

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

Public Meeting held September 26, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Philip Alexander Carlton

C-2023-3039584

v.

PECO Energy Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of Philip Alexander Carlton (Mr. Carlton or Complainant) received by the Commission on December 22, 2023,¹ to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) F. Joseph Brady, which was issued on November 3, 2023, in the above-captioned proceeding. PECO filed Replies to

¹ We note that the Exceptions do not contain a Certificate of Service. Accordingly, by Secretarial Letter dated January 8, 2024 (*January 2024 Secretarial Letter*), the Commission served a copy of the Exceptions upon PECO Energy Company (PECO or Company) to constitute service for purposes of 52 Pa. Code § 5.533.

Exceptions on January 18, 2024. For the reasons discussed below, we shall deny Mr. Carlton’s Exceptions and adopt ALJ Brady’s Initial Decision, as modified, consistent with the discussion in this Opinion and Order.

I. History of Proceeding

On March 31, 2023, Mr. Carlton filed a Formal Complaint² (Complaint) with the Commission against PECO alleging that the Company threatened to shut off his service and that there are incorrect charges on his bill. Complaint at 2. Additionally, Mr. Carlton questioned the existence of a contract for services with PECO and its validity, suggesting a lack of consideration. *Id.* Under the “Requested Relief” section of the Complaint form, Mr. Carlton claimed that his account was never credited and referenced “the access devises [sic] deposited Jan. 25 and 30th.” Therefore, the Complainant requested that the Commission “[s]atisfy the controversy at hand by an accounting adjustment.” *Id.* at 3.

On April 26, 2023, PECO filed an Answer denying all material allegations in the Complaint. Answer at 1. PECO averred that Mr. Carlton received a 10-day termination notice on March 28, 2023 that was effective on or after April 11, 2023 for a past due balance of \$1,473.72. *Id.* at 2. PECO further averred that the Complainant’s outstanding balance at that time was \$1,966.24 and that he had only made one payment to his account over that past year. *Id.* Noting Mr. Carlton’s delinquent balance, the Company asserted that it was permitted to terminate his service. *Id.* (citing 66 Pa.C.S. § 1406). Lastly, the Company requested that the Commission dismiss the Complaint. Answer at 3.

² This is an untimely appeal from the Bureau of Consumer Services (BCS) determination at BCS No. 3878222 issued on January 10, 2023. An 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).

On May 1, 2023, the Commission issued a Call-In Telephone Hearing Notice (Hearing Notice) setting an initial call-in telephonic hearing for this matter to be held on June 23, 2023. The Hearing Notice, *inter alia*, named ALJ Brady as the assigned presiding officer and provided a toll-free call-in number to the Parties.

Thereafter, on June 1, 2023, ALJ Brady issued a Prehearing Order for Telephone Hearing (Prehearing Order). The Prehearing Order, *inter alia*, directed the Parties to comply with various procedural requirements and explained that the Complainant bears the burden of proof to establish that PECO violated its tariff, the Public Utility Code (Code), or a Commission Regulation or Order.

On June 21, 2023, Mr. Carlton filed a copy of the exhibits that he intended to present at the telephonic hearing.

On June 22, 2023, Mr. Carlton requested a continuance of the Telephonic Hearing, by electronic mail, due to the death of a family member. I.D. at 2. PECO did not oppose Mr. Carlton's request. *Id.* That same day, the Commission issued a Call-In Telephone Cancellation/Reschedule Hearing Notice cancelling the June 23, 2023 Telephone Hearing and rescheduling the hearing for July 5, 2023.

On June 29, 2023, ALJ Brady issued an order granting Mr. Carlton's request for a continuance and rescheduling the hearing for July 27, 2023. That same day, the Commission issued a Call-In Telephone Cancellation/Reschedule Hearing Notice cancelling the Telephone Hearing scheduled for July 5, 2023 and rescheduling the hearing for July 27, 2023.

The hearing convened as scheduled on July 27, 2023. I.D. at 2. Mr. Carlton appeared *pro se* and testified on his own behalf. *Id.* Mr. Carlton offered two (2) series of exhibits that were admitted into the record. Tr. at 27, 29.

Khadijah Scott, Esquire appeared with one (1) witness on behalf of PECO and offered four (4) exhibits, which were admitted into the record. I.D. at 2.

