

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael Chattin	:	
	:	
v.	:	C-2017-2630649
	:	
Pennsylvania Electric Company	:	

INITIAL DECISION

Before
Emily I. DeVoe
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Formal Complaint filed by Michael Chattin due to Complainant’s failure to comply with orders.

HISTORY OF THE PROCEEDING

On October 19, 2017, Michael Chattin (Complainant) filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) against Pennsylvania Electric Company (Respondent or Penelec), objecting to the installation of a smart meter at his residence located at 58 Rocky Top Lane, Rome, PA 18837 (service location), due to health and safety concerns. Complainant attached multiple documents to his Complaint, including a letter addressed to the Commission, in which he argued, *inter alia*, the Commission lacked the authority to “make law, modify any existing law, or threaten the lives of American citizens with their self-serving interpretations of the law.” Complainant also attached an unsigned and undated letter purporting to be written by Complainant’s wife’s physician.

On November 13, 2017, Respondent filed an Answer and New Matter, as well as Preliminary Objections to the Complaint, averring that Complainant refused the installation of a smart meter at the service location; Respondent averred it is required by Act 129 of 2008¹ (Act 129) to install a smart meter at the service location; and Complainant's refusal to allow the installation of a smart meter constitutes legal grounds to terminate service to the service location. Respondent denied the remaining material allegations set forth in the Complaint.

On December 1, 2017, Complainant filed correspondence in response to Respondent's Answer, but addressed to and directed toward the Commission, alleging, *inter alia*, that the Commission had not yet produced the proof he requested showing that it had the legal authority to mandate smart meters and arguing that the Commission's regulations are "not law."

On January 4, 2018, the Commission issued a Motion Judge Assignment Notice, assigning this matter to Administrative Law Judge (ALJ) Jeffrey Watson.

On January 8, 2018, ALJ Watson issued an Interim Order, denying Respondent's Preliminary Objections and referring the matter for mediation review. In his Order, ALJ Watson informed Complainant of his burden of proof and advised the parties of the importance of reviewing and complying with the Commission's statutes, regulations, and decisions throughout the proceedings.

On January 19, 2018, Respondent filed a certificate of service regarding its service of Interrogatories and Requests for Production of Documents (discovery requests) upon Complainant. Objections were due by January 29, 2018, and answers were due by February 8, 2018.

On December 19, 2018, Respondent filed a Motion to Compel Responses to Interrogatories and Document Requests (Motion to Compel), averring that throughout the mediation process, Respondent's discovery requests were held in abeyance; after the parties were

¹ 66 Pa.C.S. § 2806.1 *et seq.*

unable to resolve the Complaint through mediation, Respondent issued a letter to Complainant on October 29, 2018, indicating that Respondent planned to move forward with discovery and extending the time for responses to November 26, 2018; and on November 12, 2018, Complainant responded to Respondent, advising he would not be providing responses to the discovery requests. The Motion to Compel contained a Notice to Plead, requiring Complainant to file a response within five days of service.

On January 2, 2019, Complainant submitted correspondence dated December 28, 2018,² in response to the Motion to Compel and addressed to Tori Giesler, Esq., counsel for Respondent, and “all parties concerned.” Complainant wrote, *inter alia*, he was not legally required to have a smart meter and “Anything else like discoveries, interrogatories, or questionnaires are beside the point and are of no value.” He also requested that his Complaint be resolved through a “mutually selected independent board of arbitration to resolve our case [in] the near future.”

On January 7, 2019, ALJ Watson issued an Interim Order, granting Respondent’s Motion to Compel and ordering Complainant to serve full and complete responses to the discovery requests upon Respondent’s counsel and file a certificate of service with the Commission’s Secretary no later than February 1, 2019.

On January 28, 2019, Complainant submitted correspondence dated January 24, 2019, addressed to ALJ Watson and responding to the Interim Order granting the Motion to Compel. Complainant averred, *inter alia*, Respondent was attempting to obtain its discovery in “bad faith.” He questioned whether the law mandated smart meters, claimed ALJ Watson’s employment by the Commission constituted a “gross conflict of interest,” requested that ALJ Watson “recuse” himself from the case “immediately,” and advised that Claimant would not provide any further information.

² In order to clearly and consistently identify Complainant’s multiple filings in this matter, the documents will be identified throughout this Initial Decision by the date the document is dated, rather than the date it was received or filed.

No affidavits or other evidence of a personal bias or other basis for disqualification regarding ALJ Watson were provided.

On February 13, 2019, Respondent filed a Motion to Dismiss Complaint of Michael W. Chattin for Failure to Comply with the Interim Order Granting Motion of Pennsylvania Electric Company To Compel Responses To Interrogatories and Document Requests (Motion to Dismiss), averring, *inter alia*, Complainant failed to serve responses to the discovery requests in violation of the January 7, 2019 Interim Order, and, to the extent that his letter dated January 24, 2019 is an objection to the discovery requests, it was untimely and without merit.

On February 25, 2019, Complainant filed correspondence dated February 22, 2019, and addressed to ALJ Watson. In his correspondence, Complainant advised, *inter alia*, he was interpreting the February 13, 2019 Motion to Dismiss as an “offer to contract,” he was within his “three day right of rescission,” and he was “rejecting” the Motion to Dismiss. He also claimed that ALJ Watson was attempting to “enforce an unlawful corporate policy against his birth certificate trust.”

The correspondence included a “Declaration of Non-Consent,” and a copy of Respondent’s February 13, 2019 Motion to Dismiss. In his “Declaration of Non-Consent,” Complainant advised he “WILL NOT accept and WILL NOT **knowingly or unknowingly** CONSENT, CONFIRM, or ACCEPT any **contracts** from either the COURTS, or LAWYERS, or JUDGES, or PARALEGALS, or SECRETARIES, or CLERKS, or any other COURT EMPLOYEES....” (emphasis in original). A slip of paper was stapled to the first page of the copy of Respondent’s Motion to Dismiss. The slip of paper reads, “I DO NOT ACCEPT THIS OFFER TO CONTRACT AND I DO NOT CONSENT TO THESE PROCEEDINGS.” (emphasis in original). The slip of paper was signed and dated by Complainant, and included a citation to the “UCC.”

