

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

**NIKISHA LEACH  
VS.  
PHILADELPHIA GAS WORKS**

**PUBLIC MEETING OF OCTOBER 19, 2023  
3036868-ALJ  
DOCKET NO. C-2022-3036868**

**MOTION OF VICE CHAIR KIMBERLY BARROW**

On November 8, 2022, Nikisha Leach (Complainant) filed a formal Complaint against Philadelphia Gas Works (PGW or the Respondent) indicating that the utility is threatening to shut off her service or has already done so and requesting a payment arrangement.

The hearing convened as scheduled on March 2, 2022, at which time counsel for PGW stated that on March 1, 2022, at 9:51 p.m., she received an e-mail from the Complainant explaining that, due to the Complainant's work schedule, she could not attend the scheduled hearing. The Complainant requested a delay until 12:00 p.m. that day, March 2, 2022, or the following day, Friday, March 3, 2022.

The hearing was convened on March 2, 2022, at 10:00 a.m., and the Complainant did not appear. PGW moved for dismissal for lack of prosecution. The Administrative Law Judge (ALJ) dismissed the Complaint, with prejudice, for failure to prosecute.

The ALJ's December 14, 2022, Prehearing Order warned of the consequences of not appearing at hearing and advised the Parties that any continuances should be sent at least five days in advance of the evidentiary hearing. However, work conflicts are sometimes unavoidable, and I note the Complainant's request was to move the scheduled hearing to a later time on the same day or to the following day.

I have concerns regarding the Commission's practice of routinely dismissing *pro se* complaints, with prejudice, as being inconsistent with due process.<sup>1</sup> In cases where there is no reason to suspect that the Commission's administrative process is being abused, dismissing without prejudice protects the Complainant's right to due process while respecting the Commission's administrative process. This Complainant does not appear to be abusing the Commission's process.

The matter should be remanded and set for hearing as soon as practicable.

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<sup>1</sup> 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 (July 14, 1993). Most important, from my 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 (January 13, 2011).

**THEREFORE, I MOVE THAT:**

1. The ALJ's Initial Decision be reversed and remanded consistent with this Motion.
2. The Office of Special Assistants draft an Opinion and Order consistent with this Motion.

October 19, 2023  
Date

  
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Kimberly Barrow, Vice Chair