

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

TODD ELLIOTT KOGER, SR., AND
ELLIOTT-TODD PARKER KOGER
COMPLAINANT(S)

V.

C-2024-3049627 and
C-2025-3054190

DUQUESNE LIGHT COMPANY
RESPONDENT

COMPLAINANT(S) EXCEPTIONS TO THE INITIAL DECISION

Both Elliott-Todd Parker Koger and Todd Elliott Koger, Sr., Complainants, respectfully submit Exceptions to the Initial Decision.

I. INTRODUCTION

Pursuant to **52 Pa. Code § 5.533**, Todd Elliott Koger, Sr. and Elliott-Todd Parker Koger (“Complainants”) respectfully submit these Exceptions to the Initial Decision issued on **January 13, 2026** by Administrative Law Judge **Jeffery A. Watson** (“ALJ”).

The Initial Decision dismisses Complainants’ Formal Complaint with prejudice. For the reasons set forth below, the Complainants assert that the Initial Decision is legally and factually erroneous, inconsistent with Commission precedent, and contrary to the Commission’s longstanding policy favoring adjudication on the merits—particularly where pro se litigants are involved.

Complainants therefore respectfully request that the Commission **reverse** the Initial Decision and remand this matter for a full evidentiary hearing.

II. SUMMARY OF EXCEPTIONS

- 1. The ALJ misapplied controlling PUC precedent governing dismissal of pro se complaints.**
- 2. The sanction of dismissal with prejudice is disproportionate and inconsistent with 52 Pa. Code §§ 5.371–5.372.**
- 3. The ALJ’s finding of prejudice to Respondent is unsupported by the record.**
- 4. The ALJ failed to consider reasonable, less severe alternatives to dismissal.**
- 5. The Initial Decision conflicts with the Commission’s policy favoring resolution on the merits.**

III. EXCEPTIONS

EXCEPTION NO. 1

The ALJ Misapplied Controlling PUC Precedent Governing Dismissal of Pro Se Complaints

The Initial Decision acknowledges, but fails to properly apply, the Commission’s longstanding precedent requiring heightened consideration for pro se litigants. Cases such as **Carlock v. United Telephone Co. of Pennsylvania**, **Halpern**, **Schleisher**, and **Gera** establish that dismissal is disfavored where unrepresented complainants have demonstrated a good-faith effort to comply with procedural requirements.

The ALJ's conclusion that dismissal was warranted despite these authorities constitutes reversible error.

EXCEPTION NO. 2

The Sanction of Dismissal With Prejudice Is Disproportionate and Contrary to 52 Pa. Code §§ 5.371–5.372

Dismissal with prejudice is the most severe sanction available under the Commission's rules. Under **52 Pa. Code §§ 5.371–5.372**, sanctions must be "just" and proportionate to the conduct at issue.

Here:

- Lesser sanctions were available,
- The record does not demonstrate intentional misconduct,
- Complainants made efforts to participate despite their pro se status.

The ALJ's imposition of the harshest sanction is inconsistent with Commission policy and constitutes an abuse of discretion.

EXCEPTION NO. 3

The ALJ's Finding of Prejudice to Respondent Is Unsupported by the Record

The Initial Decision asserts that Respondent was deprived of due process because it lacked discovery responses. However:

- Respondent had extensive notice of the claims,
- Respondent had already produced its own discovery,
- Respondent did not demonstrate actual prejudice,
- Any alleged prejudice could have been remedied through procedural adjustments.

Commission precedent requires a showing of **actual, not speculative**, prejudice before dismissal is justified. That standard was not met.

EXCEPTION NO. 4

The ALJ Failed to Consider Reasonable Alternatives to Dismissal

Before imposing dismissal, Commission precedent requires consideration of alternatives such as:

- Reopening discovery,
- Issuing a revised scheduling order,
- Holding a prehearing conference,
- Proceeding to an evidentiary hearing to clarify disputed facts.

The Initial Decision does not reflect meaningful consideration of these alternatives. This omission constitutes reversible error.

EXCEPTION NO. 5

The Initial Decision Conflicts With the Commission's Policy Favoring Resolution on the Merits

The Commission has repeatedly emphasized that cases should be resolved on their substantive merits rather than on procedural technicalities. This policy is especially strong where pro se litigants are involved.

By dismissing the Complaint without a hearing—despite clear factual disputes—the ALJ's decision undermines this fundamental policy and deprives Complainants of their right to be heard.

