the attached Memorandum of Law in Support of Complainant’s Motion for Disqualification.

Date: November 21, 2018

Respectfully Submitted,

By: /s/ Deree J. Norman
Deree J. Norman

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Deree J. Norman	:	
Complainant	:	
v.	:	No. C-2018-2640719
	:	
Philadelphia Gas Works	:	
Respondent	:	

**MEMORANDUM OF LAW IN SUPPORT OF
COMPLAINANT’S MOTION FOR DISQUALIFICATION**

AND NOW, Deree J. Norman (“Complainant”) files this Memorandum of Law in Support of Complainant’s Motion for the Disqualification of Administrative Law Judge Eranda Vero (“ALJ Vero”) from the above captioned matter, and in support thereof states as follows:

I. INTRODUCTION

In the above captioned matter before this Honorable Commission, presiding ALJ Vero has exhibited clear and consistent biases in favor of the Respondent PGW as well as Respondents’ Counsel and against Complainant. Respondents’ Counsel appears to be controlling these proceeding as that his continued misrepresentations of facts and disregard to orders, rules and procedures have been allowed to persist with consequence. Complainant feels and believes that he cannot receive an impartial hearing on this matter within this Commission and or before ALJ Vero.

II. HISTORY

On March 9, 2018 a pre-hearing Order, in the above captioned matter, was issued by ALJ Vero which set an initial hearing date of March 28, 2018. (*See docket*)

On March 21, 2018, in full compliance with 52 Pa. Code §1.15(b), Complainant file a timely request for a continuance due to ongoing medical issues, the request was accepted and docketed by the Commission. (*See: Docket*)

On March 26, 2018 Respondents' Counsel sent an e-mail directly to ALJ Vero (copying Complainant) objecting to the continuance in which Respondents' Counsel stated, "I asked that he provide more proof that his medical condition will prevent him from participation in the hearing". Respondents' Counsel also knowingly and willfully misstated and or misrepresented the purpose of the hearing, which included a billing dispute, as being a simple payment arrangement request. In addition, Respondents' Counsel omitted the fact that Respondent had previously received a Medical Certification form from Complainant's Physician.

On March 26, 2018, despite the request being a complete violation of Complainant's HIPPA rights, ALJ Vero chose to appease Respondents' Counsel by issuing a written Order denying Complainant's request. The Oder was docketed but no *eServe* notification was sent through the Public Utility Commission's (PUC) e-file system.

On March 27, 2018 Complainant called ALJ Vero's chambers and spoke with a receptionist and or a clerk whom informed Complainant that ALJ Vero had simultaneously issued an oral Order. The unprecedented prerequisite, required that Complainant supply the Commission and or ALJ Vero with a more specific doctor's evaluation of Complainant's medical condition that would attest to Complainant's unavailability for the scheduled hearing.¹

¹ In an unrelated hearing C-2015-2472605 the utility company (PECO) requested a continuance, stating that two witnesses were unavailable due to 1) a medical issue and 2) a preplanned vacation, Complainant objected to the request unless proof of the utilities assertion could be provided. The ALJ refused to require said proof and granted the utility a continuance without the utility company showing good cause for the continuance or fully considering the Complainant's objection

With reservations, Complainant forwarded ALJ Vero's request and contact information to his Physician, yet Complainant never received any confirmation from ALJ Vero or her clerk by phone, e-mail or the PUC's electronic system that the hearing was continued.

On March 28, 2018 the day of the scheduled hearing, Complainant with no knowledge of ALJ Vero's position on the matter or decision on the matter, did not attend the scheduled hearing.

On April 2, 2018 the Complainant received notification of a new hearing scheduled for May 9, 2018. Subsequently on April 5, 2018 the May 9, 2018 date was cancelled and rescheduled for May 18, 2018. Both notices were docketed and sent via *eServe*.

On April 16, 2018, Complainant served Respondent with written Interrogatories and Requests for Production of Documents. On April 25, 2018, Respondent submitted timely Objections to some of Complainant's discovery request, while on May 7, 2018 Respondent filed timely yet incomplete and vague Answers to the remaining discovery request. Both submissions by Respondent were sent via US mail and via e-mail. **(Exhibit 1 and Exhibit 2)**

On May 4, 2018, Complainant filed a timely Motion to Overrule Objections and Compel complete Answers to his Interrogatories and Requests for Production of Documents in relation to Respondent's Objections. (*See: Docket*)

On May 9, 2018 ALJ Vero entered a written Order in relation to Respondent's Objections, which required Respondent to submit Answers to Complainant's Interrogatories and Request for Production of Documents by May 14, 2018. The Order was docketed.