The record closed on August 15, 2023. I.D. at 2.

On November 3, 2023, the Commission issued the Initial Decision of ALJ Brady, wherein he recommended that the Commission deny Mr. Carlton's Complaint for failure of the Complainant to satisfy his burden of proving that PECO violated its tariff, the Code, or a Commission Regulation or Order. I.D. at 5-6.

On November 13, 2023, Mr. Carlton filed a letter with the Commission requesting a copy of the transcript for the telephonic hearing held in this matter, as well as an extension of time of ten (10) additional days to file Exceptions to the Initial Decision. Mr. Carlton further asserted in his letter that the Initial Decision erred in stating that only one (1) of Mr. Carlton's exhibits was admitted into the record.³

By Secretarial Letter dated November 17, 2023 (*November 2023 Secretarial Letter*), the Commission extended the period for filing Exceptions by a total of twenty-five (25) days establishing a deadline of December 18, 2023 for filing

³ We note that the Initial Decision states that Mr. Carlton "offered one exhibit that was admitted into the record." I.D. at 2. A review of the transcript reflects that Mr. Carlton offered two (2) series of exhibits at the hearing to be admitted into the record. The first series of exhibits was marked as "Complainant Exhibit 1, Packet of Documents" and was admitted into the record. Tr. at 27. The second series of exhibits presented at the hearing was previously filed by Mr. Carlton with the Commission on June 21, 2023 beginning with the document entitled "Affidavit of Notary Presentment to Certify Copies." Tr. at 29. Mr. Carlton's second series of exhibits was entered into the record but was not marked. *Id.* Therefore, we shall modify the Initial Decision to reflect that Mr. Carlton offered two (2) series of exhibits at the hearing that were both admitted into the record. We further note that our review of the record includes both series of exhibits. Accordingly, we shall refer to the Complainant's second series of exhibits as "Complainant Exhibit 2."

Exceptions and December 28, 2023 for filing Reply Exceptions. Mr. Carlton did not file Exceptions by the December 18, 2023 deadline.⁴

On December 22, 2023, the Commission received Mr. Carlton's Exceptions to the Initial Decision. PECO filed Replies to Exceptions on January 18, 2024.

I. Discussion

Before us for consideration are the late-filed Exceptions of Mr. Carlton, a *pro se* or unrepresented Complainant. The Exceptions were filed four (4) days late.⁵ Mr. Carlton does not offer a reason for his late filing nor does PECO object to our consideration of the Exceptions.

Aside from being untimely, the Exceptions do not conform with Section 1.54(a) of our Regulations, 52 Pa. Code § 1.54(a), requiring proof of service indicating the date and manner in which service was accomplished. Moreover, the Complainant's Exceptions do not conform with Section 5.533(b)-(c) of our Regulations, 52 Pa. Code § 5.533(b)-(c), which require that each exception be numbered and identify the finding of fact and conclusion of law to which exception is taken and cite to the relevant pages of the Initial Decision.

⁴ On January 2, 2024, the Commission's Secretary's Bureau *sua sponte* issued a Secretarial Letter enclosing the Initial Decision of ALJ Brady and advising that Exceptions were to be filed within twenty (20) days of the date of the Secretarial Letter and that Replies to Exceptions were to be filed within ten (10) days of the due date of Exceptions.

⁵ As noted above, by virtue of the *November 2023 Secretarial Letter*, the Commission extended the deadlines for filing Exceptions and Reply Exceptions to December 18, 2023 and December 28, 2023, respectively. The Complainant's Exceptions were received by the Commission on December 22, 2023.

However, as noted above, by the *January 2024 Secretarial Letter*, the Commission served a copy of the Exceptions on PECO to avoid prejudice to the Company. Given that: (1) the Exceptions were filed only four (4) days after the December 18, 2023 deadline; (2) the Complainant is not represented by legal counsel in this proceeding; and (3) PECO was given a meaningful opportunity to file Replies thereto via service accomplished by the *January 2024 Secretarial Letter*,⁶ we will consider the Exceptions, as filed, to secure the just, speedy, and inexpensive determination in this proceeding. *See*, 52 Pa. Code § 1.2(a).

