

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

James Wolfgang

**Public Meeting February 28, 2019
2613989-ALJ**

v.

Docket No. C-2017-2613989

Pennsylvania Electric Company

STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR.

Before the Commission is an Initial Decision (ID) dismissing the above-captioned Formal Complaint filed against Pennsylvania Electric Company (Penelec). The ID dismisses the Complaint for Mr. Wolfgang's failure to comply with multiple interim orders requiring him to provide discovery responses and witness identification information to Penelec. The motion proposes to remand this matter to our Office of Administrative Law Judge (OALJ) so that Mr. Wolfgang can receive guidance concerning how to submit confidential information.

I do not support the proposed motion to remand this matter. Rather, I agree with the ID to dismiss the Complaint. In my view, the Presiding Officer provided every opportunity for the Complainant to comply with our discovery regulations and orders in this case. However, the Complainant did not respond to the information requests and in doing so, chose a path of non-compliance here.

Although the Commission from time-to-time makes certain allowances for *pro se* litigants, those allowances must be balanced against the rights of a respondent utility. These rights include the right of a utility to receive adequate notice of claims against it and the right of a utility to prepare a defense in a case. If, as part of pursuing these rights, a utility elects to propound legitimate discovery requests on a complainant, the utility is entitled to receive responses to its requests.

Here, Penelec propounded legitimate discovery requests, and the Complainant did not meet his legal obligation to respond. The Complainant failed to comply with three separate interim orders requiring him to respond to the discovery requests.¹ Although *pro se* complainants may not be fully conversant with the Commission's discovery rules, their "lay" status is not a valid reason for failing to respond to legitimate discovery requests.

Also, I do not believe the confidentiality issue raised by Mr. Wolfgang justifies his repeated failure to provide the requested information despite being ordered to do so. I note that in the Complainant's correspondence to the Commission indicating his desire to keep his family's health-related information private, Mr. Wolfgang did not use his privacy concerns as a reason for his non-compliance with the Commission's discovery regulations and orders. In fact, to date, Mr. Wolfgang has yet to provide any explanation for his non-compliance.

¹ The interim orders were dated March 23, 2018, June 29, 2018, and November 9, 2018.

Lastly, as part of the motion to remand, I would have provided Mr. Wolfgang twenty (20) days to inform the Commission whether he intends to pursue his Complaint. I believe such an approach is entirely appropriate here, given the Complainant's lack of engagement throughout the formal complaint process and the fact that he did not except to the Initial Decision dismissing his Complaint.

For these reasons, I would affirm the ID to dismiss the Complaint in its entirety.

Date: February 28, 2019



**JOHN F. COLEMAN, JR.
COMMISSIONER**