

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Miranda Edwards	:	
	:	
v.	:	C-2018-3002741
	:	
Duquesne Light Company	:	

**INTERIM ORDER DENYING COMPLAINANT’S MOTION TO RECUSE
ADMINISTRATIVE LAW JUDGE JEFFREY A. WATSON AND CLOSING THE
EVIDENTIARY RECORD**

On or about June 14, 2018, Miranda Edwards (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) objecting to the installation of a smart meter by Duquesne Light Company (Respondent, DLC, or Company) at her residence at 3835 Acorn Street, Pittsburgh, PA (service location or service address).

On July 5, 2018, the Company filed its Answer and New Matter denying the material allegations in the Complaint and requesting the scheduling of a prehearing conference. On July 5, 2018, the Company also filed Preliminary Objections.

On July 10, 2018, Respondent filed a Motion For Prehearing Conference. In the Motion, Respondent averred that it would be in the best interest of the Parties to schedule a prehearing conference to establish various deadlines to ensure that the case would proceed in a timely and orderly fashion.¹ Respondent further averred that a prehearing conference could be useful to establish discovery deadlines to include the identification of witnesses and to exchange a summary of the proposed testimony of the witnesses. Respondent further requested that a

¹ See Respondent’s Motion For Prehearing Conference, p. 1.

prehearing conference could be utilized to set a deadline for the filing of dispositive motions, to exchange stipulations, and to submit prehearing motions.²

No objection or response was filed by Complainant to the Motion For Prehearing Conference filed by Respondent.

On July 12, 2018, Complainant requested additional time to file responses to the Preliminary Objections.

On August 6, 2018, Complainant filed a response to the Preliminary Objections, and on August 15, 2018, Complainant filed a response to Respondent's Answer and New Matter.

On July 24, 2018, the Commission issued a Motion Judge Assignment Notice, assigning this matter to the undersigned administrative law judge (presiding officer or ALJ).

On August 6, 2018, Complainant filed a response to the Preliminary Objections.

On August 15, 2018, Complainant filed a reply to the Company's Answer.

On October 24, 2018, an Interim Order was entered, granting in part and denying in part Respondent's preliminary objections and granting Respondent's request for a prehearing conference.³

A prehearing conference was scheduled by Notice issued October 25, 2018.

Complainant filed a letter along with a Request for Cancellation of Prehearing Conference directed to the Commission Secretary dated November 9, 2018 (Letter), requesting cancellation of the prehearing conference. The letter from Complainant included a certificate of

² Respondent's Motion For Prehearing Conference, p.p. 1-2.

³ The title of the Interim Order entered on October 24, 2018 provided that Respondent's request for a prehearing conference was granted however there was no ordering paragraph in the Interim Order granting Respondent's Motion For Prehearing Conference.

service certifying that a copy was provided to counsel for Respondent. The letter was not directed to the undersigned presiding officer and the undersigned presiding officer was not included as a recipient of the letter on the certificate of service. In her letter directed to the Commission Secretary, Complainant stated, among other things, that the scheduling of a prehearing conference was “inappropriate”,⁴ that she did not consent to a prehearing conference, and that the schedule proposed in the Motion by Respondent, and proceeding with the scheduled prehearing conference was “more of a waste of time than not.”⁵

On November 20, 2018, despite Respondent’s request to hold a prehearing conference and the issuance of a Notice scheduling a prehearing conference, where Parties may discuss the proceeding and attempt to address a litigation schedule, among other matters, an Interim Order was entered cancelling the prehearing conference scheduled for November 29, 2018, at the request of Complainant. The Parties were further advised that a litigation schedule order would be entered in this case.

On or about March 4, 2019, Complainant served Respondent with an Amended Complaint. On March 25, 2019, Respondent filed an Answer and New Matter to the Amended Complaint.⁶

On April 2, 2019, Complainant filed correspondence in response to the Company’s Answer and New Matter to the Amended Complaint and included a request for summary judgment.

On April 22, 2019, Respondent filed a Motion to Strike Complainant’s request for summary judgment, which was granted by Interim Order entered June 25, 2019.

⁴ Complainant’s Letter dated November 9, 2018, at p. 1.

⁵ Id. at p. 3.

