

held April 20, 2023

F-2022-3034455

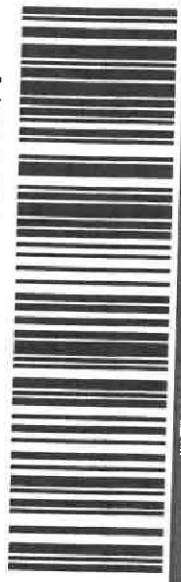
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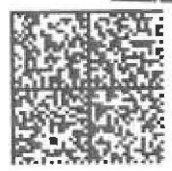
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Return Service Requested

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE
CERTIFIED MAIL™



9171 9690 0935 0297 5406 20



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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

F-2022-3034455
MARCELLA PARKER
5916 W GIRARD AVE
PHILADELPHIA, PA 19151

MAIL SERVICE
RETURN TO SENDER
VACANT
UNABLE TO FORWARD

VAC BC: 17120021199 *2419-04177-02-41
17120021199

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held April 20, 2023

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
Stephen M. DeFrank, Vice Chairman
Ralph V. Yanora, Joint Statement, Dissenting
Kathryn L. Zerfuss
John F. Coleman, Jr., Joint Statement, Dissenting

Marcella Parker

F-2022-3034455

v.

PECO Energy Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Initial Decision (I.D.) of Administrative Law Judge (ALJ) Arlene Ashton, issued on January 27, 2023, in the above-captioned proceeding. No exceptions have been filed. However, we have exercised our right to review the Initial Decision pursuant to Section 332(h) of the Public Utility Code (Code), 66 Pa. C.S. § 332(h). For the reasons stated below, we shall adopt the Initial Decision, as modified, consistent with this Opinion and Order.

History of the Proceeding

On August 8, 2022, Marcella Parker (Complainant or Ms. Parker) filed a Formal Complaint (Complaint)¹ against PECO Energy Company (PECO or Company) at the above docket number alleging, *inter alia*, that her service was terminated and that she wanted her service restored and a payment arrangement that would be affordable. Complaint at 2.

On August 30, 2022, PECO filed an Answer (Answer) admitting, in part, and denying, in part all of the material allegations of fact in the Complaint. Answer at 3. PECO averred, *inter alia*, that the Complainant's service was terminated on July 28, 2022, for non-payment. *Id.* at 2. PECO further averred that the Complainant's service bills, and the balance owed are correct. PECO stated that the Complainant has had multiple payment arrangements but only made two payments in the last two years, demonstrating a continued poor payment history. *Id.* at 2-3. Additionally, PECO averred that the Complainant's balance is \$8,670.30, and requested that the Complaint be dismissed. *Id.* at 3-4.

On August 31, 2022, the Commission issued an initial formal call-in telephonic Hearing Notice (Hearing Notice) setting an initial formal call-in telephonic hearing for this matter for October 20, 2022. The Hearing Notice was sent by electronic

¹ The Complaint is a timely appeal from a determination of the Commission's Bureau of Consumer Services (BCS) at BCS No. 3854040. Appeal of a BCS informal complaint decision is a *de novo* review conducted by either an ALJ or a special agent. 52 Pa. Code § 56.173(a). The Complaint was served on PECO on August 17, 2022.

mail (email) to the email address the Complainant provided on her complaint form.² The Hearing Notice, *inter alia*, named the ALJ as the assigned presiding officer, provided a toll-free call-in number to the Parties and included language concerning the effects on the case if a party failed to appear.

On September 6, 2022, the Commission electronically issued a Prehearing Order upon the Parties advising them, *inter alia*, of the toll-free call-in number to participate in the hearing and language explaining what might happen if a party failed to appear or participate. The Prehearing Order also advised the Parties of the date and time of the scheduled hearing as well as how to call in for the hearing. Additionally, the Prehearing Order directed the Parties to comply with various procedural requirements. Both the Hearing Notice and Prehearing Order were electronically sent to the Complainant's email address she provided to the Commission. According to the ALJ, neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable. I.D. at 4.