On May 14, 2018 Complainant filed a Motion to Sanction due to Respondents' failure to comply with the May 9, 2018 Order. The Motion was docketed.

On May 16, 2018 Respondents' filed untimely Answers to Complainant's Interrogatories and Request for Production of Documents. The untimely certificate of service was docketed. However, ALJ Vero never responded to Complainant's Motion Sanction nor did she hold Respondent liable for noncompliance of her Order.

On May 18, 2018 a hearing was held on the above captioned mater. ALJ Vero inquired as to the basis for Complainant's billing dispute and upon hearing a brief synopsis of Complainant's position, Judge Vero stated Complainant's position was farfetched. The mater was continued to allow Respondent to complete the following:

1. Respondents' Counsel requested time to research and determine the capabilities of the Complainant's meter.
2. Respondents' Counsel requested that a testing of Complainant's meter be done.
 - a. both parties mutually agreed to complete the testing on June 6, 2018 between 8 am and 1:30 pm.

On June 6, 2018 Complainant was present at the property in question for the appointment and remained at the property well after 1:30pm. However, Respondent failed to honor the mutually agreed upon appointment to exchange Complainant's Meter for testing.

Complainant immediately contacted ALJ Vero's chambers at (215) 560-2105 to inform her of the breach of agreement. Complainant was assured by the individual who took the call that ALJ Vero would be notified of the breach. Complainant never received a response and or correspondence from ALJ Vero on the matter of the breach.

On June 7, 2018 Complainant attempted to contact Respondents' Counsel by phone at (215) 684-6982 with hopes of rescheduling for June 8, 2018. However, Respondents' Counsel was unavailable yet never responded to the message left by Complainant.

On June 19, 2018, approximately after two weeks had elapsed, Respondent saw it fit to contact Complainant. However, Respondents' were previously informed by Complainant's

Physician in two separate correspondences of Complainant's medical challenges and or limitations (pulmonary/respiratory). In addition, Respondents' were provided with documented evidence that the electricity at Complainant's home was turned off. During the latter part of June 2018 and the month of July 2018 the City of Philadelphia experienced server heatwaves. Respondent did not offer a specific time or date to reschedule the appointment and given the fact that Complainant simply could not be at the Property under those weather conditions without a specific time or date, no date was set for the testing of Complainant's meter.

On July 16, 2018 Complainant attempted to contact Respondents' Counsel by phone at (215) 684-6982 with hopes of rescheduling. However, Respondents' Counsel was unavailable yet never responded to the message left by Complainant.

On July 30, 2018 unbeknown to Complainant ALJ Vero initiated an *ex parte* communication via e-mail between herself and Respondents' Counsel while inquiring about the status of the above matter.

On August 17, 2018 Complainant attempted to contact Respondents' Counsel by phone at (215) 684-6982 with hopes of rescheduling. However, Respondents' Counsel was again unavailable yet never responded to the message left by Complainant.

On September 10, 2018, Complainant was blindsided by an e-mail that clearly shows Respondents' Counsels *ex parte* email exchange with ALJ Vero that began on July 30, 2018. The e-mails clearly show Respondent, by and through Counsel, knowingly misrepresented PGW's failure to attend the mutually agreed upon scheduled meter testing.

On September 11, 2018, to Complainant's dismay, Judge Vero immediately scheduled a new hearing for October 12, 2018.

On September 24, 2018 Complainant's submitted a continuation of his original discovery request in an effort to obtain the results of the research, as requested on May 18, 2018, that Respondent notified this Commission it required to attain specifics on the capabilities of Complainant's meter. The results of Respondent's research on the capabilities and or limitations of Complainant's meter should have been forwarded to Complainant as soon as they were received by Respondent's Counsel. However, no such action has occurred.

On October 12, 2018, during the hearing, the e-mail exchanges were brought into question. Complainant informed ALJ Vero that Respondents' Counsel deceptively indicated that an attempted to contact Complainant by a letter which he claimed was sent via Fed Ex. However, Respondents' Counsel could not produce a tracking number or any other documented evidence of the alleged correspondence.