⁶ Tr. 59:19-60:1. The Amended Complaint was not initially served upon the Presiding Officer, nor was it filed in the Commission’s online docket for this case. Upon reviewing the online docket in preparation for the evidentiary hearing, the ALJ noted the filing of Respondent’s Answer and New Matter to the Amended Complaint but did not see that an Amended Complaint had been filed. Prior to the evidentiary hearing, the ALJ’s office contacted the parties who provided a copy of the Amended Complaint served upon Respondent. At the hearing, the ALJ questioned the parties about the Amended Complaint. (Tr. 51:23-59:12). Complainant explained that she e-filed her Amended Complaint with the Commission’s Secretary’s Bureau and had a confirmation number. (Tr. 54:24-55:1). Respondent’s counsel advised he had received the Amended Complaint, filed an Answer and New Matter in response and did not object to moving forward with the Amended Complaint. (Tr.55:3-25). The Amended Complaint was marked as Exhibit ALJ-1.

On December 20, 2019, the Commission issued a Call-out Hearing Notice, scheduling an evidentiary hearing for February 27, 2020. Also, on December 20, 2019, an Interim Order Confirming Requirements for Evidentiary Hearing was entered.

Complainant filed a Motion to Stay the proceedings on December 23, 2019. On January 9, 2020, Respondent filed an Answer in Opposition to Stay of Proceedings. The Motion to Stay was denied by Interim Order entered February 21, 2020.

Complainant filed a Second Motion to Stay on February 13, 2020, essentially requesting a continuance of the evidentiary hearing scheduled for February 27, 2020. On February 24, 2020, Respondent filed an Answer in Opposition to Complainant's Second Motion to Stay.

On January 9, 2020, Complainant filed, via electronic filing, a Request For Entry Of A Protective Order. The certificate of service attached to the Request indicated that a copy of the pleading was served upon counsel for Respondent "via email and e-filing" and that a copy was served upon the undersigned presiding officer "via e-filing". The document was not served upon the undersigned presiding officer. In addition, no notice to plead directed to Respondent was attached to the Request. Moreover, Complainant did not set forth or detail the information sought to be protected or the manner in which she was requesting that material or information be protected.

Upon a review of the Docket in this proceeding, the undersigned presiding officer discovered the Complainant's Request For Entry Of A Protective Order in the Record. In order to address Complainant's request for a protective order and other outstanding issues, prior to the evidentiary hearing, and in order for the evidentiary hearing to proceed as scheduled on February 27, 2020, an Interim Order was entered on February 21, 2020.⁷

⁷ Respondent is provided a ten-day period to respond to the Complainant's Second Motion to Stay filed on February 13, 2020, essentially requesting a continuance of the evidentiary hearing scheduled for February 27, 2020. Accordingly, Respondent had until February 24, 2020 to file a response to Complainant's Second Motion to Stay. The Interim Order entered on February 21, 2020 was entered after the filing of Complainant's Second Motion to Stay filed on February 13, 2020, and the Parties to make themselves available by telephone to participate in the

The Interim Order directed the Parties to confer on or before February 26, 2020, and attempt to agree or stipulate to the terms of a Protective Order to address the disclosure and use of discovery materials and any other sensitive information sought to be protected in this proceeding and the manner in which such information or materials were sought to be protected. The Parties were further directed, prior to the hearing in this proceeding on February 27, 2020, to submit a stipulated Protective Order or, in the event an agreement was not reached by the Parties, either Party was permitted to submit a request for a Protective Order and a proposed Protective Order to the undersigned Presiding Officer. The Interim Order further provided that, in the event an agreement was not reached by the Parties, the Parties were directed to make themselves available by telephone at the telephone number provided to participate in the hearing, at 9:00 a.m., in order to continue their discussions to enter into a stipulated Protective Order. The Parties were directed to remain on the telephone conference until the start of the evidentiary hearing at 10:00 a.m. or until excused by the undersigned presiding officer. The Parties were also reminded to serve all pleadings and requests for relief to the undersigned presiding officer by first class mail.⁸

On February 27, 2020, the evidentiary hearing was held as scheduled. Complainant presented her case through her own testimony and offered Exhibits A through I into evidence. Only Exhibits A and B were admitted into the record. Respondent presented its case through the testimony of Michael Belanger, Steven Wright, Michael Tallent, Dr. Benjamin Cotts, Dr. Gabor Mezei, Michael Secchiutti, and Roxanne Morris, and offered Exhibits B-1, D-2, E-2, F-8, G-1, G-3, G-7, I-1, H-1, H-2, H-6, M-1, M-2, N, O, and Q, which were admitted into evidence.

hearing, at 9:00 a.m. in order to continue their discussions to enter into a stipulated Protective Order, and to remain on the telephone conference until the start of the evidentiary hearing at 10:00 a.m. or until excused by the undersigned presiding officer.