On October 20, 2022, the hearing convened as scheduled. Counsel for PECO was present with a witness and was prepared to proceed. Ms. Parker did not call in to participate in the hearing at the scheduled time. Accordingly, the hearing

² There is no record of the Complainant creating an account on the Commission's eFiling system or of her electing to receive documents through eService. The Complainant provided her email address in the contact information section on the complaint form which indicates that an email address is required. *See*, Complaint at 1. On September 15, 2022, the Commission extended a temporary waiver of the service requirement Regulations at 52 Pa. Code §§ 1.53 and 1.54 except where the applicable law requires a specific type of service, e.g., 66 Pa. C.S. § 702 ("Service in all hearings, investigations and proceedings pending before the commission shall be made by registered or certified mail or by e-mail upon agreement by each party."). *See, Waiver of Regulations Regarding Service Requirements*, Docket No. M-2021-3028321 (Order entered September 15, 2022). There is no record of the Complainant requesting or agreeing to be served notice of the proceedings related to her formal complaint by email.

proceeded in her absence. PECO's counsel moved to dismiss the Complaint for lack of prosecution pursuant to 52 Pa. Code § 5.245³

The hearing record closed on November 14, 2022.

On January 27, 2023, the Commission issued the Initial Decision of ALJ Ashton, in which she granted PECO's motion and dismissed the Complaint, with prejudice, for failure of the Complainant to appear and prosecute the matter. I.D. at 1, 8.

Discussion

As an administrative agency of the Commonwealth, the Commission is required to provide due process to the parties appearing before it. *Schneider v. Pa. PUC*, 479 A.2d 10, 15 (Pa. Cmwlth. 1984). Due process is satisfied when the parties are afforded notice and the opportunity to appear and be heard. *Schneider*, 479 A.2d at 15 (Pa. Cmwlth. 1984). The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *Montefiore Hospital Ass'n of Western Pennsylvania v. Pa. PUC*, 421 A.2d 481, 484 (Pa. Cmwlth. 1980).

The Commission is required to fix the time and place of a hearing in a complaint proceeding and to serve notice thereof upon the parties in interest. *See*, 66 Pa. C.S. § 703(a)-(b). Service on interested persons is sufficient to provide notice. 52 Pa. Code § 5.201(a).⁴

³ PECO's motion did not request dismissal *with prejudice*. Tr. at 6.

⁴ We note as well, and as discussed in the Initial Decision, as with most cases in which a party fails to appear, once a hearing is scheduled and duly notified by the Commission, it is the responsibility of the parties to appear and participate in the hearing. *Mumma v. PPL*, Docket No. C-00014869 (Order entered Jan. 24, 2002); *see also*, 66 Pa. C.S. § 332(f) and 52 Pa. Code § 5.245(a)-(b) (if a party fails to appear at a

ALJ's Initial Decision

ALJ Ashton made twelve Findings of Fact and reached eight Conclusions of Law. I.D. at 3-4, 6-7. We shall adopt and incorporate herein by reference the ALJ's Findings of Fact and Conclusions of Law except as reversed or modified by this Opinion and Order, either expressly or by necessary implication.

The ALJ indicated that the Complainant had adequate notice of the time and date of the hearing and failed to appear or explain why she could not attend the hearing at the scheduled time. I.D. at 4. Therefore, the ALJ found it appropriate to dismiss the Complaint. The ALJ stated that the Commission served notice of the October 20, 2022 hearing in this case to the Complainant on May 18, 2022,⁵ via e-mail, to the address she provided in her Complaint. *Id.* The notice informed the Parties of the date and time of the hearing, as well as how to call in for the hearing. *Id.* According to the ALJ, the notice was not returned as undeliverable. *Id.*

The ALJ further stated that a Prehearing Order dated September 6, 2022, was issued, which, *inter alia*, warned both Parties of potentially serious consequences if they failed to obtain a continuance and failed to appear and participate in the hearing. I.D. at 5. According to the ALJ, the Prehearing Order, which was also served on the Complainant electronically, was not returned as undeliverable. *Id.* The ALJ explained that the Hearing Notice and Prehearing Order were sent to the Complainant at the email address she provided. *Id.* Accordingly, the ALJ determined that these documents, which were sent in the ordinary course of business, were presumed to be received by the Complainant. I.D. at 5, citing *Hu v. PECO Energy Co.*, Docket No. C-2019-3012075

scheduled and duly notified hearing, the party will be deemed to have waived the opportunity to participate in the hearing).