IV. CONCLUSION

For the foregoing reasons, Complainants respectfully request that the Pennsylvania Public Utility Commission:

1. **Sustain these Exceptions,**
2. **Reverse** the Initial Decision of ALJ **Jeffery A. Watson,** and
3. **Remand** this matter for a full evidentiary hearing on the merits.

Respectfully submitted,

/s/ Todd Elliott Koger, Sr., Complainant, Pro Se

/s Elliott-Todd Parker Koger, Complainant, Pro Se

Dated: January 23, 2026

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

**TODD ELLIOTT KOGER, SR., AND
ELLIOTT-TODD PARKER KOGER
COMPLAINANT(S)**

V.

**C-2024-3049627 and
C-2025-3054190**

**DUQUESNE LIGHT COMPANY
RESPONDENT**

PROPOSED ORDER

Before the Commission for consideration are the Exceptions filed by Complainants, Todd Elliott Koger, Sr. and Elliott-Todd Parker Koger, to the Initial Decision issued on January 13, 2026, by Administrative Law Judge Jeffery A. Watson (“ALJ”). The Initial Decision dismissed the Formal Complaints with prejudice based on alleged failures to comply with discovery obligations and procedural directives.

Upon review of the record, the Initial Decision, and the Complainants’ Exceptions, we find that the Complainants have raised substantial and meritorious challenges warranting reversal of the ALJ’s dismissal. As explained below, the Initial Decision does not adequately account for the Commission’s longstanding policy favoring adjudication on the merits, particularly where pro se litigants are involved, nor does it demonstrate that dismissal—the most severe sanction available—was proportionate, necessary, or supported by evidence of actual prejudice to the Respondent.

Accordingly, we grant the Exceptions, reverse the Initial Decision, and remand this matter for further proceedings.

FINDINGS AND DISCUSSION

The ALJ misapplied Commission precedent governing dismissal of pro se complaints.

1. The Commission has repeatedly held that dismissal is disfavored where unrepresented complainants have made good-faith efforts to comply with procedural requirements. The Initial Decision does not adequately reconcile this precedent with the record.

The sanction of dismissal with prejudice was disproportionate.

2. Under 52 Pa. Code §§ 5.371–5.372, sanctions must be “just” and proportionate. The record does not demonstrate intentional misconduct, willful disregard of Commission orders, or circumstances warranting the most severe sanction.

The Initial Decision’s finding of prejudice to Respondents is unsupported.

3. The record does not establish that Duquesne Light Company suffered actual prejudice. Any alleged deficiencies in discovery responses could have been addressed through less severe procedural remedies.

Reasonable alternatives to dismissal were not considered.

4. Commission precedent requires consideration of alternatives such as reopening discovery, modifying the procedural schedule, or convening a prehearing conference. The Initial Decision does not reflect such consideration.

The Initial Decision conflicts with the Commission's policy favoring resolution on the merits.

5. The Commission has consistently emphasized that cases should be decided on substantive evidence rather than procedural technicalities, especially where factual disputes remain unresolved.

For these reasons, we conclude that the Initial Decision must be reversed and the matter remanded for further proceedings, including the development of a full evidentiary record.

ORDER

THEREFORE, IT IS ORDERED:

1. That the Exceptions filed by Complainants, Todd Elliott Koger, Sr. and Elliott-Todd Parker Koger, are hereby SUSTAINED.
2. That the Initial Decision issued on January 13, 2026, by Administrative Law Judge Jeffery A. Watson is hereby REVERSED.
3. That this matter is REMANDED to the Office of Administrative Law Judge for further proceedings, including the scheduling of an evidentiary hearing and any necessary discovery.
4. That the Administrative Law Judge shall establish a revised procedural schedule consistent with this Order.
5. That the Secretary's Bureau shall mark this proceeding as ACTIVE.

BY THE COMMISSION,

Secretary

Date: _____

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

**/s/ Elliott-Todd Parker Koger
/s/ Todd Elliott Koger
(412) 758-4510**

PROOF OF SERVICE

Both Elliott-Todd Parker Koger and Todd Elliott Koger, Sr., certify that on this the 25 day of January 2026, served the following on:
Megan E. Rulli, 17th North Second Street 12th Floor, Harrisburg, PA 17101

ALJ Jeffery Watson Administrative Law Judge Office of the Administrative Law Judge
Pennsylvania Public Utility Commission Keystone Building 400 North Street Harrisburg,
PA 17120 – email jeffwatson@pa.gov

**/s/ Elliott-Todd Parker Koger
/s/ Todd Elliott Koger
(412) 758-4510**