

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

Public Meeting held March 12, 2026

Commissioners Present:

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

Todd Elliott Koger, Sr. and
Elliott-Todd Parker Koger

C-2024-3049627
C-2025-3054190

v.

Duquesne Light Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of Todd Elliott Koger, Sr. and Elliott-Todd Parker Koger (the Kogers or Complainants), filed on January 26, 2026, to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) Jeffrey A. Watson, issued on January 13, 2026, in the above-captioned consolidated proceedings. Replies to Exceptions were filed by Duquesne Light Company (Duquesne, Respondent or the Company) on February 12, 2026. For the reasons set forth below, we shall deny the

Complainants' Exceptions and adopt the Initial Decision of ALJ Watson, consistent with this Opinion and Order.

I. History of the Proceeding

On June 19, 2024, the Kogers filed a Formal Complaint against Duquesne, docketed at C-2024-3049627, alleging that the Complainants were improperly removed from the customer assistance program (CAP) and that a service failure at the meter box caused property damage (First Complaint). First Complaint at 2-9.

On July 23, 2024, Duquesne filed a Motion For Leave to File Responsive Pleadings to the Complaint because the Company's Answer, New Matter, and Preliminary Objection were served on the Complainants on July 10, 2024; however, the pleadings inadvertently were not filed with the Commission by the July 10, 2024, deadline. Duquesne's Answer admitted, in part, and denied, in part, various material allegations of the First Complaint, and included New Matter. Answer at 2-10. In its Preliminary Objection (P.O.), Duquesne requested that the portions of the First Complaint that requested a payment agreement be dismissed because the Commission lacks subject matter jurisdiction over such claims. P.O. at 2-7. The Motion For Leave to File Responsive Pleadings to the Complaint was granted by Interim Order entered on August 13, 2024. No responsive pleading was filed to the New Matter by the Complainants. I.D. at 2.

On March 25, 2025, the Kogers filed a second Formal Complaint (Second Complaint) against Duquesne, docketed at C-2025-3054190, alleging, *inter alia*, violations of certain portions of the Pennsylvania Crimes Code, the United States Crimes Code, and other federal law, including 18 Pa.C.S. §§ 4911 and 1911; 18 U.S.C. §§ 3057(a) and 1961-1968; and Title VI of the Civil Rights Act of 1964. The Complainants also averred that Duquesne or its representatives intentionally or criminally

misrepresented facts during the ongoing Chapter 7 Bankruptcy Petition proceeding of Elliott-Todd Parker Koger before the United States Bankruptcy Court for the Western District of Pennsylvania at Docket No. 24-210801-GLT (Chapter 7 Petition).
Second Complaint at 2-9.

On April 15, 2025, Duquesne filed an Answer (Second Answer) admitting, in part, and denying, in part, various material allegations of the Second Complaint. Second Answer at 1-8. On that same date, Duquesne filed Preliminary Objections to the Second Complaint (Second P.O.) requesting that portions of the Second Complaint be dismissed because the Commission lacks jurisdiction over certain claims therein, and because the portions of the Second Complaint related to the Chapter 7 Petition constitute scandalous or impertinent matter. Second P.O. at 2-7.

On April 24, 2025, the Complainants filed an Amended Complaint at Docket C-2025-3054190, alleging that Duquesne failed to address a hazardous condition which has obstructed the Kogers from accessing the CAP program (Amended Second Complaint). Amended Second Complaint at 6-10.

On May 15, 2025, Duquesne filed an Answer to the Amended Second Complaint admitting, in part, and denying, in part, various material allegations of the Amended Second Complaint. Answer to Amended Second Complaint at 1-15. Also, Duquesne filed Preliminary Objections (Third P.O.) to the Amended Second Complaint on May 15, 2025, requesting that portions of the Amended Second Complaint be dismissed because the Commission lacks jurisdiction over certain claims therein, and because the portions of the Second Complaint related to the Chapter 7 Petition constitute scandalous or impertinent matter. Third P.O. at 2-8. No response to the Third P.O. was filed by the Complainants. Subsequently, on July 9, 2025, an Interim Order was entered granting the Third P.O. I.D. at 3.

On April 17, 2025, Duquesne filed a Motion to Consolidate the proceedings regarding the First Complaint and the Amended Second Complaint due to the overlapping issues of fact and law in both proceedings asserting allegations that a loose neutral at the Complainants' service address poses a safety concern and is preventing the Complainants' from being enrolled in Duquesne's CAP. Motion to Consolidate at 2-3. The Complainants did not file a response or objection to the Motion to Consolidate. On July 10, 2025, an Interim Order was entered granting the Motion to Consolidate. I.D. at 3.¹

On July 11, 2025, the ALJ issued an Interim Order Establishing Initial Litigation Schedule (Scheduling Order), which, among other things: (1) required the parties to provide each other notice of, identify, and summarize the testimony of any fact witnesses on or before September 1, 2025; (2) required the parties to provide each other notice of, identify, and summarize the testimony of any expert witnesses on or before September 5, 2025; and (3) established October 31, 2025, as the deadline for discovery in these proceedings. I.D. at 3-4.

