

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

Public Meeting held September 25, 2025

Commissioners Present:

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

Jonathan DiBello

C-2025-3054440

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 Jonathan DiBello (Mr. DiBello or Complainant), filed on July 2, 2025, to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) F. Joseph Brady, issued on June 12, 2025, in the above-captioned proceeding. PECO Energy Company (PECO or the Company) filed Replies to

Exceptions on July 11, 2025. Mr. DiBello filed Sur-Replies to the Reply Exceptions on July 21, 2025.<sup>1</sup>

For the reasons stated below, we shall deny the Exceptions filed by Mr. DiBello and adopt the Initial Decision of ALJ Brady, as modified, consistent with this Opinion and Order.

### **I. History of Proceeding**

The crux of this matter is a Formal Complaint filed by Mr. DiBello on July 19, 2023, against PECO and docketed with the Commission at Docket No. C-2023-3041825. (*2023 Complaint*). In the *2023 Complaint*, Mr. DiBello requested the Commission grant him a Commission-issued payment arrangement for PECO arrearages accrued after he filed for Chapter 13 bankruptcy. I.D. at 1. On December 7, 2023, the Commission issued a final Opinion and Order dismissing the *2023 Complaint* and finding that the Commission lacked jurisdiction to address Mr. DiBello's request for a Commission-issued payment arrangement on the post-bankruptcy arrearage accrued while Mr. DiBello was still involved in an active Chapter 13 bankruptcy proceeding. *Id.* at 2 (citing *DiBello v. PECO Energy Co.*, Docket No. C-2023-3041825 (Opinion and Order entered December 7, 2023) (*December 2023 Order*)).

Mr. DiBello appealed the Commission's *December 2023 Order* to the Commonwealth Court of Pennsylvania (Commonwealth Court). The Commonwealth Court appeal is currently pending at Docket No. 159 CD 2024. I.D. at 2.

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<sup>1</sup> As discussed in more detail *infra*, Mr. DiBello's Sur-Replies to the Reply Exceptions are an improper filing before the Commission and will not be considered in this matter. *See* 52 Pa. Code § 5.533, 5.535.

On April 7, 2025, Mr. DiBello filed a new Formal Complaint (Complaint) against PECO. In the Complaint, Mr. DiBello alleged that PECO was threatening to terminate, or had already terminated, his service. Complaint at 2. Mr. DiBello also offered, “[t]here is currently an appeal filed with the Commonwealth Court appealing a previous PUC ruling regarding me not being el[i]gible for a payment arrangement due to having a bankruptcy. I am entitled to a stay from utility shut off until that case is adjudicated.” *Id.* As requested relief, Mr. DiBello asked the Commission to “enforce a stay from utility shut-off” until a final determination was made by the Commonwealth Court. *Id.* at 3.

On April 25, 2025, PECO filed its Answer to the Complaint and New Matter (Answer), wherein the Company admitted, in part, and denied, in part, the various allegations in Mr. DiBello’s Complaint. Specifically, PECO stated that Mr. DiBello had a delinquent balance of \$4,584.66 and had not made a payment since July 18, 2023, arguing that this provided a sufficient basis for PECO to terminate service to Mr. DiBello’s service address. Answer at 3. PECO further contended, in the New Matter portion of its Answer, that the Commission lacks jurisdiction to grant a Commission-issued payment arrangement on Mr. DiBello’s post-petition debt or to issue a stay over an appeal pending before the Commonwealth Court. *Id.* at 5.

PECO also filed Preliminary Objections (P.O.) on April 25, 2025. Therein, the Company asked the Commission to dismiss the Complaint, alleging that “there are no genuine issues of fact and PECO is entitled to judgment as a matter of law with respect to all of the allegations in the Complaint.” P.O. at 4.