⁵ We believe the May 18, 2022 service date in the Initial Decision was an error. The correct date is August 31, 2022.

(Order entered December 19, 2019) (*Hu*); *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered January 27, 2017) (*Zirkel*); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered November 16, 2016) (*Morella*).

Consequently, the ALJ granted PECO's motion and dismissed Ms. Parker's Complaint, with prejudice. I.D. at 6, citing *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered April 22, 2022); *Williams v. PECO Energy Co.*, Docket No. C-2018-300734 (Opinion and Order entered March 14, 2019) (citing *Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Opinion and Order entered December 26, 1995)).

Disposition

As a preliminary matter, any argument that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. We are not required to consider expressly or at length each contention or argument raised by parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); see also generally, *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984). On exercise of our independent review of the Parties' positions in their pleadings in this case, we shall adopt the Initial Decision, as modified, consistent with the following discussion.

The practice of dismissing complaints filed by *pro se* complainants, with prejudice, when there is no record of the complainant agreeing to service by email and

the complainant fails to appear at the hearing is inconsistent with due process.⁶ There is no need to close the door to this venue to *pro se* complainants unless record evidence shows that they are abusing the Commission's administrative process to avoid paying their utility bills.⁷ Here, there is no evidence of abuse of administrative process. Moreover, there is no indication that the Complainant has been provided a Commission-issued payment arrangement pursuant to Chapter 14 of the Code. Dismissing the Complaint with prejudice might operate to foreclose this possible remedy to help the Complainant address her outstanding balance and to permit restoration of her utility service.

Additionally, both the Hearing Notice and the Prehearing Order were sent only by email to the Complainant. *Pro se* complainants, who do not elect to receive notice through the Commission's eFiling or eService system, but who provide an email address in the required contact information section of the complaint form, cannot be presumed to know that notice of proceedings will be provided by email.

Here, the ALJ found that the Hearing Notice and Prehearing Order were provided to the Complainant's email and neither document was returned to the Commission as undeliverable. The Initial Decision provides that the documents sent to the Complainant were deemed to be received by the Complainant. I.D. at 5. In support, the ALJ cited to several Commission decisions and concluded that the due process rights

⁶ This Commission has long recognized the mitigating effect *pro se* status confers upon litigants unlearned in the law when confronted with technical violations of its procedural rules. *Carlock v. The United Telephone Co. of Pa.*, Docket No. F-00163617 (Order entered July 14, 1993). Most important, from our perspective, the Commission has stated that it is in the public interest that all litigants, particularly *pro se* litigants, be afforded a meaningful opportunity to be heard. *Amir V. Williams v. PECO Energy Co.*, Docket No. C-2010-2190024 (Order entered January 14, 2011).

⁷ See, e.g., *Amanda Polk Herr v. West Penn Power Co.*, Docket No. C-2021-3028202 (Order entered September 15, 2022).

of the Complainant were fully protected.⁸ These cases are distinguishable because they involved matters in which the Complainants affirmatively elected eService or had active eFiler status as required in our Regulation at Section 1.53(b)(3), 52 Pa. Code § 1.53(b)(3). Such is not the case here for the Complainant who simply provided her email address because the complaint form stated that she was required to do so. Thus, the cases cited by the presiding officer do not support a presumption of receipt of the Hearing Notice and the Prehearing Order in this case.

Under the circumstances involving the Complainant's *pro se* status and her lack of affirmative agreement to service to her email address, it is in the public interest to afford the Complainant an opportunity for an evidentiary hearing if the Complainant elects one.⁹ Accordingly, we shall provide the Complainant twenty (20) days to file a written request for a further hearing with the Commission's Secretary's Bureau. If the Complainant files such a request, the proceeding would be remanded to the Office of Administrative Law Judge for further proceedings as warranted. Failure to timely file the hearing request would result in the dismissal of the Complaint and the matter would be closed without further action of the Commission. Further, dismissal of the Complaint should be without prejudice.

Accordingly, we will modify the ALJ's Initial Decision, consistent with the discussion in this Opinion and Order.