On February 25, 2019, ALJ Watson issued an Interim Order, denying Complainant's request for ALJ Watson's disqualification, explaining, *inter alia*, the fact that he was employed by the Commission was not evidence of a personal bias or a basis for disqualification as the presiding officer of this proceeding.

On February 27, 2019, ALJ Watson issued an Interim Order, scheduling a prehearing conference for Friday, April 19, 2019, at 10:00 a.m. ALJ Watson observed that Complainant had various questions regarding various procedures related to Commission proceedings and the authority of the Commission and a prehearing conference would be beneficial to the parties. The Order contained instructions on how to call into the conference bridge and warned, **"You must call into the hearing on the schedule day and time. If you fail to do so, your case will be dismissed. You will not be called by the Administrative Law Judge."**³

On February 28, 2019, the Commission issued a Call-In Telephone Pre-Hearing Conference Notice, scheduling the April 19, 2019 prehearing conference.

On March 7, 2019, Complainant filed correspondence dated March 5, 2019, and addressed to ALJ Watson. Complainant's correspondence was written in response to ALJ Watson's Interim Order dated February 25, 2019, denying Complainant's request for ALJ Watson's disqualification. Complainant advised, *inter alia*, he was interpreting the February 25, 2019 Order as an "offer to contract," he was "within his three day right of rescission," and he was rejecting ALJ Watson's "offer" as "wholly unacceptable." He argued that ALJ Watson was "not factually acting as a judge" and advised that he did not consent to the proceedings unless they included an "unbiased Judge and an unbiased Jury of [his] peers." He also again referenced ALJ Watson's role as "trustee" of his "birth certificate trust."

Again, no affidavits or other evidence of a personal bias or other basis for disqualification regarding ALJ Watson were provided.

³ The February 27, 2019 Interim Order inadvertently identified the April 19, 2019 proceeding as a hearing, rather than a prehearing conference.

Attached to his correspondence was a “Declaration of Non-Consent,” which was identical to the one attached to Complainant’s correspondence dated February 22, 2019. Also attached to Complainant’s correspondence was copy of the Interim Order dated February 25, 2019 with a slip of paper stapled to it. The slip of paper reads, “I DO NOT ACCEPT THIS OFFER TO CONTRACT AND I DO NOT CONSENT TO THESE PROCEEDINGS.” The slip of paper was signed and dated by Complainant, and included a citation to the “UCC.” Additionally, the copy of the Interim Order dated February 25, 2019, contained a handwritten notation below the caption that reads, “I do not accept this contract.”

On March 11, 2019, Complainant filed correspondence dated March 8, 2019 in response the February 28, 2019 Notice. In his correspondence, Complainant advised, *inter alia*, he was interpreting the February 28, 2019 Notice as an “offer to contract,” he was “within his three day right of rescission,” and he was rejecting ALJ Watson’s “offer” as “wholly unacceptable.” He argued that ALJ Watson was “not factually acting as a judge” and advised that he did not consent to the proceedings unless they included an “unbiased Judge and an unbiased Jury of [his] peers.” He also again referenced ALJ Watson’s role as “trustee” of his “birth certificate trust.”

Again, no affidavits or other evidence of a personal bias or other basis for disqualification regarding ALJ Watson were provided.

Complainant also attached a “Declaration of Non-Consent,” and a copy of the February 28, 2019 Notice. The Declaration of Non-Consent is identical to that attached to Complainant’s correspondence dated March 5, 2019. The copy of the February 28, 2019 Notice had a slip of paper stapled to it. The slip of paper reads, “I DO NOT ACCEPT THIS OFFER TO CONTRACT AND I DO NOT CONSENT TO THESE PROCEEDINGS.” The slip of paper was signed and dated by Complainant and included a citation to the “UCC.”

On April 4, 2019, ALJ Watson issued an Interim Order, directing the parties to, *inter alia*, attend the prehearing conference on April 19, 2019. ALJ Watson explained that he

wanted to give the parties an opportunity to confer, and he wanted to address some procedural issues, Complainant's concerns, and all outstanding questions and issues. ALJ Watson advised the parties that he would continue to preside over the proceeding in a fair and unbiased manner and that his employment by the Commission in no way presented any conflict of interest, impropriety, or appearance of impropriety.

On April 15, 2019, Complainant filed correspondence dated April 11, 2019. This correspondence contained, *inter alia*, a "Declaration of Non-Consent and Contract Refusal for PA PUC Contract dated 4-4-19," which contained language identical to the "Declaration of Non-Consent" attached to Complainant's correspondence dated March 5, 2019. The April 15, 2019 correspondence also included a copy of the April 4, 2019 Interim Order with a slip of paper stapled to it. The slip of paper reads, "I DO NOT ACCEPT THIS OFFER TO CONTRACT AND I DO NOT CONSENT TO THESE PROCEEDINGS." The slip of paper was signed and dated by Complainant and contained a citation to the "UCC." Additionally, the copy of the April 4, 2019 Interim Order contained two handwritten notations, one at the top of the first page and one at the bottom of the first page, that both read "Refused."

On April 16, 2019, Complainant filed correspondence addressed to ALJ Watson and dated April 14, 2019, regarding "Canceled Contracts." In this correspondence, Complainant argued, *inter alia*, Complainant had cancelled all of ALJ Watson's previous "attempts to contract" with him, cancelled ALJ Watson's jurisdiction in this matter, and cancelled the prehearing conference scheduled for April 19, 2019. He argued that his Complaint was governed by "statutory contract law" and the "Universal Commercial Code." He argued that ALJ Watson, as an employee of the Commission was necessarily unable to provide him "fair and unbiased judicial treatment."

