

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG PENNSYLVANIA 17120**

Anthony Venini
v.
PPL Electric Utilities Corporation

Public Meeting Held January 16, 2020
3006469-ALJ
Docket No. C-2018-3006469

**JOINT MOTION OF CHAIRMAN GLADYS BROWN DUTRIEUILLE AND
VICE CHAIRMAN DAVID W. SWEET**

Before the Commission is the Initial Decision (ID) of Administrative Law Judge Elizabeth H. Barnes (ALJ) which grants a Motion to Dismiss the complaint because the Complainant, Anthony Venini, failed to comply with two of her orders: an Order Granting a Motion to Compel Mr. Venini to serve full and complete responses to the Respondent PPL Electric Utilities Corporation's (PPL) discovery, and the ALJ's Second Prehearing Order which directed Mr. Venini to provide a list of witnesses and any expert witness' written testimony or exhibits by a date certain.

Mr. Venini's Complaint has two counts: first, he objects to PPL's plan to install a smart meter at his residence and second, he alleges that his bills were incorrect. He states that he is a low-income customer and he seeks reimbursement for the errors.

We agree with the ALJ that the failure of any party to comply with orders of the Commission or an ALJ provides ample grounds for sanctions. There are numerous Commission dockets in which sanctions are appropriately applied for such failure.

The sanctions will vary depending upon the nature of the action or omission. In smart meter cases, for example, it is crucial to the fair conduct of the litigation that the parties exchange witness lists in advance. They must be given an opportunity to prepare their own cases by reviewing what the other side will offer at the hearing. When one side fails to provide this information, the other side's ability to prepare for the case is unfairly restricted. That is why the appropriate sanction, after several warnings to the offending party, is to dismiss the complaint. A complex litigated proceeding must be held to a high standard.

However, the Commission does not dismiss high billing complaints for failure to respond to discovery or to provide a witness list in advance. In fact, rarely is there a justification for serving discovery on a self-represented complainant in a high billing complaint. While we cannot say that it would never be justified to dismiss a high billing complaint for a customer's failure to respond to discovery, it would need to be under very specific circumstances.

We believe that this customer's high billing complaint should be set for hearing, although the smart meter portion of the complaint will be barred for failure to comply with the ALJ's Orders.

THEREFORE,

WE MOVE:

1. That the Initial Decision of Administrative Law Judge Elizabeth H. Barnes is affirmed insofar as it grants the Motion to Dismiss the smart meter count of the underlying complaint and reversed insofar as grants the Motion to Dismiss the high billing count of the underlying complaint.
2. That the high billing count is remanded to the Office of Administrative Law Judge for further proceedings as appropriate.
3. That the Office of Special Assistants prepare an appropriate order consistent with this Motion.



GLADYS BROWN DUTRIEUILLE
CHAIRMAN



DAVID W. SWEET
VICE CHAIRMAN

DATE: January 16, 2020