Moreover, all previous communications that involved the submission and or exchange of documents from Respondent to Complaint followed a two-fold process. Respondent would send documents vis US mail and e-mail (**Exhibit 3**). The falsely stated deviation to send a document via Fed Ex was a farce of which ALJ Vero appears to accept as a true recapitulation of events. In addition, during the October 12, 2018 hearing ALJ Vero alluded to the fact that the failure to communicate regarding the meter test was equally shared by both parties.

On October 12, 2018 Judge Vero failed to and or refused to do the following:

1. Sanction Respondent for
 - a. failure to honor a mutually agreed upon scheduled appointment to test Complainant's meter,
 - b. intentional misrepresentations in documents filed with and or e-mailed to the Commission.
2. Overrule Respondents' Objections to Complainant's ongoing discovery request,
3. Strike Respondents' untimely filed Answers to original discovery request.

On October 12, 2018 during a preliminary hearing, ALJ Vero entered an oral Order which was clear, concise and specific as to: Tr. 97 – Tr. 112

(a) deem Respondent's requirement to submit answers to Complainant's second set of Interrogatories specifically 1 through 8 as moot.

i. Complainant's stipulation to the classification of Interrogatories 1 through 8 was to the information requested in said Interrogatories.

ii. Complainant's stipulation to the classification did not absolve Respondents' of being held accountable for their intentional failure to attend a mutually agreed upon scheduled meter testing.

(b) the continuation and or rescheduling of the hearing in the above captioned matter.

(c) the Respondents' requirement to submit complete and full answers to Complainant's second set of Interrogatories specifically 9 through 16 within 10 days.

(d) all motions must be submitted five (5) days prior to the new hearing date.

Prior to the closing of the proceedings on October 12, 2018, Counsel for Respondent requested that ALJ Vero memorialize her oral Order. ALJ Vero informed the parties that she would memorialize the rulings in writing "as soon as possible," and instructed Respondents' Counsel to proceed without hesitation.

ALJ Vero's agreement to memorialize her oral Order in writing in no way shape or form suggested, implied or stated that an indefinite extension was granted to Respondents' as to their time to submit answers to Complainant's second set of Interrogatories, nor did she indicate that Respondents' ten (10) days would start after said written Order was issued or that she required additional information of any kind to issue said written Order.

Action as to the first “(a)” item of ALJ Vero’s oral Order was immediate, Interrogatories 1 through 8 were understood by both parties to be moot. (no written Order was needed for either party to understand item “(a)”). Action as to the second “(b)” item of ALJ Vero’s oral Order was also immediate and without delay, a new hearing date was requested, scheduled and docketed on October 15, 2018 with a new hearing date set for November 29, 2018. (no written Order was needed for either party to understand item “(b)”).

Action as to the third “(c)” item of ALJ Vero’s oral Order was ignored by Respondents’. However, it was not ignored by Complainant. Therefore, Complainant filed a timely Motion to Sanction dated October 23, 2018 after Respondents’ failed to honor the 10-day period allotted to submit complete and full answers to Complainant’s second set of Interrogatories as per ALJ Vero’s oral Order. (no written Order was needed for either party to understand item “(c)”).

Moreover, Respondents’ subsequently responded to the Motion to Sanction by e-mail, alluding that the motion was premature and that “There is no order on this latest discovery dispute.” This revelation could not be further from the truth as that all parties acknowledged during the October 12, 2018 hearing that they understood the oral Order and that the Order would be adhered to. Tr. 97 – Tr. 112

Additionally, Respondents’ subsequently submitted insufficient answers to Complainants’ second set of Interrogatories on October 30, 2018 prior to ALJ Vero’s November 8, 2018 submission of a written Order which was an exact reflection of her oral Order. Had Respondents’ truly relied on a written Order being issued to determine when to submit answers to Complainants’ second set of Interrogatories as stated in their October 30, 2018 e-mail, they would have waited until said written Order was issued to submit answers to Complainants’ second set of Interrogatories, specifically 9 through 16.

Furthermore, Judge Vero’s written Order extends Respondent’s time to supplement answers to Complainant’s second set of Interrogatories to November 19, 2018, thereby precluding the Complaint from issuing a Motion to Compel Respondent’s to submit

complete and accurate answers to Complainant's second set of Interrogatories. This essentially has given Respondent's thirty-eight (38) days to comply with the October 12, 2018 oral Order.