Again, no affidavits or other evidence of a personal bias or other basis for disqualification regarding ALJ Watson were provided.

On April 19, 2019, ALJ Watson convened a prehearing conference at 10:03 a.m. pursuant to the February 27, 2019 Interim Order and the February 28, 2019 Notice. Counsel for

Respondent had called into the conference bridge, but Complainant had not. ALJ Watson recessed the conference and had his legal assistant contact Complainant and advise him to call into the conference immediately or the conference would proceed in Complainant's absence. By 10:24 a.m., Complainant had not yet called into the conference bridge, and ALJ Watson proceeded with the conference in Complainant's absence. Complainant subsequently called into the conference at 10:46 a.m. Complainant objected to participating in the conference as April 19, 2019 was Good Friday.

When ALJ Watson questioned Complainant about his objection to the conference occurring on Good Friday, Complainant responded, "Well, that was my original objection, which I did not tell you. I simply was not going to be a party to these proceedings on this day. I think, Judge Watson, I had refused your schedule at least twice through certified mail." (Transcript at 16).

Complainant also argued that the conference was "not an actual legal proceeding" (Transcript at 19), and he questioned ALJ Watson as to the legal authority the Commission had to "mandate smart meters" (Transcript at 20). ALJ Watson advised Complainant that before he responded to Complainant's question, he wanted to make sure that Complainant was willing to participate in the prehearing conference, given Complainant's concerns about it being Good Friday. ALJ Watson asked Complainant three separate times whether he would like to proceed with the conference or whether he would prefer to have the conference rescheduled to a different day, and each time, Complainant refused to directly answer ALJ Watson's question. Complainant advised ALJ Watson he would only answer ALJ Watson's question if ALJ Watson first answered his. Due to Complainant failing to affirmatively indicate he was willing to proceed with the conference, ALJ Watson advised the parties it would be rescheduled and adjourned the conference. The transcript of the prehearing conference was filed with the Commission's Secretary on April 23, 2019, and is twenty-six pages.

On April 23, 2019, Complainant filed correspondence dated April 23, 2019, addressed to ALJ Watson, the Commission's Secretary, and Respondent's counsel. Complainant

argued, *inter alia*, he was not late for the conference because he had already cancelled it and “no one can be held liable for a cancelled contract.”

On April 24, 2019, ALJ Watson issued an Interim Order, rescheduling the conference for May 7, 2019 at 10:00 a.m.

On April 24, 2019, the Commission issued a Call-In Telephone Pre-Hearing Conference Notice, scheduling a prehearing conference for May 2, 2019 at 10:00 a.m. Later that day, the Commission issued a Call-In Telephone Cancellation/Reschedule Prehearing Notice, rescheduling the conference for May 2, 2019 at 1:00 p.m. Even later that day, the Commission issued a Call-In Telephone Cancellation/Reschedule Prehearing Notice, rescheduling the conference for May 7, 2019 at 10:00 a.m.

On May 2, 2019, Complainant filed correspondence dated April 30, 2019, and addressed to ALJ Watson, the Commission’s Secretary, and Respondent’s counsel. Complainant again argued that he had cancelled the April 19, 2019 prehearing conference and was not required to attend it. He also advised, “I will not participate, consent, or approve your prehearing conference scheduled for **May 7, 2019 at 10:00 a.m.** for cause.” (emphasis in original).

This correspondence contained, *inter alia*, a copy of the April 24, 2019 Interim Order with a slip of paper stapled to it. The slip of paper read, “I DO NOT ACCEPT THIS OFFER TO CONTRACT AND I DO NOT CONSENT TO THESE PROCEEDINGS.” The slip of paper was signed and dated by Complainant, and contained a citation to the “UCC.” Additionally, the copy of the April 24, 2019 Interim Order contained a handwritten notation, one at the bottom of the first page that read “Cancelled.”

On May 6, 2019, ALJ Watson issued an Interim Order, cancelling the prehearing conference scheduled for May 7, 2019.

On May 22, 2019, the Commission issued a Judge Change Notice, reassigning this matter to me. Upon review of the procedural history of the case, I determined it was appropriate and necessary to convene a prehearing conference. On May 28, 2019, the

Commission issued a Call-In Telephone Prehearing Conference Notice, scheduling a prehearing conference for July 22, 2019.

On May 29, 2019, I issued an Interim Order, scheduling a prehearing conference for July 22, 2019 at 10:00 a.m. and explaining, *inter alia*, that although Complainant had expressed a desire not to participate in a prehearing conference, a prehearing conference was necessary due to the complex procedural history of the case, as well as the potentially complex issues involved in the case. I explained the purposes of the prehearing conference and directed the parties to attend and participate. I also explained that my Orders were in fact Orders, and not “offers to contract.”

On June 7, 2019, I received correspondence from Complainant dated June 5, 2019. In his correspondence, Complainant argued, *inter alia*, that due to my employment with the Commission, I had “an obvious and egregious conflict of interest” and must recuse myself. He argued that I was disqualified as an “independent and objective mediator and was not able to Judge the facts or the merits of the case due to[my] inherent bias for [my] employer.” He argued that filing a complaint with the Commission did not automatically place him under the jurisdiction of the Commission, and I could only have jurisdiction over the case if he consented to it, which he did not. He argued that Commission employees lacked authority to compel him to appear for a prehearing conference or “anything else.” He also argued that “all court proceedings” since 1934 “are all about contracts and nothing but contracts,” and the only way to resolve his Complaint was through a “Common Law Board of Arbitration.” He wrote that he would not allow me to “mediate” for him in any proceeding, he refused to “contract” with me for the July 22, 2019 prehearing conference, and he “cancelled” his “participation” in these proceedings.