On May 5, 2025, Mr. DiBello filed an Answer to the Preliminary Objections (Answer to PO), wherein he admitted, in part, and denied, in part, the allegations made by PECO. In his Answer to PO, Mr. DiBello continued to assert that the Commission has jurisdiction to issue a payment arrangement in this matter. Answer

to PO at 1. Mr. DiBello further opined that “the Commonwealth Court HAS appellate jurisdiction over the PUC and therefore must enforce any stay pending the outcome [of] the [] Commonwealth Court.” *Id.* (emphasis in original). Mr. DiBello concluded by insisting that “PECO is not permitted to shut off service while a complaint is still pending which includes appeals with the Commonwealth Court as well.” *Id.* at 2.

On May 15, 2025, Mr. DiBello filed an Answer to PECO’s New Matter (Answer to New Matter). In the Answer to New Matter, Mr. DiBello maintained his position that the Commission has jurisdiction over the post-bankruptcy petition arrearage in this matter and “must enforce a stay due to the case involving an appeal...” Answer to New Matter at 1.

The Commission issued the Initial Decision of ALJ Brady on June 12, 2025. Therein, the ALJ granted PECO’s Preliminary Objections and dismissed the Complaint, with prejudice. I.D. at 7. ALJ Brady specifically found “that the Commission lacks jurisdiction to grant a stay of the termination proceedings pending the appeal before the Commonwealth Court.” *Id.* at 5. The ALJ further noted that “[t]he proper forum for a petition for stay based on an appeal would be the forum where that appeal is pending...” *Id.* at 5-6.

As previously noted, on July 2, 2025, the Complainant filed Exceptions.

On July 11, 2025, PECO filed Replies to Exceptions.

On July 21, 2025, Mr. DiBello filed Sur-Replies to Reply Exceptions.

## II. Discussion

### A. Legal Standards

#### 1. Commission Jurisdiction Under the Public Utility Code and the Pennsylvania Rules of Appellate Procedure

Section 701 of the Public Utility Code (Code) outlines the Commission's procedure for the review of complaints, stating in relevant part:

The Commission, or any person ... having an interest in the subject matter ... may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.

66 Pa.C.S. § 701.

As explained by the Commission in *West Penn Power Co. v. Pa. PUC*, 478 A.2d 947 (Pa. Cmwlth. 1984) (*West Penn*), Section 701 of the Code, 66 Pa.C.S. § 701, provides for complaints against a public utility for anything done or not done in violation of the laws administered by the Commission or Commission Regulations and Orders. *Id.* However, for the Commission to sustain a complaint against a public utility, the utility must be found to be in violation of its duty under the Code, the Commission's Regulations, or an Order of the Commission. Without proof of such a violation, the Commission does not have authority to require any action by the public utility in relation to the customer's complaint. *See West Penn.*

The Pennsylvania Rules of Appellate Procedure (Pa.R.A.P.) are codified at Title 210 of the Pennsylvania Code and also impact the Commission's ability to exert

jurisdiction over matters brought before the Commission. Pa.R.A.P. 1701 outlines the effects of an appeal generally, with Pa.R.A.P. 1701(a) stating “[e]xcept as otherwise prescribed by these rules, after an appeal is taken or review of a quasijudicial order is sought, the trial court or other government unit **may no longer proceed further** in the matter.” Pa.R.A.P. 1701(a) (emphasis added). Despite this general prohibition on further action, the rule includes carve outs allowing a “trial court or other government unit” to:

- (1) Take such action as may be necessary to preserve the *status quo*, correct formal errors in papers relating to the matter, cause the record to be transcribed, approved, filed, and transmitted, grant leave to appeal *in forma pauperis*, grant *supersedeas*, and take other action permitted or required by these rules or otherwise ancillary to the appeal or petition for review proceeding.
- (2) Enforce any order entered in the matter, unless the effect of the order has been superseded as prescribed in this chapter.
- (3) Grant reconsideration of the order which is the subject of the appeal or petition, if:
  - (i) an application for reconsideration of the order is filed in the trial court or other government unit within the time provided or prescribed by law; and
  - (ii) an order expressly granting reconsideration of such prior order is filed in the trial court or other government unit within the time prescribed by these rules for the filing of a notice of appeal or petition for review of a quasijudicial order with respect to such order, or within any shorter time provided or prescribed by law for the granting of reconsideration.

