

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG PENNSYLVANIA 17120**

Pierre-Richard Sampeur
v.
PECO Energy Company

Public Meeting held September 15, 2021
3020085-ALJ
Docket No. C-2020-3020085

STATEMENT OF VICE CHAIRMAN DAVID W. SWEET

Before the Commission is the Initial Decision of Administrative Law Judge Marta Guhl (ALJ) in the Formal Complaint brought by Pierre-Richard Sampeur against the PECO Energy Company. The Complaint alleges incorrect billing for two months in 2020.

At the hearing, the ALJ indicated that she wanted to see a report of a meter inspection. PECO was unable to schedule an inspection as the Complainant did not return PECO's communications. The ALJ properly notified the Complainant by Interim Order dated March 4, 2021, that his failure to contact PECO to schedule this inspection within 10 days of the Interim Order would result in no inspection report to be included in the evidentiary record of this case. This notification is consistent with an ALJ's responsibility for managing the scheduling of the litigation and the formation of the evidentiary record. However, the ALJ also included an ordering paragraph to the effect that his failure to obtain and present a meter inspection report would result in the dismissal of the complaint, and this is not appropriate.

The preparation and submission of evidence in a case is determined by the party bringing the action. The ALJ's job includes facilitating the gathering of such evidence where it is in the control of the opposing party, but it does not include requiring the complainant to obtain and submit evidence where the complainant chooses not to. Whether or not the inspection report would have helped or hurt Complainant's case is unknown, but either way, Complainant was within his rights to decide not to obtain and to submit a meter inspection. The consequence was that there was no meter inspection report to submit to the record. This decision on the part of Mr. Sampeur does not provide grounds for sanctions.¹

In this instance, the Initial Decision also finds that the Complainant has not sustained his burden of proving that PECO's actions were a violation of any sort. PECO's explanation for the confusion was satisfactory. That finding should be the sole basis for dismissing this Complaint.

September 15, 2021
DATE



DAVID W. SWEET
VICE CHAIRMAN

¹ Contrast this with an order directing a complainant that is a corporation to obtain counsel, where the failure to comply does provide grounds for dismissal because the law does not permit a lay person to represent a corporation, and the litigation cannot proceed without that counsel; or, with sanctions against a utility for failing to provide discovery materials that are solely within its control, which impedes the ability of the complainant to move forward with all relevant evidence. Here, Mr. Sampeur brought his complaint, and he must prove its allegations. The decision to not take advantage of the opportunity to have a meter inspection report is his decision to make.