Complainant’s correspondence dated June 5, 2019 included, *inter alia*, a “Declaration of Non-Consent and Contract Refusal for PA PUC Contract dated 4-4-19,” which contained language identical to the “Declaration of Non-Consent” attached to Complainant’s correspondence dated March 5, 2019. It also contained a copy of the May 28, 2019 Notice with a slip of paper stapled to it. The slip of paper reads, “I DO NOT ACCEPT THIS OFFER TO CONTRACT AND I DO NOT CONSENT TO THESE PROCEEDINGS.” (emphasis added).

The slip of paper was signed and dated by Complainant, and contained a citation to the “UCC.” He also attached a copy of the May 28, 2019 Notice with a handwritten notation on the front page reading “Cancelled.” Complainant’s correspondence did not include any affidavits or other evidence of a personal bias for my disqualification.

On June 17, 2019, I issued an Interim Order, advising that I was treating Complainant’s correspondence dated June 5, 2019 as a motion for relief and that Respondent’s response, if any, was due by July 8, 2019.

On June 17, 2019, I also issued a Rule to Show Cause Why Complaint Should Not be Dismissed (Rule to Show Cause or Rule). I ordered Complainant to show cause why the Complaint should not be dismissed and advised, *inter alia*, that Complainant could address any relevant argument but must address a list of seven numbered issues I detailed in the Rule.

I advised Complainant that his response to the Rule to Show Cause was due by July 8, 2019.

On July 8, 2019, I received a letter from Respondent’s counsel, advising, *inter alia*, it has not questioned the jurisdiction of the Commission over the matters raised within this proceeding and that the June 5, 2019 motion should be denied, or in the alternative, “Complainant should be directed to request a withdrawal of his Formal Complaint so as to limit the significant expenditure of resources by the Commission and the parties that continues to unnecessarily grow for each day that he disputes the Commission’s jurisdiction over the very complaint he himself voluntarily brought before it.”

On July 3, 2019, I received correspondence from Complainant dated July 1, 2019, in response to the Rule to Show Cause. This correspondence was addressed to me, as well as Respondent’s counsel. Complainant’s correspondence was nonresponsive to the Rule, did not address any of the numbered items, and merely reiterated his arguments regarding these proceedings being governed by contract law, my disqualification based on my employment with the Commission, and my lack of jurisdiction over his Complaint. He requested that I remit to

him documents outlined in a numbered list and advised that he would not respond to “any more mail” from me until he received the documents.

Complainant’s correspondence did not include any affidavits or other evidence of a personal bias for my disqualification. It did include a copy of the unsigned and undated letter purportedly written by Complainant’s wife’s physician that was attached to his original Complaint.

On July 9, 2019, I issued an Interim Order cancelling the prehearing conference scheduled for July 22, 2019, and closing the hearing record.

FINDINGS OF FACT

1. Complainant is Michael Chattin.
2. Respondent is Pennsylvania Electric Company, a jurisdictional public utility.
3. The service location is 58 Rocky Top Lane, Rome, PA 18837.
4. On October 19, 2017, Complainant filed a Complaint against Respondent, alleging, *inter alia*, he objected to the installation of a smart meter at his residence.
5. On November 13, 2017, Respondent filed an Answer and New Matter to the Complaint, averring, *inter alia*, Respondent was required to install a smart meter at the service location.
6. On November 13, 2017, Respondent filed Preliminary Objections, arguing, *inter alia*, Complainant failed to state a claim upon which the Commission can grant relief and failed to allege a violation of any law which the Commission has jurisdiction to administer, or of any regulation or order of the Commission.

7. On December 1, 2017, Complainant filed correspondence, arguing, *inter alia*, the Commission's regulations "are not law."

8. On January 8, 2018, an Interim Order was issued, denying Respondent's Preliminary Objections.

9. On January 19, 2018, Respondent filed a certificate of service regarding its service of discovery requests upon Complainant. Objections to the discovery requests were due on January 29, 2018, and responses to the discovery requests were due on February 8, 2018.

10. Respondent subsequently agreed to extend the deadline for Complaint to submit discovery responses to November 26, 2018.

11. On December 19, 2018, Respondent filed a Motion to Compel responses to the discovery requests, averring, *inter alia*, Complainant had not served any response to the discovery requests and had advised Respondent he would not be providing any responses.

12. On January 2, 2019, Complainant filed correspondence dated December 28, 2018, in response to the Motion to Compel, arguing, *inter alia*, the law does not mandate smart meter installation and interrogatories "are of no value."

13. On January 7, 2019, an Interim Order was issued, granting Respondent's Motion to Compel and ordering Complainant to serve full and complete responses to the discovery requests upon Respondent's counsel and file a certificate of service no later than February 1, 2019.

14. On January 28, 2019, Complainant submitted correspondence dated January 24, 2019, advising, *inter alia*, he was not going to provide responses to the discovery requests, ALJ Watson's employment with the Commission was a conflict of interest, and ALJ Watson was disqualified from these proceedings based on that conflict of interest.

15. Complainant did not provide any affidavits or other evidence of a personal bias or other basis for ALJ Watson's disqualification with the January 24, 2019 correspondence.

16. On February 13, 2019, Respondent filed a Motion to Dismiss Complainant's Complaint due to his failure to provide full and complete responses to the discovery requests, in violation of the January 7, 2019 Interim Order.

17. On February 25, 2019, Complainant filed correspondence dated February 22, 2019 in response to the Motion to Dismiss, objecting in general to the dismissal of his Complaint and arguing, *inter alia*, that ALJ Watson was "Trustee" of Complainant's "Cesta Que Trust."

18. Complainant's February 22, 2019 correspondence did not address the outstanding discovery issues or Complainant's compliance with the January 7, 2019 Interim Order, which granted the Motion to Compel.

19. Complainant's February 22, 2019 correspondence included a signed statement from Complainant that he did not consent to these proceedings and a citation to the "UCC."

20. On February 25, 2019, an Interim Order was issued, denying Complainant's request for ALJ Watson's disqualification.

21. On February 27, 2019, an Interim Order was issued, scheduling a prehearing conference for April 19, 2019.

22. On February 28, 2019, the Commission issued a Call-In Telephone Prehearing Conference Notice, scheduling the prehearing conference for April 19, 2019.