On July 11, 2025, the Complainants served their First Set of Requests for Production of Documents and Things and First Set of Interrogatories (Complainants Set I) on Duquesne via email. Responses to Complainants Set I were due to be served by August 1, 2025. I.D. at 4.

On July 21, 2025, Duquesne timely served its Objections to Complainants Set I, specifically objecting to Requests for Production Nos. 3, 4, and 5 and Interrogatories Nos. 2 and 10. I.D. at 4.

¹ This Opinion and Order will hereinafter refer to the First Complaint and the Amended Second Complaint together as "the Complaints."

On July 28, 2025, the Complainants served a Motion to Compel Production of Discovery (Complainants' Motion to Compel), arguing that Duquesne's Objections should be overruled. On August 1, 2025, Duquesne timely served its Answers to all but one of the requests contained in Complainants Set I. On August 4, 2025, Duquesne timely served its Answer to Complainants' Motion to Compel. I.D. at 4.

On September 2, 2025, Duquesne provided the Complainants with a list of the fact witnesses it planned to call at the hearings and summaries of the anticipated testimony of those fact witnesses. The Complainants did not provide notice to Duquesne or the ALJ of any fact witnesses they planned to call at the evidentiary hearings. I.D. at 4.

On September 5, 2025, Duquesne provided notice to the Complainants that it did not intend to call any expert witnesses at the evidentiary hearings. The Complainants did not provide notice to Duquesne or the ALJ of any expert witnesses they planned to call at the evidentiary hearings. I.D. at 4-5.

On September 9, 2025, Duquesne served Interrogatories and Requests for Production of Documents on the Complainants – Set I, Questions 1 through 19 (Duquesne to Complainants Set I) via electronic and first-class mail. Pursuant to the Commission's Regulations, objections to Duquesne to Complainants Set I were due on or before September 19, 2025, and responses were due on or before September 29, 2025. The Complainants did not serve objections to Duquesne to Complainants Set I by September 19, 2025. Also, the Complainants did not provide responses to Duquesne to Complainants Set I by September 29, 2025. I.D. at 5.

On September 25, 2025, an Interim Order was entered denying the Complainants' Motion to Compel. I.D. at 5.

On October 16, 2025, Duquesne filed a Motion to Compel responses to Duquesne to Complainants Set I (Duquesne Motion to Compel). The Complainants did not file an Answer to the Duquesne Motion to Compel. I.D. at 5.

On October 16, 2025, an Initial In-Person Hearing Notice was issued, scheduling the in-person hearings for the Complaints for December 8 and 10, 2025, at the Commission's Pittsburgh hearing room. Also, on October 16, 2025, a Prehearing Order was entered requiring distribution of proposed exhibits and other requirements for the evidentiary hearings, which, *inter alia*, required each party to serve copies of all proposed evidence on the opposing party and the ALJ on or before December 3, 2025. I.D. at 5.

On October 31, 2025, an Interim Order was entered granting the Duquesne Motion to Compel, specifically directing the Complainants to “serve upon counsel for Respondent, full and complete answers and responses, in their entirety, to Duquesne Light Company's Set I discovery requests, as identified in the Motion to Compel filed on October 16, 2025, on or before 4:00 p.m. on Thursday, November 6, 2025.” In addition, the Interim Order noted that “the failure of Complainants to fully and timely comply with the terms and provisions set forth in this Interim Order may result in the imposition of sanctions, upon the filing of an appropriate Motion or request for relief.” I.D. at 5-6 (citing October 31, 2025, Interim Order at 23).

On November 3, 2025, the Complainants filed a document entitled “Complainants Compliance and Motion to Admit Evidence,” purporting to comply with the October 31, 2025, Interim Order granting the Duquesne Motion to Compel. The document included a “summary table” that appeared to group the subject matters of Duquesne's discovery requests into categories and provided a brief, one-sentence summary of the Complainants' position on each of the issues. The Complainants failed to serve this filing on the ALJ. I.D. at 6.

On November 12, 2025, Duquesne filed a Motion to Dismiss the Complaints, with prejudice, due to the Complainants' failure to comply with the October 31, 2025, Interim Order granting the Duquesne Motion to Compel, as well as the Commission's Regulations regarding discovery (Motion to Dismiss). I.D. at 6.

On November 18, 2025, the Complainants filed their Opposition to the Motion to Dismiss. However, the Complainants failed to serve this filing on the ALJ. On November 20, 2025, an Interim Order was entered which held the Motion to Dismiss in abeyance and extended the deadline for the Complainants to comply with the October 31, 2025, Interim Order until November 25, 2025. The Complainants did not timely file a Certificate of Service indicating the service of its full and complete responses to Duquesne to Complainants Set I discovery requests. I.D. at 6-7.