⁸ The Parties did not avail themselves of the opportunity to resolve these issues at 9 a.m. prior to the hearing, and it was necessary to address these issues upon convening the hearing at 10 a.m., utilizing time that could have been utilized receiving evidence at the hearing.

An Interim Order was entered on April 8, 2020, setting a briefing schedule with briefs to be filed by May 29, 2020. No briefs were filed by the parties. Accordingly, on June 1, 2020, an Interim Order was entered closing the evidentiary record.

During the period of time when the Commission offices were closed beginning on March 16, 2020 because of the Covid-19 pandemic, the undersigned was made aware that the parties may not have been served with the Order entered on April 8, 2020. Therefore, an Interim Order was entered on June 2, 2020, reopening the hearing record and establishing a new briefing schedule. The parties were directed to file main briefs, if any, by July 3, 2020.

On July 2, 2020, the Company filed its main brief. On July 8, 2020, the undersigned was provided with a copy of an email from Complainant acknowledging that she received a brief from Respondent but indicating that she did not receive the order entered June 2, 2020, setting the briefing schedule. Accordingly, on July 9, 2020, an Interim Order was entered, extending the briefing schedule such that main briefs were due to be filed on or before August 6, 2020, and reply briefs were due on or before September 11, 2020. Complainant filed Complainant's Post-Hearing Brief on August 6, 2020.

Both parties filed reply briefs on September 11, 2020. In her reply brief, Complainant referred to several articles and documents that she did not offer into evidence at the hearing.

On September 22, 2020, Respondent filed a Motion to Strike Improper and Inadmissible Material in Complainant's Post-Hearing Brief and Reply Brief averring that Complainant made several improper disclosures and repeatedly referred to evidence not included in the record. On October 2, 2020, Complainant filed Complainant's Objections to Duquesne Light Company's Motion to Strike, requesting that Respondent's Motion to Strike be denied.

On October 16, 2020, an interim order was entered granting the Motion to Strike Improper and Inadmissible Material in Complainant's Post-Hearing Brief and Reply Brief filed by Respondent on September 22, 2020, and denying Complainant's Objections to Duquesne

Light Company's Motion to Strike, filed by Complainant on October 2, 2020. In addition, the evidentiary record was closed.

On October 8, 2020, the Commonwealth Court of Pennsylvania (Commonwealth Court) issued an Opinion in *Povacz, et al. v. Pa. Public Utility Commission*,⁹ (*Povacz I*), the first of several appeals involving PECO Energy Company's (PECO) deployment of smart meter technology pursuant to Act 129 of 2008 (Act 129), codified at 66 Pa. C.S. § 2807(f).

In light of the Commonwealth Court's decision in *Povacz I*, the Commission entered an Order and Notice, at Docket No. M-2009-2092655, on November 4, 2020, pursuant to 66 Pa. C.S. § 501, instituting a stay of certain formal complaint proceedings then-pending before the Commission involving challenges to EDC deployment of smart meter technology as being in violation of Section 1501 of the Code (*November 4, 2020, Stay Order*). The *November 4, 2020, Stay Order* applied to and was docketed at the instant case.

The Commission, as well as all other parties in *Povacz I* subsequently sought and were granted review of the Commonwealth Court's *Povacz I* decision by the Supreme Court of Pennsylvania.

On August 16, 2022, the Supreme Court issued its Opinion in *Povacz II*, affirming the Commission's determinations in all respects. The Supreme Court affirmed the Commonwealth Court's conclusion that the "Customers failed to meet their burden of proving, by a preponderance of the evidence, a conclusive causal connection between [radio frequency] emissions from smart meters and adverse human health effects."¹⁰ The Supreme Court concluded that Act 129 mandates smart meter deployment and requires the system-wide installation of smart meter technology by EDCs.¹¹

Given the Supreme Court's decision in *Povacz II*, the Commission lifted the stay implemented by the *November 4, 2020, Stay Order* on November 9, 2023. The Commission entered an Order at Docket No. M-2009-2092655, explaining that cases pending before the

⁹ *Povacz, et al. v. Pa. Public Utility Commission*, 241 A.3d 481 (Pa. Cmwlth. 2020).

¹⁰ *Id.* at 1014.