23. On March 7, 2019, Complainant submitted correspondence dated March 5, 2019, arguing, *inter alia*, the February 25, 2019 Interim Order was an “offer to contract” that Complainant had the authority to reject, ALJ Watson lacked the authority to order or compel him to do anything, ALJ Watson should be disqualified from the proceedings because his employment with the Commission created a conflict of interest, and Complainant did not see a point in “negotiating” with ALJ Watson until they could agree to a process which included an “un-biased Judge and an un-biased Jury.”

24. Complainant did not provide any affidavits or other evidence of a personal bias or other basis for ALJ Watson’s disqualification with the March 5, 2019 correspondence.

25. Complainant’s March 5, 2019 correspondence included a signed statement from Complainant that he did not consent to these proceedings and a citation to the “UCC.”

26. On March 11, 2019, Complainant submitted correspondence dated March 8, 2019, arguing, *inter alia*, the February 28, 2019 Notice was an “offer to contract” that Complainant had the authority to reject, ALJ Watson lacked the authority to order or compel him to do anything, ALJ Watson should be disqualified from the proceedings because his employment with the Commission created a conflict of interest, and Complainant did not see a point in “negotiating” with ALJ Watson until they could agree to a process that included an “un-biased Judge and an un-biased Jury.”

27. Complainant did not provide any affidavits or other evidence of a personal bias or other basis for ALJ Watson’s disqualification with the March 8, 2019 correspondence.

28. Complainant’s March 8, 2019 correspondence included a signed statement from Complainant that he did not consent to these proceedings and a citation to the “UCC.”

29. On April 4, 2019, an Interim Order was issued, directing the parties to, *inter alia*, attend the prehearing conference on April 19, 2019.

30. On April 15, 2019, Complainant submitted correspondence dated April 11, 2019 that included a copy of the April 4, 2019 Interim Order with a handwritten notation that read “refused.”

31. Complainant’s April 11, 2019 correspondence included a signed statement from Complainant that he did not consent to these proceedings and a citation to the “UCC.”

32. On April 16, 2019, Complainant submitted correspondence dated April 14, 2019 claiming that he had “cancelled” ALJ Watson’s jurisdiction in this matter, and arguing, *inter alia*, that ALJ Watson, due to his employment with the Commission, was disqualified from these proceedings and was unable to provide “fair and unbiased judicial treatment under Constitutional law.”

33. Complainant did not provide any affidavits or other evidence of a personal bias or other basis for ALJ Watson’s disqualification with the April 14, 2019 correspondence.

34. On April 19, 2019, ALJ Watson convened a telephone prehearing conference.

35. Complainant called into the conference bridge at 10:46 a.m.

36. Complainant advised he was uncomfortable proceeding with the conference due to April 19, 2019 being Good Friday. (Transcript at 16)

37. Complainant advised he did not trust the Office of the Administrative Law Judge, the court reporter, or anyone else participating in the conference because they were all “agents of the PUC.” (Transcript at 18)

38. Complainant argued the conference was “not an actual legal proceeding.” (Transcript at 19)

39. ALJ Watson addressed Complainant's concerns about proceeding with the conference on Good Friday and asked Complainant four times whether he was comfortable continuing with the conference or whether he would like to have it rescheduled. (Transcript at 22, 23, 24)

40. Complainant's answers to ALJ Watson were non-responsive, and ALJ Watson adjourned the conference, advising it would be rescheduled. (Transcript at 22-25)

41. On April 23, 2019, Complainant filed correspondence dated April 23, 2019, advising that the April 19, 2019 conference should not have been convened because he had "cancelled" the conference in his prior correspondence and arguing, *inter alia*, that any order issued by the Commission is in fact an "offer" that is subject to Complainant's "review, acceptance, or cancellation."

42. On April 24, 2019, an Interim Order and Call-In Telephone Prehearing Conference Notice were issued, rescheduling the conference for May 7, 2019.

43. On May 2, 2019, Complainant submitted correspondence dated April 30, 2019, advising, *inter alia*, he was refusing to attend the prehearing conference scheduled for May 7, 2019.

44. Complainant's April 30, 2019 correspondence included a signed statement from Complainant that he did not consent to these proceedings and a citation to the "UCC."

45. On May 6, 2019, an Interim Order was issued, cancelling the prehearing conference for May 7, 2019.

46. On May 22, 2019, the Commission issued a Judge Change Notice, reassigning this proceeding to me.

47. On May 28, 2019, the Commission issued a Call-In Telephone Prehearing Conference Notice, scheduling a prehearing conference for July 22, 2019.

48. On May 29, 2019, an Interim Order was issued, scheduling a prehearing conference for July 22, 2019.

49. On June 7, 2019, Complainant submitted correspondence dated June 5, 2019, arguing, *inter alia*, that based on the fact that the undersigned is a Commission employee, the undersigned's involvement in these proceedings is an "obvious and egregious 'conflict of interest,'" such that the undersigned is disqualified from presiding over these proceedings.

50. Complainant's June 5, 2019 correspondence did not include any affidavits or other evidence of a personal bias for my disqualification.

51. In his June 5, 2019 correspondence, Complainant also argued that the undersigned only has jurisdiction over him and his Complaint if he expressly consents to the undersigned's authority, which he does not.

52. In his June 5, 2019 correspondence, Complainant argued that filing a complaint with the Commission does not necessarily place him under the undersigned's jurisdiction.

53. In his June 5, 2019 correspondence, Complainant argued the undersigned does not have the authority to order or compel him to "appear for a prehearing conference or anything else."

54. In his June 5, 2019 correspondence, Complainant advised that the only way to resolve his case is through a "Common Law Board of Arbitration."

55. Complainant's June 5, 2019 correspondence included a signed statement from Complainant that he did not consent to these proceedings and a citation to the "UCC."