⁸ See, *Hu; Zirkel; and Morella*.

⁹ The Commission may reopen the record after the presiding officer has issued a decision if conditions of fact or of law have changed or the public interest so requires the reopening of the proceeding. 52 Pa. Code § 5.571(d).

Conclusion

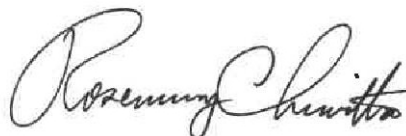
Based on the foregoing, we shall adopt the Initial Decision of ALJ Ashton, as modified, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Initial Decision of Administrative Law Judge Arlene Ashton issued on January 27, 2023, is adopted as modified, consistent with this Opinion and Order.
2. That Marcella Parker be provided an opportunity to file a written request for an evidentiary hearing within twenty (20) days of the entry of this Opinion and Order.
3. That, if a written request for an evidentiary hearing is timely filed, the proceeding shall be remanded to the Office of Administrative Law Judge for further proceedings as warranted and for the issuance of an Initial Decision on Remand.
4. That, if a written request of an evidentiary hearing is not timely filed, the Formal Complaint of Marcella Parker filed on August 8, 2022, shall be dismissed without further action of the Commission.

5. That the Commission's Secretary's Bureau serve a copy of this Opinion and Order on Marcella Parker by certified mail.

BY THE COMMISSION,

A handwritten signature in cursive script, appearing to read "Rosemary Chiavetta".

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: April 20, 2023

ORDER ENTERED: May 30, 2023

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17120**

Public Meeting April 20, 2023

**Janet Baxter v. West Penn Power
Company**

**3032225-ALJ
Docket No. C-2022-3032225**

**Robert Hoyt v. Columbia Gas of
Pennsylvania Inc.**

**3032680-ALJ
Docket No. F-2022-3032680**

**Paul Sablich v. PECO Energy
Company**

**3033148-ALJ
Docket No. C-2022-3033148**

Robert Green v. UGI Utilities Inc.

**3033307-ALJ
Docket No. C-2022-3033307**

**Tauheed Davenport v. PECO
Energy Company**

**3033480-ALJ
Docket No. C-2022-3033480**

**Angela Hairston v. West Penn
Power Company**

**3034322-ALJ
Docket No. C-2022-3034322**

**Frank Everett v. Philadelphia Gas
Works**

**3034443-ALJ
Docket No. C-2022-3034443**

**Marcella Parker v. PECO Energy
Company**

**3034455-ALJ
Docket No. F-2022-3034455**

**Maureen Stopperich v. Duquesne
Light Company**

**3034514-ALJ
Docket No. C-2022-3034514**

**Jerrod Miner v. Philadelphia Gas
Works**

**3035563-ALJ
Docket No. F-2022-3035563**

**Christine Fahmy v. UGI Utilities,
Inc.**

**3036840-ALJ
Docket No. F-2022-3036840**

**JOINT STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR. AND
COMMISSIONER RALPH V. YANORA**

Before the Commission for disposition are the Initial Decisions (ID) issued in the above-captioned customer complaint proceedings. In each case, the Complainants failed to appear at a

scheduled hearing despite being provided with notice and opportunity to be heard.¹ The IDs dismiss each formal complaint with prejudice for failure to prosecute and meet the burden of proof.

A dismissal with prejudice bars a complainant from filing another complaint raising the same claims and issues presented in the dismissed complaint. Out of concern for the waste of the Commission's (and respondents') time and resources,² the Commission historically has dismissed *pro se* complaints with prejudice for failure to appear at a scheduled and duly notified hearing. This policy was explained in *Jefferson v. UGI*, where the Commission stated "We are concerned with regard to the consequences that these "no show" cases have on the already strained budget of the Commission. Such cases waste the time and resources of the Commission and the utility. We cannot condone the wastefulness of the current procedure that permits a "no-show complainant" to refile a complaint and thereby institute yet another stay of termination on the account. Such misuse of the process as in the case before us cannot be tolerated."³ This result has also been applied to service complaints, which usually require the utilities to expend even greater resources in the preparation of its defense.