Pa.R.A.P. 1701(b)(1)-(3)(ii).

## 2. Burden of Proof

Pursuant to Section 332(a) of the Code, the Complainant, as the proponent of a rule or order, bears the burden of proof. 66 Pa.C.S. §332(a). To satisfy the burden of proof, the Complainant, as the party seeking relief, must establish a sufficient case that the Respondent is responsible for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). This 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). This standard requires the Complainant's evidence to be more convincing, by even the smallest amount, than the evidence presented by the Respondent. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

This Commission's decisions 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 & West Ry. Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (Pa. 1980). "Opinions and conclusions cannot be relied upon as substantial evidence in a decision by the Commission." *Norman v Phila. Gas Works*, Docket No. C-2018-2640719 (Opinion and Order entered October 7, 2021) (*Norman*).

Upon presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the evidentiary burden shifts to the Respondent to present persuasive evidence rebutting that of the Complainant. If the Respondent's evidence is of co-equal weight, the Complainant has not satisfied their burden of proof, and must provide additional evidence to rebut that of the Respondent. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd* 461 A.2d 1234 (1983). While the evidentiary burden of persuasion 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 to prove their case by a preponderance of the evidence. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

### **3. Preliminary Objections**

Section 5.101 of our Rules of Administrative Practice and Procedure, 52 Pa. Code § 5.101, provides that preliminary objections may be filed in response to a pleading, and must include a notice to plead, and state the legal and factual grounds supporting the objections. 52 Pa. Code § 5.1010 (a). Preliminary objections are limited to the following grounds:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

52 Pa. Code § 5.101(a).

Commission preliminary objection practice is analogous to civil practice regarding preliminary objections. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994). Preliminary objections seeking dismissal of a pleading will only be granted where relief is clearly warranted and free from doubt. *Interstate Traveller Servs., Inc. v. Pa. Dep't of Env't Res.*, 406 A.2d 1020 (Pa. 1979); *Rivera v. Phila. Theological Seminary of St. Charles Borromeo, Inc.*, 595 A.2d 172 (Pa. Super. 1991), adopted by the Commission in *Montague v. Phila. Elec. Co.*, 66 Pa. P.U.C. 24 (1988).

The party filing preliminary objections may not rely only on its own factual assertions but must accept, for the purposes of disposing of the preliminary objection, all well-pleaded material facts of the other party, including fairly determined inferences from those facts. *Raynor v. D'Annunzio*, 243 A.3d 41 (Pa. 2020) (*Raynor*); *County of Allegheny v. Commonwealth*, 490 A.2d 402 (Pa. 1985) (*County of Allegheny*). In ruling on a preliminary objection, the Commission must assume the factual allegations included in the Complaint are true and resolve any doubt in favor of the non-moving party by rejecting the preliminary objections. *Id.*, see also *Commonwealth v. UPMC*, 208 A.3d 898 (Pa. 2019); *Dep't of Auditor Gen. v. State Emps. Retirement Sys.*, 836 A.2d 1053 (Pa. Cmwlth. 2003) (citing, *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002)).

#### **4. Petitions for Stay**

It is well-settled that the propriety of issuing a stay or supersedeas will be governed by the standards outlined in *Pa. PUC v. Process Gas Consumers Group*, 467 A.2d 805 (1983) (*Process Gas*).<sup>2</sup> Pursuant to the standards of *Process Gas*, for issuance of a stay and/or supersedeas, a petitioner must establish the following:

1. Make a strong showing of likelihood to prevail on the merits;
2. Show that denial of relief will cause irreparable injury;
3. Show that the issuance of a stay will not substantially harm other interested parties in the proceedings; and

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<sup>2</sup> Similarly, 52 Pa. Code § 3.2, outlining the requirements for emergency orders seeking injunctive relief, includes that the Petitioner establish the need to preclude an immediate, irreparable injury that is not against the public interest. Here, the Complainant's request to preserve status quo will be examined under the *Process Gas* standard.