56. On June 17, 2019, an Interim Order was issued advising the parties that Complainant's June 5, 2019 correspondence was being considered a motion for relief and Respondent's response, if any, was due by July 8, 2019.

57. On June 17, 2019, a Rule to Show Cause was issued ordering Complainant to show cause why the Complaint should not be dismissed and directing Complainant to address specific issues raised in seven numbered paragraphs.

58. On July 8, 2019, Respondent filed correspondence arguing, *inter alia*, the Commission clearly has jurisdiction over the matters raised in the Complaint and requesting, *inter alia*, that Complainant be directed to request a withdrawal of his Complaint "so as to limit the significant expenditure of resources by the Commission and the parties that continues to unnecessarily grow for each day that he disputes the Commission's jurisdiction over the very complaint he himself voluntarily brought before it."

59. On July 3, 2019, Complainant filed a response to the Rule to Show Cause that reiterated his arguments regarding the undersigned's conflict of interest and lack of jurisdiction over him and his Complaint.

60. Complainant did not address any of the seven numbered issues within the Rule to Show Cause in his July 3, 2019 correspondence.

61. On July 9, 2019, an Interim Order was issued cancelling the prehearing conference scheduled for July 22, 2019, and closing the hearing record.

DISCUSSION

Complainant's Request for Disqualification of Presiding Officer

This matter was reassigned to me by a Judge Change Notice issued May 22, 2019. Upon review of the procedural history of the case, I determined it was appropriate and necessary

to schedule a prehearing conference. A prehearing conference was scheduled by a Notice issued May 28, 2019, and an Interim Order issued May 29, 2019.

On June 7, 2019, I received correspondence from Complainant dated June 5, 2019. In his correspondence, Complainant argued that, based on the fact I am employed by the Commission, he has “serious doubts” about my ability to “judge or mediate impartially and fairly”, and he also argued “this arrangement” is an “obvious and egregious ‘conflict of interest.’” He argued, “as an employee/agent of the PENNSYLVANIA UTILTIY COMMISSION, Judge DeVoe is *disqualified* as an independent and objective mediator and is not able to Judge the facts or the merits of the case due to her inherent bias for her employer.” (emphasis in original). Complainant’s correspondence did not include any affidavits or other evidence of a personal bias for my disqualification.

On June 17, 2019, I issued an Interim Order, advising the parties I was treating Complainant’s correspondence as a motion for relief and that Respondent’s response, if any, was due by July 8, 2019. Respondent filed its response on July 8, 2019, and it did not address Complainant’s disqualification argument.

In the Rule to Show Cause issued June 17, 2019, I directed Complainant to address several specific issues, one of which was related to his argument that I was disqualified. I wrote,

Complainant argues that employment by the Commission necessarily renders an individual disqualified from presiding over and adjudicating his Complaint. Therefore, since all of the Commission’s ALJs, including the Chief ALJ, and all of the Commission’s Commissioners are employees of the Commission, it appears there is no individual to whom the Commission could assign the Complaint whom Complainant would recognize has authority to adjudicate his Complaint.

In his response to the Rule to Show Cause dated July 1, 2019, Complainant again argued that I was “not qualified to conduct or mediate the conference due to [my] conflict of interest.” Complainant’s correspondence did not include any affidavits or other evidence of a

personal bias for my disqualification, nor did he specifically address the issue as I presented it in the Rule to Show Cause.

Statute provides that each ALJ may withdraw from a proceeding if she deems herself disqualified or upon a good faith filing of an affidavit of personal bias. 66 Pa.C.S.A. § 331(c). Furthermore, an ALJ must disqualify herself from proceedings in which her impartiality might reasonably be questioned. 66 Pa.C.S.A. § 319(a).

In this case, Complainant's argument that I am disqualified is based solely on the fact I am a Commission employee. The fact that I am employed by the Commission is not evidence of a personal bias for disqualification. If employment by the Commission was sufficient grounds to disqualify an individual from presiding over proceedings involving complaints filed with the Commission, no ALJ in the Commission's Office of the Administrative Law Judge (OALJ) would be eligible to preside over any complaint filed with the Commission. Complainant has not provided any affidavit or any other evidence that would cause a reasonable person to question my impartiality in this matter. Complainant's request for my disqualification is denied.

Complainant's Failure to Comply with Orders

Complainant voluntarily filed a Formal Complaint with the Commission. By filing his Complaint, Complainant knew or should have known that he was initiating a legal proceeding before the Commission and that he was a party to that proceeding.

The Commission's rules and regulations clearly prescribe the process for litigating formal complaints. The regulation at 52 Pa.Code § 5.21 provides, "The filing of a formal complaint entitles the complainant to a formal hearing before the Commission except that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest." When evidence is to be taken in a proceeding, either the Commission or a presiding officer appointed by law may preside. 52 Pa.Code § 5.481.

The presiding officer may direct that a prehearing conference be held and may direct the parties to the proceeding to appear to consider various matters. 52 Pa.Code § 5.222(b). A party may obtain discovery in preparation of a case, and, if served with written interrogatories, a party must serve objections within ten days of service and responses within twenty days of service. 52 Pa.Code § 5.341; 52 Pa.Code § 5.342. Evidentiary hearings are held before presiding officers and are stenographically reported by the Commission's official reporter. 52 Pa.Code § 5.241(a); 52 Pa.Code § 5.251(a).

Complainant has obstructed the Commission's procedures and justified his actions by making three main arguments: (1) the Commission's rules and regulations do not have any force of law, rather, these proceedings should be conducted pursuant to "contract law," meaning Complainant may refuse, reject, or cancel any procedural rule or order and the only procedural rules or orders applicable to these proceedings are ones to which Complainant has expressly consented; (2) the Commission lacks jurisdiction over his Complaint and any individual employed by the Commission is disqualified from presiding over these proceedings, based solely on the fact he or she is employed by the Commission; and (3) his Complaint cannot be resolved through the formal hearing process prescribed by the Commission's regulations and can only be resolved through a process such as a jury trial or a common law board of arbitration.