However, the decision to dismiss with prejudice is not based solely on policy grounds. Rather, the decision is rooted in Section 332(f) of the Public Utility Code (Code), which provides that a party who fails to attend a properly noticed hearing "shall be deemed to have waived the opportunity to participate" and "shall not be permitted thereafter" to later reopen the matter.⁴

At the same time, non-attendance at a hearing may be excused 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."⁵ Where a complainant's failure to appear is unavoidable, a presiding administrative law judge (ALJ) has the discretion to recognize that and to reschedule the hearing.⁶ However, if a complainant fails to explain why the failure to appear was unavoidable prior to the issuance of the ID, the record closes and the presiding ALJ can no longer exercise that discretion.⁷

When read in its entirety, Section 332(f) of the Code mandates "with prejudice" dismissals where a complainant does not appear at a scheduled hearing and does not explain why the failure to appear was unavoidable. This is exactly the situation in these cases, as none of the Complainants contacted the Commission to explain why the failure to appear at the hearing was unavoidable. As such, the presiding officers no longer had the discretion to reschedule the hearings, and the Complaints were rightfully dismissed with prejudice.⁸

¹ 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). The essential elements of due process in an administrative proceeding are notice and an opportunity to be heard. *J.P. v. Dep't of Human Servs.*, 150 A.3d 173 (Pa. Cmwlth. 2016).

² See *Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Order entered December 26, 1995).

³ *Jefferson*, at 5.

⁴ 66 Pa. C.S. § 332(f); 52 Pa. Code § 5.245(a).

⁵ 66 Pa. C.S. § 332(f); 52 Pa. Code § 5.245(b).

⁶ 66 Pa. C.S. § 332(f); 52 Pa. Code § 5.245(a)-(b).

⁷ See, e.g., *Alice Anderson v. PECO Energy Company*, Docket No. F-2017-2614241 (Order entered July 18, 2018).

⁸ The dismissals with prejudice are entirely consistent with recent Commission precedent. See, e.g., *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Little v. Pittsburgh Water & Sewer Auth.*, Docket No. F-2021-3027107 (Opinion and Order entered Feb. 7, 2022).

Regarding service of documents by the Commission on parties, we note that the Commission in March 2022 adopted a 6-month waiver of its service regulations at 52 Pa. Code §§ 1.53 and 1.54 to continue to allow the Commission to serve documents via email (*March 2022 Waiver Order*).⁹ In September 2022, the Commission then extended the waiver of its service regulations another six months until April 3, 2023 (*September 2022 Waiver Order*).¹⁰ Either the *March 2022 Waiver Order* or the *September 2022 Waiver Order* was in effect at the time each of the above-captioned complaints was filed.

In waiving its service regulations, the Commission relied on its plenary powers under Section 501 of the Code¹¹ as the statutory authority for the waivers. *March 2022 Waiver Order* at 3-4; *September 2022 Waiver Order* at 2 (“Our authority to waive our regulations is provided at Section 501 of the Public Utility Code.”).¹² Also, the Commission cited the need for continued flexibility in response to the COVID-19 pandemic as the policy rationale for the waivers. *March 2022 Waiver Order* at 4; *September 2022 Waiver Order* at 2.

Additionally, these Commission Waiver Orders were never contested, and are final determinations. Pursuant to Section 316 of the Code, all final orders “... shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review.”¹³ Thus, the Waiver Orders were binding on all parties that have participated in Commission proceedings during the waiver periods. This extends to the Commission as well. The failure to follow our own, prior Orders would be an abuse of discretion according to relevant case precedent.¹⁴

The Commission may rescind or modify a prior Order, consistent with Section 703(g) of the Code, but only after giving affected parties notice and opportunity to be heard. If the Commission wishes to, after the fact, rescind or modify these waivers it must first give notice to

⁹ *Waiver of Regulations Regarding Service Requirements*, Docket No. M-2021-3028321 (Order entered March 10, 2022) (*March 2022 Waiver Order*). This order extended the waiver of our service regulations previously adopted in September 2021. See *Waiver of Regulations Regarding Service Requirements*, Docket No. M-2021-3028321 (Order entered September 15, 2021).