A. Legal Standards

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Code, 66 Pa.C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the Complainant must show that the Company is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990) (*Patterson*). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992) (*Lansberry*). That is, the Complainant's evidence must be more convincing, by even the smallest amount, than that presented by the Company. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 70 A.2d 854 (Pa. 1950). Additionally, this Commission's decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

⁶ As previously noted, the Exceptions do not contain a Certificate of Service. Thus, they were served upon PECO on January 8, 2024 by virtue of the *January 2024 Secretarial Letter*. Therefore, PECO's Reply Exceptions, filed on January 18, 2024, are timely filed.

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the Complainant shifts to the Company. If the evidence presented by the Company is of co-equal weight, the Complainant has not satisfied the burden of proof. The Complainant now has to provide some additional evidence to rebut the evidence of the Company. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983). While the burden of going forward with the evidence may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

B. ALJ's Initial Decision

ALJ Brady made seven (7) Findings of Fact and reached five (5) Conclusions of Law. I.D. at 3; 6. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted, without comment, unless they are either expressly or by necessary implication rejected or modified by the Opinion and Order.

The ALJ described Mr. Carlton's burden in this proceeding as requiring that he show, by a preponderance of the evidence, that PECO is responsible or accountable for the problem described in the complaint. I.D. at 3 (citing *Patterson; Feinstein v. Phila. Suburban Water Co.*, 50 Pa. P.U.C. 300 (Opinion and Order entered October 6, 1976); *Lansberry*). The Initial Decision acknowledged that "a Commission-approved tariff is *prima facie* reasonable, has the full force of law, and is binding on the utility and the customer." I.D. at 4 (citing 66 Pa.C.S. § 316; *Zucker v. Pa. PUC*, 437 A.2d 1067 (Pa. Cmwlth. 1981)).

At the outset, the Initial Decision stated that PECO is billing Mr. Carlton pursuant to its Commission-approved electric tariff and that the Complainant does not dispute that he must pay for his electric service. I.D. at 5. Noting the difficulty in discerning Mr. Carlton’s arguments, ALJ Brady postulated that Mr. Carlton filed the Complaint because he seeks to remit payment in a form other than PECO’s accepted forms of payment—credit/debit card, cash, money order, or personal check. *Id.* (citing Tr. 7-8; 58-59). The ALJ found that Mr. Carlton did not present any relevant testimony or evidence at the hearing to establish even a prima facie case to support his position. I.D. at 5. In addition, the Initial Decision explained that the Commission previously held that it is reasonable and in compliance with Section 1501 of the Code, 66 Pa.C.S. § 1501, for a utility to require payment in the forms utilized by PECO. *Id.* (citing *Feitt v. Peoples Nat. Gas*, Docket No. F-2018-3003833 (Opinion and Order entered October 8, 2020)). Therefore, the ALJ concluded that Mr. Carlton failed to satisfy his burden of proving that PECO violated its tariff, the Code, or a Commission Regulation or Order and recommended that the Complaint be denied. I.D. at 5-6.

C. Exceptions

As mentioned above, Mr. Carlton filed Exceptions to the Initial Decision that were received by the Commission on December 22, 2023. Attached to the Exceptions is a compendium of exhibits containing, *inter alia*, purported excerpts of the Code, copies of bills from PECO, and instruments of Mr. Carlton’s own design, including, *inter alia*, “Certified Check(s),” a “Default Judgment,” and a “Special Endorsement” in the amount of \$100,450.00. To the extent discernible, Mr. Carlton’s Exceptions are summarized as follows: (1) PECO failed to produce the Complainant’s contract for services; (2) a deposit of \$100,450.00 was not credited to the Complainant’s account balance with PECO; (3) PECO’s acceptable methods of payment for electric service are unreasonable; (4) the Complainant made the Visa debit card payment of \$446.95 to PECO under duress to restore his electric service that had been unjustifiably

terminated; (5) the presiding ALJ improperly placed the burden of proof on the Complainant rather than PECO; and (6) the ALJ did not make an impartial decision. Exc. at 4-10. We will address these arguments in turn, below.