Furthermore, Complainant has repeatedly asserted that he does not consent to these proceedings and included signed statements to that effect with his correspondence dated February 22, 2019; March 5, 2019; March 8, 2019; April 11, 2019; April 30, 2019; and June 5, 2019.

I addressed Complainant's arguments identified above and others in my Rule to Show Cause. In his response to the Rule to Show Cause, Complainant did not directly respond to any of these issues. Rather, he simply restated his arguments that my orders were simply "offers to contract," which he had the right to reject, and that due to my employment with the Commission, I was disqualified to preside over these proceedings. He argued that, "Claimant Filing a Complaint with the PENNSYLVANIA PUC has not automatically placed the Claimant under the jurisdiction of Judge DeVoe," and "Claimant cannot be ordered/compelled by a biased

employee/agent of the Respondent to do anything such as to be “compelled to appear” for a prehearing conference to answer any “RULE TO SHOW CAUSE...” or anything else.”

Additionally, he demanded that I provide to him a list of eight items, including my employment contract with the Commission, my “registration statement pursuant to the foreign agent’s registration act of 1938, and copies of my paychecks. He advised he would not participate in these proceedings until these documents were provided to him.

The Commission’s rules and regulations govern these proceedings. There is no reasonable argument that contract principles, the “Universal Commercial Code,” or state statutes regarding trusts are applicable. The Commission’s regulations require that formal proceedings be presided over by either the Commission or an ALJ within the OALJ, all of whom are employees of the Commission. The Commission’s regulations simply do not provide a mechanism to have any individual who is not employed by the Commission preside over matters before the Commission.

Finally, the regulations found in Chapter 5 of Title 52 of the Pennsylvania Code provide for the resolution of formal complaints via evidentiary hearings presided over by Commission-employed ALJs. The regulations do not provide for any of the alternate dispute resolution processes Complainant suggests.

The Commission has held that parties must comply with the orders of an administrative law judge, and a complainant’s failure to do so is a sufficient basis to support dismissal of the matter. *Snyderville Community Development Corporation v. Philadelphia Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006).

In this case, Complainant voluntarily filed a Formal Complaint with the Commission. By filing his Complaint, Complainant initiated a legal proceeding to which he was a party. Instead of allowing the two presiding officers assigned to this case to follow the procedural rules prescribed by statute and the Commission’s regulations, Complainant has repeatedly obstructed the proceedings and refused to comply with the presiding officers’ orders,

including the January 7, 2019 Interim Order granting the Motion to Compel and ordering Complainant to provide discovery responses by February 1, 2019; the February 27, 2019 Interim Order directing Complainant to appear at 10:00 a.m. for the prehearing conference on April 19, 2019; the April 4, 2019 Interim Order directing Complainant to appear at 10:00 a.m. for the prehearing conference on April 19, 2019; the April 24, 2019 Interim Order directing Complainant to appear for a prehearing conference on May 7, 2019; the May 29, 2019 Interim Order directing Complainant to appear for a prehearing conference on July 22, 2019; and the Rule to Show Cause issued June 17, 2019 directing Complainant to address a list of numbered issues.

Complainant is requesting an adjudicatory process that the Commission does not provide, presided over by an officer that the Commission does not provide. Complainant does not consent to these proceedings, yet he has not filed a petition to withdraw his Complaint. Complainant has continued to advance his arguments and objections despite multiple rulings and orders from two different presiding ALJs. As Respondent pointed out in its July 8, 2019 letter, there has been a significant expenditure of resources by the Commission and the parties that continues to unnecessarily grow each day that Complainant disputes the Commission's jurisdiction over the very Complaint he himself voluntarily brought before it. Complainant's actions have resulted in the Complaint languishing for almost two years.

Even if Complainant was initially confused or misinformed about the Commission's procedures at the time he filed his Complaint, there have been multiple orders providing clear instructions and explanations since then to correct Complainant's understanding and expectations. Complainant has simply continued to obstruct these proceedings and fail to comply with Orders.

Dismissing Complainant's Complaint is only appropriate if he has been afforded due process. Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa.Cmwlth. 1984). This due process requirement is satisfied, however, when the administrative agency provides the parties notice and the opportunity to be heard.

In this case, Complainant has been provided notice and the opportunity to be heard to satisfy due process requirements. A prehearing conference was scheduled for April 19, 2019, by Interim Order issued February 27, 2019 and Notice issued February 28, 2019. In his Interim Order, ALJ Watson observed Complainant had questions regarding various procedures related to Commission proceedings and the authority of the Commission. ALJ Watson advised the parties he believed a prehearing conference would be beneficial, and that the parties would have an opportunity to address any outstanding issues.

Complainant's correspondence dated March 5, 2019 was written in response to the February 27, 2019 Interim Order. Complainant advised he did not consent to the "proposal" contained in the February 27, 2019 Interim Order and attached a signed statement that he did not consent to the proceedings.

On March 11, 2019, Complainant filed correspondence dated March 8, 2019, in response to the February 28, 2019 Notice. Complainant advised that the "proposal" contained in the Notice was "wholly unacceptable" and that he did not consent to it. Complainant attached a signed statement that he did not consent to the proceedings.

In his correspondence dated March 5, 2019 and March 8, 2019, Complainant argued that his lack of consent to the prehearing conference was, in large part, based on his belief that ALJ Watson's employment by the Commission rendered him disqualified. ALJ Watson, however, had issued an Interim Order dated February 25, 2019, denying Complainant's request to disqualify himself. Although he had already received a ruling on his request for ALJ Watson's disqualification, Complainant continued to raise this argument as justification for not attending the prehearing conference.

On April 4, 2019, ALJ Watson issued an Interim Order, directing the parties to attend the prehearing conference and explaining that he wanted to give the parties an opportunity to confer, address any procedural issues, address Complainant's concerns, and address all outstanding questions and issues. He reassured Complainant that he would continue to preside

over the proceeding in a fair and unbiased manner and that his employment by the Commission in no way presented any conflict of interest, impropriety, or appearance of impropriety.