¹⁰ *Waiver of Regulations Regarding Service Requirements*, Docket No. M-2021-3028321 (Order entered September 15, 2022) (*September 2022 Waiver Order*).

¹¹ § 501. General powers.

(a) **Enforcement of provisions of part.**—In addition to any powers expressly enumerated in this part, the commission shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this part, and the full intent thereof; and shall have the power to rescind or modify any such regulations or orders. The express enumeration of the powers of the commission in this part shall not exclude any power which the commission would otherwise have under any of the provisions of this part.

¹² The Commission in the Waiver Orders did not rely on any other statutory authority to allow email service of documents by the Commission on all parties. We acknowledge that Section 702 of the Code was referenced in the Waiver Orders but only as a possible exception to the general rule allowing for email service regardless of whether a particular party has agreed to such service. *March 2022 Waiver Order* at 3; *September 2022 Waiver Order* at 1 (An exception to this general waiver is where the Public Utility Code requires service by specified means, e.g., Section 702 (Service of Complaints on Parties); or where our regulations require a specific service type, e.g., 52 Pa. Code § 3.391.). Under this exception, the “service by specified means” at issue is service of a complaint by the Commission on a party to a complaint, which is typically a public utility or energy supplier. Consequently, Section 702 should have no bearing on the outcome of these cases. The Commission has consistently interpreted, through the promulgation of regulations, Section 702 as applying only to the service of formal complaints. 52 Pa. Code § 1.53(c). Section headings may be used in the aid of statutory construction. 1 Pa.C.S. §1924.


¹³ 66 Pa.C.S. §316.

¹⁴ *Peoples Natural Gas Co. v. Pennsylvania Public Utility Com.*, 542 A.2d 606 (Pa. Cmwlth. 1988), *aff’d* 567 A.2d 642 (Pa. 1989).

all the parties affected by that decision. This would include all parties who have participated in our proceedings, and relied on the fact that email service was a lawful method of providing parties with notice and opportunity to be heard. Any such rescission would be very unwise given the potential to create uncertainty about many final orders, including petitions for various forms of relief, applications for certificates of public convenience, and rate related proceedings. Pro se litigants have participated in and received email service in all types of proceedings before the Commission over the last three years. Because rescission "... may result in disturbance of final orders, it must be granted judiciously and only under appropriate circumstances."¹⁵

The Commission moved through the COVID-19 pandemic with integrity. During the pandemic and post-pandemic period, the Commission authorized its bureaus to serve Commission documents by email to give parties and the public easier access to proceedings and to reduce delayed and undeliverable mail. This flexibility greatly benefited pro se complainants. We regret that this innovation and its success are now being questioned. The Commission's efforts to assist pro se complainants are well documented.¹⁶ The Commission's use of email service during the past three years is a prime example of such efforts.

In closing, we believe each Complainant was properly served. In each case, the Complainants provided their email addresses on the Commission's Formal Complaint Form. Also in each case, the Hearing Notices and Prehearing Orders were served on each Complainant via email, and those documents were not returned as undeliverable. Each Hearing Notice and Prehearing Order advised that the Complainant could lose the case for failure to participate in the hearing or present facts on the issues raised. By failing to appear and proffer any evidence to support the Complaint, each Complainant failed to meet the burden of proof.¹⁷ Further, to our knowledge, none of the Complainants ever objected to receiving email service, and none of the Complainants has contacted the Commission to inquire about the status of their Complaints. The ID in each case should be adopted without modification.



JOHN F. COLEMAN, JR.
COMMISSIONER



RALPH V. YANORA
COMMISSIONER

Date: April 20, 2023

¹⁵ *Pittsburgh v. Pa. Dept. of Transportation*, 416 A.2d 461 (Pa. 1980).

¹⁶ For example, a comprehensive Consumer Complaint Procedures Guide is available on the Commission's website, along with other publications on the complaint-filing process. I voted for the Chairman's 2018 C-Motion, which established a working group related to *pro se* complainants. *Working Group for the Review of Processes and Forms Related to Pro Se Formal and Informal Complaints*, M-2018-3004734 (Final Order entered October 2, 2018).

¹⁷ 66 Pa. C.S. § 332(a).