¹¹ *Povacz II* at 992.

Office of Administrative Law Judge, such as the instant case, would proceed as directed by the assigned presiding officer.

The Parties previously filed briefs in this proceeding and no requests were made to the undersigned presiding officer to view the hearing transcript, or other request not identified herein, even though the Commission offices had reopened for some time and the Commission website provided regular updates to the public regarding Commission operations. Accordingly, instead of issuing a decision in this proceeding, the undersigned presiding officer provided the Parties with citations related to the lifting of the stay of smart meter cases in Pennsylvania, subsequent to the Covid-19 Pandemic, by Interim Order entered on December 20, 2023. The Interim Order reopened the record in this proceeding and permitted the Parties to file supplemental briefs and any other appropriate requests for relief, on or before January 19, 2024.

On January 19, 2024, Complainant filed a supplemental brief. On January 19, 2024, Respondent also filed its supplemental post hearing brief in this proceeding.

On January 19, 2024, Complainant also filed a Motion To Recuse Administrative Law Judge Jeffrey A. Watson (Motion to Recuse).

No other requests for relief were filed or directed to the undersigned presiding officer.

In her Motion to Recuse, Complainant averred that the undersigned presiding officer ignored Commission rules to weigh the case against Complainant, by incorrectly stating in an Interim Order entered on October 24, 2024, that Complainant averred that Respondent provided her with a termination notice after Complainant filed a Formal Complaint. Complainant averred that “[I]n his order, ALJ Watson misinterpreted Complainant’s claim that PUC itself actively prevented her from filing an **informal** complaint on June 1, 2018, and that by doing so PUC acted in violation of **PA Code §56.92, §56.142, §56.151, and §56.162-§56.166.**¹²

¹² Complainant’s Motion to Recuse at p. 2.

Complainant averred that she filed an amended formal complaint on March 4, 2019,¹³ where she noted that the PUC violated §56.92 and that the undersigned presiding officer misinterpreted Complainant's original formal complaint in the Interim Order entered on October 24, 2018.¹⁴ Complainant also averred that the undersigned failed to dismiss Complainant's February 12, 2020 Second Motion to Stay of Proceedings before holding the evidentiary hearing on February 27, 2020.¹⁵

Complainant further averred that the undersigned presiding officer contrived the litigation schedule to Complainant's disadvantage, by entering an Interim Order on November 28, 2018, requiring identification of witnesses and a summary of the proposed witnesses testimony by January 4, 2019.¹⁶ Complainant averred that she filed a motion to adjust the initial litigation schedule on December 10, 2018, but received no response from Respondent or the undersigned presiding officer.¹⁷ Complainant acknowledged that Respondent filed a motion to extend the recovery response deadline on December 18, 2018, which was agreed upon by Complainant, and which was granted by the undersigned presiding officer.¹⁸

¹³ See Tr. 59:19-60:1. The Amended Complaint was not initially served upon the Presiding Officer, nor was it filed in the Commission's online docket for this case. Upon reviewing the online docket in preparation for the evidentiary hearing, the ALJ noted the filing of Respondent's Answer and New Matter to the Amended Complaint but did not see that an Amended Complaint had been filed. Prior to the evidentiary hearing, the ALJ's office contacted the parties who provided a copy of the Amended Complaint served upon Respondent.

¹⁴ *Id.*

¹⁵ Complainant's Motion to Recuse at p. 3; also see footnote 7 above.

¹⁶ On July 10, 2018, Respondent filed a Motion For Prehearing Conference, submitting it would be in the best interest of the Parties to conduct a conference to establish various deadlines to ensure that the case would proceed in a timely and orderly fashion and to establish discovery deadlines to include the identification of witnesses, exchange a summary of the proposed testimony of the witnesses, filing of dispositive motions, to exchange stipulations, and to submit prehearing motions. No objection was filed and a prehearing conference was scheduled. Subsequently, Complainant filed a request to cancel the prehearing conference, suggesting that a conference was inappropriate and a waste of time. Complainant's request was granted and the Parties were advised that a litigation schedule would be established.