On April 15, 2019, Complainant filed correspondence in response to the April 4, 2019 Interim Order, again advising he did not consent to the proceedings.

On April 16, 2019, Complainant filed correspondence dated April 14, 2019, “cancelling” all of ALJ Watson’s “attempts to contract with” Complainant, and he again argued that ALJ Watson should be disqualified from presiding over the proceedings.

Complainant received copies of the February 27, 2019 Interim Order, the February 28, 2019 Notice, and the April 4, 2019 Interim Order, as evidenced by the correspondence he submitted in reply. Instead of complying with ALJ Watson’s order to attend and fully participate in the prehearing conference, Complainant did not call into the conference bridge at the scheduled date and time. Although the February 27, 2019 Interim Order and the February 28, 2019 Notice advised that the parties would not be called by the ALJ, ALJ Watson nevertheless had his legal assistant call Complainant to remind him of the conference and encourage him to call into the conference bridge. Complainant eventually called into the conference bridge at 10:46 a.m.

ALJ Watson questioned Complainant regarding his failure to call into the conference bridge at 10:00 a.m. Complainant advised that, although he did not previously inform ALJ Watson, his “original objection” to the conference was the fact it was scheduled on Good Friday. Complainant advised, “I simply was not going to be a party to these proceedings on this day. I think, Judge Watson, I had refused your scheduled at least twice through certified mail.” (Transcript at 16). Despite submitting correspondence dated March 5, 2019, March 8, 2019, April 11, 2019, and April 14, 2019, Complainant raised his objection to the prehearing conference based on it being convened on Good Friday for the first time at the conference.

ALJ Watson attempted to ascertain whether Complainant was comfortable continuing with the prehearing conference and asked him three times whether he wanted to

continue with the conference or whether he would like it to be rescheduled. When Complainant refused to directly answer ALJ Watson's question, ALJ Watson adjourned the conference.

By Interim Order dated April 24, 2019, ALJ Watson rescheduled the prehearing conference for May 9, 2019. Complainant submitted correspondence dated April 30, 2019, advising that he "will not participate, consent, or approve [ALJ Watson's] prehearing conference scheduled for May 9, 2019, at 10:00 a.m. for cause." ALJ Watson subsequently cancelled the May 9, 2019 prehearing conference, based on Complainant's representations that he would not appear.

Shortly thereafter, the matter was reassigned to me. Upon reviewing the procedural history in this matter, my first action was to issue an Interim Order dated May 29, 2019, scheduling a prehearing conference. I directed the parties to attend and explained that I intended to address "any questions, concerns, and/or issues either party has with regard to this matter and these proceedings." I explained that the conference would give "Complainant, who is *pro se*, an opportunity to ask his questions receive answers (if possible), and gain a clear understanding of his obligation to comply with the Commission's rules and the Interim Orders issued in this case, as well as his burden of proof at a hearing." I advised the parties that if settlement was not possible, it was "imperative" that this case continue toward a hearing, and that convening a prehearing conference was necessary in order to do so.

On June 7, 2019, I received correspondence from Complainant dated June 5, 2019, arguing that I was disqualified from presiding over the proceedings, did not have the authority to order or compel him to appear for a prehearing conference "or anything else." He advised he considered my May 29, 2019 Interim Order as an "offer to contract," which he did not accept. Complainant attached a signed statement to his correspondence, advising he does not consent to these proceedings. Due to Complainant's repeated representations that he would not attend, I cancelled the prehearing conference scheduled for July 22, 2019.

Two prehearing conferences were scheduled in this case, by two different ALJs. Complainant unquestionably received notice of these conferences in the form of multiple Interim

Orders and Notices. The Interim Orders clearly described the purposes and goals of the conferences and repeatedly assured Complainant that he would have an opportunity to raise any questions or concerns he had regarding his Complaint and the proceedings. Rather than avail himself of these opportunities to be heard, Complainant rejected the ALJs' authority, "cancelled" their jurisdiction, and advised he "did not consent to the proceedings." Complainant was given the notice and opportunity to be heard to which he is entitled; however, he has repeatedly and unequivocally rejected them.

Although Complainant raises serious and concerning allegations in his Complaint and subsequent correspondence regarding his wife's health and the negative effects a smart meter may have on her health, there is simply no way for the Commission to provide the kind of adjudicative process Complainant is demanding. He does not consent to these proceedings, disputes that the Commission has jurisdiction over his Complaint, disputes the Commission's regulations govern these proceedings, and argues that any individual employed by the Commission is disqualified from presiding over these proceedings. The Commission cannot provide the kind of process or presiding officer Complainant is demanding. Additionally, he has failed to comply with multiple Orders issued by two different ALJs. As such, continuing with these proceedings is contrary to the public interest, and the Complaint is dismissed with prejudice.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of this Complaint. 66 Pa.C.S. § 701.

2. The Commission has held that parties must comply with the orders of an administrative law judge, and a complainant's failure to do so is a sufficient basis to support dismissal of the matter. *Snyderville Community Development Corporation v. Philadelphia Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006).

3. The due process rights of Complainant have been fully protected in this proceeding. *Sentner v. Bell Telephone Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered October 25, 1993); 52 Pa.Code § 5.245(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of Michael Chattin to Disqualify Presiding Officer Emily I. DeVoe, is denied.
2. That the Motion to Dismiss filed by Pennsylvania Electric Power Company on February 13, 2019, is granted.
3. That the Complaint filed by Michael Chattin against Pennsylvania Electric Company at Docket No. C-2017-2630649 is hereby dismissed with prejudice due to Complainant's failure to comply with orders and a hearing not being in the public interest.
4. That the Secretary's Bureau shall mark Docket No. C-2017-2630649 as closed.

Date: August 30, 2019

/s/
Emily I. DeVoe
Administrative Law Judge