4. Show that the issuance of a stay will not adversely affect the public interest.

*Process Gas*, 467 A.2d at 808-809. The Supreme Court further clarified in *Process Gas*: “[I]t is essential that the unsuccessful party, who seeks a stay of a final order pending appellate review, make a strong showing under the[se] criteria in order to justify the issuance of a stay.” *Id.*

## **B. Initial Decision**

In his Initial Decision, ALJ Brady made ten Findings of Fact and reached seven Conclusions of Law. I.D. at 3-4, 6-7. The Findings of Fact and Conclusions of Law are incorporated herein by reference and adopted without modification unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

As noted, *supra*, the ALJ granted PECO’s Preliminary Objections and dismissed Mr. DiBello’s Complaint, with prejudice. I.D. at 7. Citing Pa.R.A.P. 1701(a), ALJ Brady held that the Commission lacked jurisdiction to grant a stay of termination pending the appeal before the Commonwealth Court. *Id.* at 5. ALJ Brady found that Pa.R.A.P. 1701(a) barred the Commission from proceeding further in this matter and that the proper forum for the stay petition would be the Commonwealth Court, where the appeal is currently pending. *Id.* at 5-6.

## **C. Exceptions and Replies**

### **1. Exceptions**

As an initial matter, we note that the format of the Exceptions does not strictly comply with Section 5.533(b) of Commission Regulations, which requires that each exception be numbered and identify the finding of fact and conclusion of law to which exception is taken. 52 Pa. Code § 5.533(b). Nevertheless, recognizing that the Complainant is appearing *pro se*, we will exercise our discretion to accept the Exceptions, as filed, pursuant to Section 1.2(a) of our Regulations, and consider the merits. 52 Pa. Code § 1.2(a).

As referenced, *supra*, Mr. DiBello timely filed Exceptions on July 2, 2025. The Exceptions consist of two type-written pages, wherein Mr. DiBello notes his disagreement with the Initial Decision and requests a stay from shut off pending resolution of his appeal. Exc. at 2. In relevant part, Mr. DiBello states, as follows:

In accordance to Pennsylvania law, I am allowed a stay from the shut off until the case has reached it[']s full conclusion for which it has not as I am appealing and continue to appeal the Final decision for which the PUC has ruled on. Therefore I remain eligible for a stay from shut off as I have the right to electricity which is a necessity and not a luxury.

*Id.* (formatting in original).

### **2. Reply Exceptions**

In its Replies to Exceptions, PECO requests that the Commission deny Mr. DiBello's Exceptions and issue an Opinion and Order adopting ALJ Brady's Initial Decision in its entirety. R. Exc. at 5.

In support, PECO argues that “the Commission does not have jurisdiction over the Complainant’s request for a payment arrangement on post-petition debt...” and that Mr. DiBello’s “mere bald assertions, personal opinions or perceptions do not constitute evidence to bolster a claim.” R. Exc. at 3-4 (citing *Pa. Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *Helen Leung v. Philadelphia Gas Works*, Docket No. F-2020-3020041 (Opinion and Order entered October 28, 2021)). PECO explains that “the Complainant’s filing a petition for personal bankruptcy has pre-empted the Commission from establishing any payment schedule with respect to amounts owed...” *Id.* at 4 (citing *Michelle Chavous v. PECO Energy Company*, Docket No. F-2010-2215689 (Final Order entered December 20, 2011)).

PECO also notes Mr. DiBello’s Commonwealth Court appeal, and stresses that “PECO is not required to stay a termination proceeding pending an appeal in the Commonwealth Court of Pennsylvania.” R. Exc. at 4. According to PECO, the ALJ correctly found that Pa.R.A.P. 1701(a) precludes the Commission from exercising jurisdiction over this matter. *Id.* at 5.

### **III. Disposition**

We note that any argument or Exception not specifically discussed herein shall be deemed to be considered and denied without further discussion or consideration. The Commission is not required to consider expressly, or at length, each contention or argument made by the 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).