D. Reply Exceptions

In its Reply Exceptions, PECO argues that Mr. Carlton failed to identify any law, statute, or regulation that the Company violated. R. Exc. at 3. In response to Mr. Carlton's challenge to PECO's contract for services, PECO contends that its tariff, which is publicly available and approved by the Commission, is its contract for service. *Id.* at 3-4. As for the Complainant's argument regarding the legal tender accepted by PECO, the Company lists the forms of legal tender that it accepts as payment for utility bills, noting that it will not apply, as credit, to any customer account, non-negotiable documents, and citing to *James Coppedge v. PECO*, Docket No. F-2014-2406180 (Opinion and Order entered January 29, 2015) (*Coppedge*) in support of its position. *Id.* at 4. Specifically, PECO points to the Commission's determination in *Coppedge* that "even accepting as true the [c]omplainant's contentions, nothing in either PECO's tariff or our Regulations requires PECO to accept all forms of payment." *Id.* (quoting *Coppedge*). As such, PECO argues that Mr. Carlton's Exceptions should be dismissed due to the Complainant's failure to meet his burden of proof, as determined in the Initial Decision. R. Exc. at 4-5.

II. 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. Cmwlt. 1993); *see*

also, generally, *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

At the outset, we note, again, the difficulty in understanding precisely what the Complainant is challenging with respect to the Initial Decision. However, to the extent the Complainant's Exceptions raise any discernible arguments, after thoroughly reviewing the record, including the Complaint, transcript, Initial Decision, and the Company's Replies, we find that the ALJ properly dismissed Mr. Carlton's Complaint and shall deny the Exceptions.

The first issue that Mr. Carlton appears to raise and reiterate throughout this proceeding is that PECO failed to produce the Complainant's contract for services. Exc. at 4, 8, 10. That contract is PECO's applicable tariff, which is set forth in PECO's Tariff -- Electric Pa P.U.C. No. 7 (PECO Electric Tariff).⁷ PECO's current tariff outlines that the Complainant will be charged the applicable rate according to the amount of electricity that he has consumed. *See*, 66 Pa.C.S. §§ 1302; 1303; 1304. As stated by PECO, the Company's tariff has been approved by the Commission and is publicly available. R. Exc. at 4. Public utility tariffs have the force and effect of law and are binding on the customer as well as the utility. *PPL Elect. Utilities Corp. v. Pa. PUC*, 912 A.2d 386, 402 (Pa. Cmwlth. 2006) (citing *Pennsylvania Electric Co. v. Pa. PUC*, 663 A.2d 281, 284 (Pa. Cmwlth.1995)); *see, Brockway Glass Co. v. Pa. PUC*, 437 A.2d 1067 (Pa. Cmwlth. 1981). The Complainant has provided no record evidence that PECO's tariff is applied unreasonably in the instant proceeding. In fact, the Complainant does not dispute that he must pay for his electric service. Tr. at 32. As such, Mr. Carlton's Exception on this issue is denied.

⁷ A copy of the PECO Electric Tariff can be accessed on the Company's website at <https://www.peco.com/my-account/my-dashboard/rates-tariffs/electric-service/current-electric>.

Second, Mr. Carlton variously asserts throughout this proceeding that a deposit or coupon in the amount of \$100,450.00 was never credited to his account with PECO. Exc. at 5; Tr. at 50, 56, 59-60. The remittance to which Mr. Carlton refers is a self-styled “Special Endorsement” that the Complainant appears to forward to the United States Treasury to discharge his debt to PECO, essentially using the United States Treasury as his agent for payment to PECO.⁸ Additionally, a review of the exhibits submitted by Mr. Carlton reflects what appears to be an attempt by the Complainant to discharge his debt, wherein he uses the portion of PECO's bill to him (that is to be detached and returned with payment) as a “Certified Check” that has a value that he “sets” in accordance with the amount due and which he then submits to PECO as payment. *See, e.g.*, Complainant Exh. 1 at 21, 28, 47; Complainant Exh. 2 at 17; *see also*, Tr. at 56.

