

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

Myesha Brown

v.

PECO Energy Company

Public Meeting April 14, 2022

3009486-ALJ

Docket No. C-2019-3009486

MOTION OF VICE CHAIRMAN JOHN F. COLEMAN, JR.

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Initial Decision of February 1, 2022, in the above-captioned matter. This proceeding was initiated with the filing of a Formal Complaint by the Complainant against PECO Energy Company (PECO) on April 26, 2019.

The matter was scheduled for a hearing on remand on October 14, 2021. The Complainant was sent the standard hearing notice and Prehearing Order, and neither were returned to the Commission as undeliverable. No request for a continuance was received by the Commission prior to the hearing. The call for the telephonic hearing commenced at the scheduled time and date, but the Complainant was not present. The court reporter and the attorney for PECO were on the call and ready to proceed at the scheduled time. The presiding ALJ waited an additional 15 minutes for the Complainant to appear before convening the hearing. Counsel for PECO then moved that the Complaint be dismissed, with prejudice, for lack of prosecution.

The Public Utility Code provides that a party who fails to attend a scheduled conference and hearing “shall be deemed to have waived the opportunity to participate” and shall not be permitted to later reopen the matter.¹ The Commission may excuse non-attendance at a hearing where “... the presiding officer shall determine that failure to be represented was unavoidable and that the interests of the other parties and the public would not be prejudiced.”² No determination was made that the non-attendance was unavoidable, and there are no facts in the record that would allow the Commission to reach this conclusion. Accordingly, I will move that the Initial Decision be modified so that the Formal Complaint is dismissed with prejudice, as required by law and consistent with relevant case precedent.³

THEREFORE, I MOVE THAT:

1. The Initial Decision in this proceeding is adopted, as modified, by this Motion.
2. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

Date: April 14, 2022



JOHN F. COLEMAN, JR., VICE CHAIRMAN

¹ 66 Pa.C.S. § 332(f), 52 Pa. Code § 5.245.

² Id.

³ *Amir Williams v. PECO Energy Company*, Docket No. C-2018-3000734 (Order entered March 14, 2019).