At the outset, we reject and shall decline to consider Mr. DiBello’s July 21, 2025, Sur-Replies to Reply Exceptions. Per our Regulations, the Commission does not allow for the filing of Sur-Replies to Reply Exceptions. *See* 52 Pa. Code

§ 5.533, 5.535. While it is true that the Commission has broad discretion to accept procedurally deficient findings pursuant to 52 Pa. Code §1.2(a), we decline to exercise such discretion here. Our Regulations neither contemplate or allow Sur-Replies to Exceptions, nor do our Regulations provide PECO the opportunity to respond to such filings. Therefore, if the Commission were to accept and consider the merits of Mr. DiBello's Sur-Replies to Reply Exceptions, PECO's substantive rights would be negatively impacted. As such, given that this filing is not allowed under our Regulations and is improper, Mr. DiBello's Sur-Replies to Reply Exceptions shall not be used to inform our disposition of this matter.<sup>3</sup>

Turning to the Exceptions filed by Mr. DiBello, we shall deny the Exceptions, reject Mr. DiBello's request for a stay of termination pending appeal, and adopt the Initial Decision of ALJ Brady, as modified by the analysis below.

**1. Usage of Commission Discretion Pursuant to 52 Pa. Code §1.2**

We shall modify the ALJ's Initial Decision, to the extent that we shall consider Mr. DiBello's request for disposition in the Complaint as a Petition to Stay PECO from termination of service based upon our *December 2023 Order*. Our basis for this modification is two-fold: (1) a just, speedy, and inexpensive resolution of this matter in line with the discretion afforded by 52 Pa. Code §1.2(a); and, (2) considering and dispensing with Mr. DiBello's Complaint as a Petition for Stay is consistent with the limited jurisdiction afforded the Commission in Pa.R.A.P. 1701(b) to preserve the status quo in this matter.

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<sup>3</sup> In so much as it is relevant, we note that the content of the Sur-Replies to Reply Exceptions duplicates the arguments advanced by Mr. DiBello in his other filings in this matter.

As noted, *supra*, the Commission has broad discretion to “disregard an error or defect of procedure which does not affect the substantive rights of the parties” where such an action secures “the just, speedy and inexpensive determination” of a proceeding. 52 Pa. Code §1.2(a). Our Regulations note that such discretion applies “with particularity in proceedings involving pro se litigants.” 52 Pa. Code §1.2(d).

Procedurally, our Regulations require that petitions for supersedeas or stay “be in writing and specify, in numbered paragraphs, the findings or orders involved, and the points relied upon by petitioner, with appropriate record references and specific requests for the findings or orders desired...” and filed within fifteen (15) days of the Order at issue becoming final. 52. Pa. Code §5.572(a), (c).

In his Complaint, in so much as it includes new material from the *2023 Complaint*, Mr. DiBello specifically requests a stay of any action by PECO made pursuant to our *December 2023 Order*, pending resolution of a pending appeal before the Commonwealth Court. Complaint at 2, 3. The instant Complaint directly references the *2023 Complaint*, *December 2023 Order*, and PECO’s actions made subsequent to the *December 2023 Order*. *Id.* These assertions are in line with those required for a Petition for Stay pursuant to Pa. Code §5.572(a). Chiefly, they are in writing, specify the Order involved, and include the arguments relied upon by Mr. DiBello in support of his request for a stay. While the filing was not made within fifteen (15) days of the final Order, it

was made contemporaneously to Mr. DiBello's receipt of a termination notice based upon the arrearage at issue in the *2023 Complaint*.<sup>4</sup>

Furthermore, consideration of the Complaint as a Petition for a Stay also allows for the just, speedy, and inexpensive resolution of this matter without substantively impacting the rights of PECO. Notably, PECO has had an opportunity to respond throughout the *2023 Complaint*, this matter, and the Commonwealth Court appeal, and has indeed offered its responses throughout.

We find that resolution of whether to enjoin PECO from termination pending the Commonwealth Court ruling on Mr. DiBello's appeal also provides clarity to PECO regarding its obligations in this matter. Therefore, we find it prudent to disregard Mr. DiBello's procedural error in requesting a stay via a new Formal Complaint, and shall consider his requested relief, a stay of termination and further action subsequent to our *December 2023 Order*.