Mr. Carlton also appears to except to the portion of the Initial Decision wherein the ALJ determined that PECO’s acceptable methods of payment are reasonable. Exc. at 5, 7. Mr. Carlton’s argument appears to be that PECO should accept instruments of his own design, like the \$100,450.00 “Special Endorsement,” under authority of the federal bankruptcy law and other legal provisions outside the Code, as conclusive proof

⁸ *See, e.g.*, Tr. at 59:

[N]o one ever said that they received the remittance coupon that was sent in PUC has sent us notice that they received a deposit from Philip Alexander Carlton Trust. The date of deposit is February the 8th, 2023. In back of that was a draft for \$100,450. And we had assigned it to the Commissioner to satisfy all obligations in perpetuity for any bill that comes from PECO. And it seems like no one is getting these documents rescinded and they're not being credited to the account, but the remittances were sent in to satisfy the obligation. That's where we are at. We look at as a billing error.;

Complainant Exh. 1 at 16, 25, 44; Complainant Exh. 2 at 14; Exc. at 3, 5.

that his self-styled negotiable instruments are legitimate forms of payment acceptable to discharge his debts for utility service. Tr. at 56, Exc. at 5. We shall address these two arguments in tandem.

Based on our prior decisions addressing similar arguments, our Regulations, and the Company's Commission-approved tariff, we agree with the ALJ's conclusion on this issue. *See, Coppedge* (finding that the complainant failed to satisfy his burden of proving that PECO provided unreasonable or unreliable service by declining to accept as payment the complainant's self-styled and self-proclaimed negotiable instruments under the UCC). While our Regulations do not specify the forms of payment a utility must accept from a customer, our Regulation concerning service termination states that a customer may avoid termination if "payment in full is tendered in any reasonable manner." 52 Pa. Code § 56.94. Although PECO's tariff does not define directly the Company's view of payment in any reasonable manner, the tariff does provide that for customers with credit issues, payment is required to be made by certified, cashier's, teller's, or bank check, wire transfer, or by cash or another immediately available form of funds. PECO Electric Tariff, Section 17.3(c) at Second Revised Page 27, Effective February 20, 2024.⁹

Additionally, PECO's witness, Ms. Anna Mae Migliaccio, testified that bills for electric service may be made by Visa, Mastercard, Discover, Star, Pulse, NYCE, Excel, cash, money orders, or personal checks. Tr. at 37-38. Furthermore, the Commission previously determined that PECO's policy regarding acceptable methods of payment (*i.e.*, cash, certified checks, money orders, valid bank checks, personal checks, and a number of credit cards) was not unreasonable. *See, Coppedge; Gregory Kennedy v.*

⁹ Although Second Revised Page 27 became effective after the filing of the Complaint, we note that the language set forth in Section 17.3(c) therein was effective when the Complaint was filed. *See, Pa. PUC, et al. v PECO Energy Company-Electric Division*, Docket Nos. R-2021-3024601, *et. al.* (Final Order entered November 18, 2021).

PECO Energy Company, Docket No. C-2015-2471718 (Opinion and Order entered October 22, 2015). Therefore, the Commission has expressly found that PECO's acceptable methods of payment are reasonable. We find no reason to deviate from our prior determination on this issue.

Thus, we find no error in the ALJ's conclusion that PECO's action in refusing to accept the Complainant's self-styled instruments as payment for his bill did not violate the Code or a Commission Regulation or Order. Under the circumstances, we find the Company's required payment methods to be reasonable and in compliance with Section 1501 of the Code, 66 Pa.C.S. § 1501, and we do not find merit in the Complainant's arguments. As such, Mr. Carlton's Exceptions on this issue are denied.

Next, Mr. Carlton argues that his Visa debit card payment to PECO in the amount of \$446.95 was made under duress to restore his electric service that had been unjustifiably terminated. Exc. at 5. At the hearing, PECO's witness, Ms. Migliaccio, testified that after proper notice, the Company terminated Mr. Carlton's service on November 16, 2022 and the following day, the Complainant made a payment to his account in the amount of \$446.95. Tr. at 37. Ms. Migliaccio further testified that BCS' determination on the informal complaint filed by Mr. Carlton found that the Company complied with the applicable Commission Regulations by providing proper notice to terminate the Complainant's service on November 16, 2022. *Id.* at 43. Because PECO is a jurisdictional public utility, it is entitled by law to receive payment for the service provided and is permitted to tender a bill for services rendered. *Scaccia v. West Penn Power Company*, 55 Pa. P.U.C. 637 (1982). Moreover, public utilities are authorized to terminate service, consistent with the provisions of the Code, in certain instances, including instances where a customer has failed to pay an undisputed delinquent account. 66 Pa.C.S. § 1406(a)-(b). As such, we do not find merit in the Complainant's argument with respect to this issue. Accordingly, this portion of the Exceptions is denied.

