

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

**Colby Simpkins**

**Public Meeting of September 21, 2023**

**3036798-OSA**

**v.**

**Docket No. C-2022-3036798**

**PECO Energy Company - Electric**

**STATEMENT OF CHAIRMAN STEPHEN M. DeFRANK**

In this matter, Colby Simpkins filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO) alleging that PECO is threatening to terminate or has already terminated his electric service. Mr. Simpkins indicated that he disagrees with his total outstanding balance amount of \$7,767.12. He requested a determination as to why his bill is so high, as well as a payment arrangement.

PECO filed an Answer to the Complaint and the matter was scheduled for an evidentiary hearing. The Prehearing Order and Hearing Notice were sent to the email address provided by Mr. Simpkins in his Complaint. Mr. Simpkins did not appear at the hearing. In her Initial Decision, the presiding Administrative Law Judge dismissed the Complaint based on Mr. Simpkins' failure to appear and proffer any evidence to support his Complaint. The Complaint was dismissed *without prejudice*.

Fifteen days following the deadline to file Exceptions, Mr. Simpkins mailed a letter labeled as "Exceptions Decision." The Commission served the late-filed letter on PECO and established a deadline for PECO to file a response. PECO timely filed a response to Mr. Simpkins' letter.

Today I am voting to support the staff recommendation, which: (1) treats Mr. Simpkins' late-filed letter as a Petition for Rescission to the Initial Decision<sup>1</sup> and grants the Petition; (2) provides Mr. Simpkins with twenty (20) days to file a written request for another evidentiary hearing; and (3) if a written request for an evidentiary hearing is timely filed, remands the matter to the Office of Administrative Law Judge or, alternatively, if no written request for an evidentiary hearing is timely filed, dismisses the Complaint without further action.

While I am voting to support the staff recommendation, I do not believe that providing the Complainant with an additional twenty (20) days to file a written request for another evidentiary hearing is necessary. The facts in this proceeding render this case distinguishable from previous cases<sup>2</sup> that the Commission has recently considered involving a number of *pro se* complainants whose complaints were dismissed with prejudice upon their failure to appear at scheduled evidentiary hearings. They were provided with an additional twenty (20) days to file a written request for another evidentiary hearing. In those matters, there was a belief that the due process rights of these *pro se*

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<sup>1</sup> The Initial Decision became final by operation of law pursuant to 66 Pa. C.S. § 332(h).

<sup>2</sup> See, e.g., *Robert Hoyt v. Columbia Gas of Pennsylvania, Inc.*, Docket No. F-2022-3032680 (Order entered April 20, 2023).

complainants were violated because the complainants did not affirmatively agree to receive documents from the Commission by email.

The facts in this proceeding, however, distinguish this case from the others. First, Mr. Simpkins' Complaint was dismissed without prejudice. Therefore, there is no impediment to Mr. Simpkins bringing forth a new complaint, even beyond a 20-day timeframe. Secondly, the fact that Mr. Simpkins filed a letter, albeit late, to the Initial Decision, which was served by email, distinguishes this case from prior cases where there was no indication that there had been any successful contact with the complainant. Mr. Simpkins' late-filed letter in response to the Initial Decision reflects actual notice of Commission service by email.

Therefore, while I am voting in support of the staff recommendation, it would have been my preference not to modify the Initial Decision, which dismisses the Complaint without prejudice.

**September 21, 2023**  
**Date**



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**Stephen M. DeFrank**  
**Chairman**