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<sup>4</sup> In this regard, Mr. DiBello, in his Complainant, technically seeks relief in the nature of injunctive relief rather than a stay to preserve status quo to preclude the Company from proceeding with the termination. A stay is defined as “[a]n order to suspend all or part of a judicial proceeding or a judgment resulting from that proceeding.” Stay, Black's Law Dictionary (12th ed. 2024). An injunction is defined as “[a] court order commanding or preventing an action.” Injunction, Black's Law Dictionary (12th ed. 2024). The key difference is that a stay suspends judicial action (like a trial), whereas an injunction commands a person or entity to act or refrain from acting.

## **2. The Commission's Limited Jurisdiction Pursuant to Pa.R.A.P. 1701**

Pursuant to Pa.R.A.P 1701, the Commission may act upon a matter appealed to the Commonwealth Court in limited circumstances, in relevant part the Commission may:

- (1) Take such action as may be necessary to preserve the *status quo*, correct formal errors in papers relating to the matter, cause the record to be transcribed, approved, filed, and transmitted, grant leave to appeal *in forma pauperis*, grant *supersedeas*, and take other action permitted or required by these rules or otherwise ancillary to the appeal or petition for review proceeding.

Pa.R.A.P. 1701(b)(1). Considering our utilization of discretion pursuant to 52 Pa. Code §1.2 to consider Mr. DiBello's request for a stay, we shall take action as necessary to determine whether to preserve the *status quo* in this matter.

## **3. Disposition of Mr. DiBello's Request for a Stay**

As noted, *supra*, the Commission utilizes the four-part test outlined in *Process Gas* to determine whether to issue a stay. To prevail on a request for a stay, the petitioning party must show: (1) a strong likelihood of prevailing on the merits; (2) that denial of relief will cause irreparable injury; (3) that issuance of a stay will not substantially harm other parties to the proceeding; and (4) that issuance of a stay will not adversely impact the public interest. *Process Gas*.

Considering the first part of the *Process Gas* standard, the petitioner must make a strong showing that he is likely to prevail on the merits. On consideration of the positions of the Parties, we conclude that the first criteria of the *Process Gas* standards

weighs against the issuance of a stay. In the case of *Pa. PUC v. Makovsky Brothers, Inc.*, 53 Pa. P.U.C. 510, 511 (1979) (*Makovsky*), the Commission stated, in pertinent part, that:

[I]n deciding whether to stay one of our orders pending appeal, this Commission should not indulge in a further review of the case. Rather this Commission should concentrate solely on the effect our order will have pending appeal.

*Makovsky* at 511. Therefore, by our analysis of whether to grant a stay, we will not engage in reweighing evidence or further review of the matter. Further, the Commission has distinguished proceedings in which the “strong showing . . . of a likelihood of success on the merits” is considered in a request for the issuance of a stay after a full and fair opportunity of the parties to the matter to litigate substantive issues from those proceedings in which the substantive issues have not been fully addressed.<sup>5</sup> Despite Mr. DiBello’s claims that he is entitled to a stay “[i]n accordance with Pennsylvania law...” there are no citations to Pennsylvania law supporting this position, nor any facts other than those alleged in the *2023 Complaint*. The Commission may not rely on the opinions and conclusions of Mr. DiBello as substantial evidence supporting finding a strong likelihood that Mr. DiBello prevails on the merits. *See Norman*.

Accordingly, we believe Mr. DiBello is asking the Commission to “indulge in a further review of the case.” The Commission shall heed the warning of *Makovsky* and decline to indulge in any further consideration of our *December 2023 Order*.

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<sup>5</sup> See *Pa. PUC v. UGI Corp.*, 57 Pa. P.U.C. 83, 88-89 (1983); see also *Implementation of Act 40 of 2017, Petition of Cypress Creek Renewables, LLC for a Stay or Supersedeas of the Commission’s Final Implementation Order Entered May 3, 2018*, Docket No. M-2017-2631527 (Opinion and Order entered August 2, 2018) (finding that “the first prong of the four-part test of whether a stay, requiring the petitioner to make a strong showing that he is likely to prevail on the merits, is applicable in a matter where the Commission has not had an opportunity to rule on the substantive facts at issue”).