III. LEGAL ARGUMENT

Complainant files this Motion pursuant to Pa 66 C.S. §331(c) and 52 Pa Code §5.482(a), given the consistent refusal by ALJ Vero to reprimand and or hold Respondent and or Respondents' Counsel accountable for deceptive practices and or failures to comply.

IV. CONCLUSION

In light of the clear biases exhibited by ALJ Vero, her disqualification in this matter as well as the assessment of Sanctions upon Respondent and or Respondents' Counsel are the only remedies that would provide the minutest semblance of justice in this matter.

WHEREFORE, Complainant respectfully request that the Honorable Eranda Vero be disqualified from presiding over the above captioned matter.

November 21, 2018

Respectfully submitted,

/s/Deree J. Norman
Deree J. Norman
5367 Thomas Ave
Philadelphia, Pa 19143
(267) 304-2162
dereenorman@yahoo.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Deree J. Norman	:	
Complainant	:	
v.	:	No. C-2018-2640719
	:	
Philadelphia Gas Works	:	
Respondent	:	

AFFIDAVIT OF SERVICES

I, Deree J. Norman, do hereby certify that on this 21st day of November 2018 I served a true and correct copy of the Motion, Memorandum of Law in Support of Complainant’s Motion to Disqualify, Certification of Good Faith and Affidavit of Personal Bias on the following via the PUC’s electronic filing system and electronic mail.

ERANDA VERO
ADMINISTRATIVE LAW JUDGE
801 MARKET STREET, SUITE 4063
PHILADELPHIA, PA 19107

LAURETO FARINAS
PHILADELPHIA GAS WORKS 4TH FLR.
800 W MONTGOMERY AVE
PHILADELPHIA PA 19122

EXHIBIT 1

Deree J. Norman v. PGW, C-2018-2640719

From: Leva, Danielle (Danielle.Leva@pgworks.com)

To: dereenorman@yahoo.com

Cc: Laureto.Farinas@pgworks.com

Date: Wednesday, April 25, 2018, 2:49 PM EDT

Dear Mr. Norman,

Please find attached Philadelphia Gas Works' objection to the Interrogatories and Requests for Production of Documents in the above mentioned case.

Thank you.



NORMAN.PDF
267.2kB

EXHIBIT 2

Deree J. Norman v. PGW, C-2018-2640719

From: Leva, Danielle (Danielle.Leva@pgworks.com)

To: dereenorman@yahoo.com

Cc: Laureto.Farinas@pgworks.com

Date: Monday, May 7, 2018, 4:39 PM EDT

Mr. Norman,

Please find attached the Philadelphia Gas Works' responses to the Answer to Interrogatories Nos. 1, 2, 3, 4, 5 and 6 and Requests for Production of Documents Nos. 3, 4, 7, 9, 11, 12, 13, 15, 16 ,17, 18, 19, 20,21, 22, 23, and 24.

Thank you.



NORMAN.PDF
2.5MB

EXHIBIT 3



Compose

Messages Photos Documents

6

Archive Move Delete Spam

Sort

This week

- Leva, Danielle Deree J. Norman v. PGW, C-2018-2640719 Mr. Norman, Please find att... Inbox
- me Norman v. PGW No. C-2018-2640719 Attached Please find Complaina... Sent Nov 19

November

- eServe@pa.gov PA PUC eServe Notice .Deree J Norman v PGW (Order on Complainant s. Inbox Nov 8

October

- Leva, Danielle Deree Norman v. PGW, C-2018-2640719 Mr. Norman, Please find atta... Inbox Oct 30
- Leva, Danielle Deree Norman v. PGW, C-2018-2640719 e find attached PGW's Answer t Inbox Oct 29
- me, Farinas, Norman v PGW No. C-2018-2640719 2 Mr. Norman: PGW has receive Inbox Oct 23
- Leva, Danielle Deree J. Norman v. PGW, C-2018-2640719 Judge Vero: Please find atta... Inbox Oct 4

September

- Farinas,, Vero, RE: Deree J. Norman v. PGW Docket No. C-2018-2640719 2 e J. Norma Inbox Sep 10