¹⁷ *Id.*

¹⁸ *Id.*

Complainant averred that she filed a Second Motion to Stay Proceedings on February 12, 2023,¹⁹ which was not dismissed but was effectively dismissed because the proceedings were not stayed.²⁰

Complainant further averred that the undersigned presiding officer abused Complainant throughout the telephonic hearing and showed favoritism toward Respondent. Complainant averred that the undersigned presiding officer refused the introduction of any evidence contrary to Respondent's position; routinely made rude and sarcastic comments to Complainant and shouted at her on multiple occasions.²¹ Complainant also averred that the undersigned presiding officer frequently noted the time of day and duration of the hearing after Complainant stumbled, paused or finished questioning a witness and would tell Complainant to take her time when Complainant "fell silent for too long".²² Complainant also averred that the undersigned presiding officer did not allow her to raise an objection proceeding with the hearing, which ultimately concluded at approximately 9 p.m., when Complainant avers she asked if the hearing could be finished another day, at approximately 4:30 p.m. Complainant also referenced alleged inappropriate comments by the undersigned presiding officer when Complainant was dropped off the call temporarily because of technical issues.²³ Complainant also averred she did not consent to the length of the hearing.²⁴

Finally, Complainant averred that the undersigned presiding officer obstructed Complainant's access to the hearing transcript. Complainant averred she had to ask directly to receive any information about obtaining a transcript, stated that she was instructed to contact the undersigned presiding officer's office and suggested that the undersigned presiding officer may have an opportunity to edit the transcript before anyone else saw it. Complainant also appears to suggest that the undersigned presiding officer caused the hearing to be take more time than

¹⁹ Although Complainant averred that she filed a motion to adjust the initial litigation schedule on December 10, 2018, a review of the record fails to the filing of a motion to adjust the litigation schedule on December 10, 2018 or a certificate of service certifying the service of such motion.

²⁰ *Id.* At p.p. 3-4.

²¹ A review of the record demonstrates that these allegations are not factually correct.

²² *Id.*

²³ A review of the record demonstrates that these allegations are not factually correct.

²⁴ *Id.* at 4.

necessary, in order to increase the cost of the transcript.²⁵ Complainant also averred that transcripts were not available to be viewed at Commission offices²⁶ as the offices were closed due to Covid-19.²⁷

On January 31, 2024, Respondent filed its Answer in Opposition to Complainant's Motion to Recuse Administrative Law Judge Jeffrey A. Watson (Answer to Motion to Recuse).

In its Answer to Motion to Recuse, Respondent points out that Complainant had approximately 18 months from the filing of her Complaint until the hearing was held on February 27, 2020, yet, nearly four years after the hearing, Complainant filed a Motion to Recuse the undersigned presiding officer, on January 19, 2024. Respondent further avers that Complainant's Motion fails to include affidavits required by 52 Pa. Code 5.482, and fails to allege any personal bias or other inappropriate behavior on behalf of the undersigned presiding officer which would constitute grounds for disqualification under 52 Pa. Code 5.482.²⁸

Respondent avers that Complainant merely contends that she was rushed into filing a formal complaint; however, Complainant had more than enough time, specifically a year and one-half, to develop her case and present it at the hearing on February 27, 2020. Respondent further avers that Complainant provided no factual or evidentiary basis to conclude that the alleged misinterpretation of her complaint in an Interim Order deprived her of the ability to adequately pursue her claims in this action.²⁹

Complainant also contends that the undersigned "contrived the litigation schedule to Complainant's disadvantage." However, Respondent avers that Complainant initiated this proceeding and has an obligation to develop her case and comply with all scheduling deadlines. In addition, Respondent submits that adverse scheduling rulings are not a basis to disqualify an

²⁵ A review of the record establishes that these allegations are not factually correct.

²⁶ No requests were made to the undersigned presiding officer to view the hearing transcript, even though the Commission offices have been open for some time and the Commission website provided regular updates to the public regarding Commission operations.

²⁷ *Id.* At 5.

²⁸ Answer to Motion to Recuse, p.p. 2-3.

²⁹ *Id.* at 3.

Administrative Law Judge, and Complainant has described no tangible way in which she was harmed by the initial litigation schedule, particularly when she had approximately one and one-half years to develop her case.³⁰

Complainant further asserted that the undersigned abused Complainant throughout her ‘initial telephonic hearing’ and showed favoritism toward Respondent.” However, Respondent disagreed with Complainant’s accusations and submits the record speaks for itself on this issue. In addition, Respondent submits that, under 52 Pa. Code 5.482, a party filing for disqualification of an ALJ must provide “affidavits alleging personal bias or other disqualification” and that Complainant failed to provide affidavits, as required by the rule, and the hearsay statement of Complainant’s friend does not qualify as an affidavit or evidence of anything. Respondent further submits that Complainant contradicts her own accusation by admitting that the ALJ properly exercised his discretion over the conduct of the hearing and continuously encouraged her to take her time.³¹