Therefore, we conclude that Mr. DiBello fails to establish any likelihood of success on the merits and has not met the first prong of the *Process Gas* standard.

Under the second criterion of *Process Gas*, we find Mr. DiBello has submitted no evidence, within the record, of the harm he will suffer if a stay is not granted. Therefore, we cannot find that Mr. DiBello has satisfied the second prong of the *Process Gas* standard. Mr. DiBello argues in his Exceptions that electric service is a “necessity,” but this mere opinion offered by Mr. DiBello does not satisfy the evidentiary burden imposed. *See Norman*.

With respect to the third criterion of *Process Gas*, that a stay or supersedeas will not substantially harm other interested parties, we find Mr. DiBello has submitted no evidence that a stay would not harm PECO. Therefore, we cannot find that Mr. DiBello has satisfied this criterion.

On consideration of the fourth criterion of *Process Gas*, we find that Mr. DiBello has not demonstrated that the issuance of a stay will not adversely affect the public interest. Indeed, the Commission is compelled to remind Mr. DiBello that a public utility is entitled to full payment for service provided to customers, and there is an obligation for all customers to pay for the utility service provided to them. Otherwise, unpaid customer bills are included in the utility’s uncollectibles expense and, ultimately, paid for by the other remaining utility customers. *Mill v. Pa. PUC*, 447 A.2d (Pa. Cmwlth. 1982); *Scaccia v. West Penn Power Co.*, 55 Pa. PUC 637 (1982). The Commission has noted with approval the reasoning of prior decisions concluding that the “Commission has historically defined the public interest as including ratepayers, shareholders, and the regulated community.” *Application of CMV Sewage Company, Inc.*, Docket No. A-230056F2002 (Opinion and Order entered December 23, 2008).

Here, Mr. DiBello has failed to meet the standards for issuance of a stay, as outlined in *Process Gas*. As such, we find that a stay should not be granted in this matter. In doing so, we deny the Exceptions, decline to issue a stay of our *December 2023 Order*, and dismiss this Complaint, adopting ALJ Brady's Initial Decision, as modified, consistent with this Opinion and Order.

#### **IV. Conclusion**

Based upon our review of the record and the applicable law, we shall deny the Exceptions filed by Mr. DiBello, reject the Petition for a Stay filed by Mr. DiBello, dismiss the Complaint, and adopt the Initial Decision of Administrative Law Judge F. Joseph Brady issued on June 12, 2025, as modified, consistent with this Opinion and Order; **THEREFORE,**

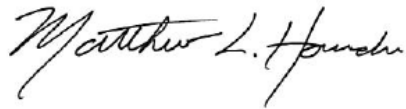
#### **IT IS ORDERED:**

1. That the Exceptions of Jonathan DiBello, filed on July 2, 2025, to the Initial Decision issued by Administrative Law Judge F. Joseph Brady at Docket No. C-2025-3054440 issued on June 12, 2025, are denied, consistent with this Opinion and Order.
2. That the Initial Decision of Administrative Law Judge F. Joseph Brady, issued on June 12, 2025, is adopted, as modified, consistent with this Opinion and Order.
3. That the Formal Complaint filed by Jonathan DiBello on April 7, 2025, against PECO Energy Company, at Docket No. C-2025-3054440, is denied and dismissed, consistent with this Opinion and Order.

4. That the Formal Complaint filed by Jonathan DiBello on April 7, 2025, to the extent construed as a Petition for a Stay, is denied, consistent with this Opinion and Order.

5. That this proceeding be marked closed.

**BY THE COMMISSION,**

A handwritten signature in cursive script, reading "Matthew L. Homsher".

Matthew L. Homsher  
Secretary

(SEAL)

ORDER ADOPTED: September 25, 2025

ORDER ENTERED: September 25, 2025