The next argument that Mr. Carlton appears to raise in his Exceptions is that the ALJ improperly placed the burden of proof on the Complainant. Exc. at 10. In support of his position, Mr. Carlton cites to Section 2102(c) of the Code, which (upon a determination by the Commission that amounts paid or payable under a contract or arrangement, that a public utility has with an affiliated interest, are in excess of the reasonable price for furnishing the service provided for in the contract) places the burden of proof upon the public utility to show that “such amounts are not in excess of the reasonable price for furnishing such services, and that such services are reasonable and proper.” *Id.* (citing 66 Pa.C.S. § 2102(c)). Based on our review of the Initial Decision and the applicable law, we conclude that the ALJ correctly explained the burden of proof in his decision. *See*, I.D. at 3-4. As the ALJ indicated, Mr. Carlton, as the Complainant, bears the burden of proof, pursuant to Section 332(a) of the Code, 66 Pa.C.S. § 332(a). Because Mr. Carlton is challenging, *inter alia*, PECO’s acceptable methods of payment, Mr. Carlton has the burden of showing that PECO’s policy regarding acceptable methods of payment violated the Code or a Commission Regulation or Order. We agree with the ALJ that, based on the record, Mr. Carlton did not meet his burden of proving that PECO violated its tariff, the Code, or a Commission Regulation or Order. Therefore, Mr. Carlton’s Exception on this issue is denied.

Lastly, Mr. Carlton contends that the ALJ did not make an impartial decision. Exc. at 3, 7, 8. Mr. Carlton offers no detail in his Exceptions to substantiate such argument. Our Regulation at Section 5.483(a) authorizes the presiding ALJ “to exclude irrelevant, immaterial or unduly repetitive evidence, to prevent excessive examination of witnesses . . . and to otherwise regulate the course of the proceeding.” 52 Pa. Code § 5.483(a). The ALJ is required to conduct a fair and impartial hearing and maintain order. *See*, 52 Pa. Code § 5.485(a); 66 Pa.C.S. § 331(d)(3)-(4). Our review of the record reflects that Mr. Carlton was afforded an opportunity to present evidence to support the claims raised in his Complaint and was also given an opportunity to cross

examine PECO's witness. *See*, Tr. at 7-30, 44-57. Based on our review of the record, there is no evidence to support that the ALJ erred or abused his discretion.

Again, the Complainant has not provided any detail nor has he cited to any section of the hearing transcript or within the ALJ's Initial Decision to support his contention of the ALJ's bias. Further, "[t]o be disqualifying, personal bias must result in an opinion on the merits of a case not supported by the record." *Re Pennsylvania Gas and Water Company*, 75 Pa. P.U.C. 247 (1991). "Opinions are the culmination of a decision-maker's deliberative process [I]n order to insure that decision-makers are free to say whatever needs to be said and to conclude what needs to be concluded, opinions are not normally proper evidence in support of recusal." *Id.* As set forth above, we find the ALJ had record support for his decision, and any adverse conclusions, opinions, and findings are not evidence of bias. Accordingly, this Exception is denied.

Upon review and consideration of the record in this proceeding, we shall deny Mr. Carlton's Exceptions. In our view, the Complainant has failed to meet his burden of proof and his arguments set forth in his Exceptions are not supported by record evidence. As a result, we shall adopt the ALJ's Initial Decision, as modified, consistent with the discussion herein.

III. Conclusion

For the reasons discussed herein, we will deny the Exceptions of Mr. Carlton and adopt the Initial Decision of ALJ Brady, as modified, consistent with this Opinion and Order; **THEREFORE**,

IT IS ORDERED:

1. That the Exceptions of Philip Alexander Carlton, received by the Commission on December 22, 2023, at Docket No. C-2023-3039584, are denied, consistent with this Opinion and Order.
2. That the Initial Decision of Administrative Law Judge F. Joseph Brady, issued on November 3, 2023, at Docket No. C-2023-3039584, is adopted, as modified, consistent with this Opinion and Order.
3. That the Formal Complaint of Philip Alexander Carlton, filed on March 31, 2023, against PECO Energy Company at Docket No. C-2023-3039584, is dismissed, consistent with this Opinion and Order.
4. That the proceeding at this docket be marked closed.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: September 26, 2024

ORDER ENTERED: September 26, 2024