Although Complainant argued that the length of the hearing was somehow disadvantageous to her, Respondent averred that it is also a party to the case and reserved the day for its witnesses to testify.³²

In addition, regarding Complainant’s assertion that the undersigned obstructed Complainant’s access to the hearing transcript, Respondent submits that Complainant’s displeasure with the cost of the transcript and the barriers imposed by COVID-19 are not relevant to the disqualification of the presiding officer. In addition, Respondent submits that the Commission offices have reopened, and that Complainant has had ample opportunity to view the transcript prior to filing her supplemental brief.³³

³⁰ *Id.* at 3-4.

³¹ *Id.* at 4.

³² *Id.*

³³ *Id.* at 5.

Respondent concludes that Complainant failed to allege any personal bias or other grounds upon which the presiding officer should be recused, as required under 52 Pa. Code 5.482.³⁴

Pursuant to 52 Pa. Code 5.482, “A party may file a motion for disqualification of a presiding officer which shall be accompanied by affidavits alleging personal bias or other disqualification.” Complainant filed a Motion to Recuse in this proceeding, on the date of the filing deadline for supplemental briefs and almost four years after the conclusion of the evidentiary hearing in this proceeding.

Despite the assertions by Complainant, which the undersigned presiding officer submits are not factually accurate or which were not accurately characterized by Complainant in her Motion to Recuse, the Motion fails to include any affidavits alleging personal bias or other disqualification as required by 52 Pa. Code 5.482. In addition, Complainant’s Motion fails to allege any personal bias or other inappropriate behavior on behalf of the undersigned presiding officer which would constitute grounds for disqualification under 52 Pa. Code 5.482.

Moreover, it is well settled that a presiding officer may withdraw from a proceeding when he deems himself disqualified. A careful review of the record of this proceeding demonstrates that the Parties were both provided with a full and fair hearing to present their evidence in this proceeding. In addition, the undersigned scheduled a prehearing conference in this case to address various issues with the parties and obtain input from both parties, which was cancelled at the request of Complainant, who expressed her concern of the proceeding being inappropriate and a waste of time. With regard to the length of the hearing itself, the undersigned presiding officer addressed the possibility of concluding the hearing on the hearing date or other options, and it was the understanding of the undersigned presiding officer that it was the desire of the parties to complete the hearing on February 27, 2020, as early as possible, under the circumstances.

³⁴ *Id.*

Prior to the hearing, upon a review of the Docket in this proceeding, the undersigned presiding officer discovered the Request of Complainant for a Protective Order, in the Record. In order to address this matter and other outstanding issues, and so that the evidentiary hearing could proceed as scheduled on February 27, 2020, an Interim Order was entered on February 21, 2020.

The Interim Order directed the Parties to confer on or before February 26, 2020, and attempt to agree or stipulate to the terms of a Protective Order to address the disclosure and use of discovery materials and any other sensitive information sought to be protected in this proceeding and the way such information or materials were sought to be protected.

The Parties were further directed, prior to the hearing in this proceeding on February 27, 2020, to submit a stipulated Protective Order or, in the event an agreement was not reached by the Parties, either Party was permitted to submit a request for a Protective Order and a proposed Protective Order to the undersigned Presiding Officer. The Interim Order further provided that, in the event an agreement was not reached by the Parties, the Parties were directed to make themselves available by telephone at the telephone number provided to participate in the hearing, at 9:00 a.m. in order to continue their discussions to enter into a stipulated Protective Order. The Parties were directed to remain on the telephone conference until the start of the evidentiary hearing at 10:00 a.m. or until excused by the undersigned presiding officer. The Parties were also reminded to serve all pleadings and requests for relief to the undersigned presiding officer by first class mail.

The Parties were not able to utilize the opportunity provided in the Interim Order entered on February 21, 2020, and it was necessary to address these issues upon convening the hearing at 10 a.m.

Given the Supreme Court's decision in *Povacz II*, the Commission lifted the stay implemented by the *November 4, 2020, Stay Order* on November 9, 2023. The Commission explained that cases pending before the Office of Administrative Law Judge, such as the instant case, would proceed as directed by the assigned presiding officer. Here, the Parties had previously filed briefs in this proceeding and a decision could have been entered based upon the

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