Messages Photos Documents

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Earlier in 2018

- CCP Library Scanner Scanned page(s) from CCP Library Scanner i for contactihg PGW and reqi Inbox May 17
- Leva, Danielle Deree J. Norman v. PGW, C-2018-264719 Mr. Norman, Please find atta... Inbox May 16
- eServe@pa.gov PA PUC eServe Notice heree J Norman v PGW (Order re Motion to Compe Inbox May 10
- Leva, Danielle Deree J. Norman v. PGW, C-2018-2640719 attached PGW's Answer to th Inbox May 9
- Leva, Danielle Deree J. Norman v. PGW, C-2018-2640719 Mr. Norman, Please find att... Inbox May 7
- eFile@pa.gov E-file Confirmation for 1720628 y view this Filing at PGW - Motion and tl Inbox May 7
- Leva, Danielle Deree J. Norman v. PGW, C-2018-2640719 Dear Mr. Norman, Please fi... Inbox Apr 25
- me Norman v PGW No. C-2018-2640719 Mr. Farinas, Attached please find... Sent Apr 16
- Farinas, FW: Deree J. Norman v. PGW, Docket No. C-2018-2640719 2 following Inbox Mar 26
- Leva,, Farinas, Deree J. Norman v. PGW, C-2018-2640719 3 nan v. PGW, C-2018-264(Inbox Mar 22
- Leva,, me, Farinas, Deree J. Norman v. PGW, C-2018-2640719 3 on with PGW about a pay Inbox Mar 21

- Inbox 204
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 - Deals
 - Purchases
 - Groceries
 - Travel
 - Tutorials

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- Leva, Danielle Deree J. Norman v. PGW, C-2018-264719 Mr. Norman, Please find atta... Inbox May 16
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	:	
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AFFIDAVIT OF PERSONAL BIAS

Pursuant to Pa 66 C.S. §331(c) and 52 Pa Code §5.482(a), Deree J. Norman files this Affidavit of Personal bias in Support of his Motion for Disqualification of Administrative Law Judge Eranda Vero. In the above caption matter Administrative Law Judge Eranda Vero has shown personal bias towards Complainant as follows:

1. Imposing an unprecedented, unlawful and unfair oral Order upon Complainant in order to have his timely and accurately filed request for a continuance honored.
2. Failed to impose sanctions Complainant request by motion for untimely responses submitted by Respondent in violation of the ALJ's previously entered Order.
3. Failed to impose sanctions Complainant request by motion for Respondents' willful misrepresentation of fact as well as the willful absence from a crucial event of which the date and timeframe was mutually agreed upon.
4. Ex Parte communications between ALJ and Respondent.
5. Multiple bias statements directed at Complainant (e.g. your position is farfetched)
6. Failure to uphold an oral Order that Respondent failed to comply with.

ALJ Vero and Respondents' Counsel have an ongoing rapport from having work together on previous cases. ALJ Vero's predistortions of Complainant clearly make it less conducive for Complainant to receive an impartial hearing before this ALJ.

November 21, 2018

By: /s/ Deree J. Norman
Deree J. Norman

**BEFORE THE
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Complainant	:	
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Respondent	:	

COMPLAINANT CERTIFICATION OF GOOD FAITH

The undersigned Complainant hereby certifies and attests that:

— a. He has had the contacts described below with Administrative Law Judge regarding discovery matters contained in the foregoing discovery motion in an effort to resolve the specific discovery dispute(s) at issue and, further, that despite all the Complainant's good faith attempts to resolve the dispute(s), counsel have been unable to do so.

X b. He or she has made a good faith, but unsuccessful efforts described below to communicate with the Administrative Law Judge in an effort to resolve the discovery dispute.

Description: As set forth in the foregoing Motion, the movant filed several Motions to Compel Answers, Overrule Objections to Discovery Request and Sanction Respondent for noncompliance and or untimely responses to the aforesaid Motions. Despite the obvious misrepresentation of facts as well as failures to comply with Orders of the Commission, the Administrative Law Judge has refused to hold Respondents' accountable.

CERTIFIED TO THE COMMISSION:

November 21, 2018

By: /s/ Deree J. Norman
Deree J. Norman

**BEFORE THE
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Complainant	:	
v.	:	No. C-2018-2640719
	:	
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Respondent	:	

VERIFICATION

I, Deree J. Norman, hereby declare that the facts set forth in the foregoing Motion to Disqualify, Memorandum of Law in Support of Complainant’s Motion to Disqualify, Certification of Good Faith and Affidavit of Personal Bias are true to the best of my knowledge, information and belief. I make this verification subject to the penalties of 18 Pa. C.S. §4904 pertaining to false statements to authorities.


Deree J. Norman