On November 26, 2025, Duquesne filed a Renewed Motion of Duquesne Light Company to Dismiss the Formal Complaints of Todd Elliott Koger, Sr. and Elliott-Todd Parker Koger (Renewed Motion to Dismiss). Duquesne averred that the Complainants failed to comply with various Interim Orders which, *inter alia*, directed them to establish the production of any documents responsive to the Company's discovery requests.² Duquesne requested that the Complaints be dismissed, with prejudice, due to the Complainants' failure to comply with the Orders of the ALJ, including the October 31, 2025, Interim Order, the November 20, 2025, Interim Order,

² In the Initial Decision, the ALJ noted that, at various points in these proceedings, the Complainants stated that they provided supporting documentation to Duquesne, including an alleged "supplemental filing" dated November 6, 2025, which Duquesne averred in its Motion to Dismiss and Renewed Motion to Dismiss that it never received. The ALJ also pointed out that Duquesne further averred that no responsive documents were attached to such filings and no responsive documents have been served on the Company as of the date of the filing of the Renewed Motion to Dismiss. I.D. at 7, 13, 19, ns. 3, 7, 12.

and the Commission's Regulations regarding discovery. I.D. at 7; Renewed Motion to Dismiss at 8-12.

The record closed on December 4, 2025. I.D. at 7.³

On January 13, 2026, the Commission issued the ALJ's Initial Decision, wherein he granted Duquesne's Motion to Dismiss and dismissed the Complaints, with prejudice, for failure of the Complainants to comply with the Interim Orders entered on July 11, 2025, October 16, 2025, October 31, 2025, and November 20, 2025. I.D. at 1-2, 27, 29.

As noted, *supra*, the Complainants filed Exceptions on January 26, 2026. On February 12, 2026, Duquesne filed Reply Exceptions.

II. Discussion

A. Legal Standards

1. Burden of Proof

Pursuant to Section 332(a) of the Public Utility Code (Code), 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 Complainants, as the party seeking relief, must establish a sufficient case that the Respondent is responsible or accountable for the problem described in the Complaints. *Patterson v. The Bell Telephone Company of Pennsylvania*,

³ We note that, in addition to the History of the Proceeding set forth in the ALJ's Initial Decision, the dockets in these consolidated matters contain additional procedural filings, activities, and correspondence that are not included in the summary of the History of the Proceeding herein. *See* I.D. at 2-7.

72 Pa. P.U.C. 196 (1990). 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). That is, the Complainants' evidence must 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). Additionally, 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*, 413 A.2d 1037 (Pa. 1980).

Upon presentation by the Complainants of sufficient evidence to initially satisfy the burden of proof, the evidentiary burden shifts to the Respondent to present persuasive evidence rebutting that of the Complainants. If the Respondent's evidence is of co-equal value or weight, the Complainants have not satisfied their burden of proof, and they must provide some 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 (Pa. 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 its case by a preponderance of the evidence. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

2. Failure to Comply with Orders and Respond to Discovery

The Commission has held that the Orders of an ALJ must be complied with and that failure to do so is a sufficient basis to support dismissal of the matter. *Snyderville Cmty. Dev. Corp. v. Phila. Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006) (*Snyderville*). It is long-standing Commission practice that the Commission has held that failure to comply with an Order issued by a presiding officer warrants dismissal of an application or complaint. *See, e.g., Application of Robert Bautista t/a Collado Luxury Ride, LLC*, Docket No. A-2015-2476824 (Final Order

entered February 1, 2016); *Application of And Ex Cor*, Docket No. A-2012-2337848 (Final Order entered June 19, 2013); *Treffinger v. PPL Electric Utilities Corp.*, Docket No. C-20027978 (Opinion and Order entered March 3, 2003) (*Treffinger*).

In addition, the Commission's Regulations provide that a party is entitled to obtain discovery of any matter, not privileged, which is relevant to the subject matter involved in the pending proceeding, or any matter that is reasonably calculated to lead to the discovery of admissible evidence. Discovery is permitted regardless of whether the information sought "relates to the claim or defense of the party seeking discovery or to the claim or defense of another party." 52 Pa. Code § 5.321(c). Answers to written interrogatories must "[a]nswer each interrogatory fully and completely unless an objection is made." 52 Pa. Code § 5.342(a).

Furthermore, Section 5.371 of the Commission's Regulations addresses the consequences of a participant's failure to comply with the Commission's discovery regulations and provides that the Commission or the presiding officer may, on motion, make an appropriate order for sanctions if a party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, or refuses to obey an order of the presiding officer respecting discovery. 52 Pa. Code § 5.371(a).

Moreover, Section 5.372 of the Commission's Regulations provides that the presiding officer may impose appropriate sanctions upon a party found to be in violation of the obligations set forth in the Commission's Regulations. Specifically, the Commission's Regulations specify certain sanctions that are available when a party fails

to comply with an order of the Commission “as is just.” Among the potential sanctions, an ALJ may enter:

(1) An order that the matters regarding which the questions were asked, the character or description of the thing or land, the contents of the paper, or other designated fact shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.

(2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the party from introducing in evidence designated documents, things or testimony.

(3) An order striking out pleadings or parts thereof, staying further proceedings until the order is obeyed, or entering a judgment against the disobedient party or individual advising the disobedience.

(4) An order with regard to the failure to make discovery as is just.

52 Pa. Code § 5.372.

Specifically, the Commission has dismissed customer complaints, with prejudice, due to the complainants’ failure to answer discovery in compliance with a presiding ALJ’s orders granting motions to compel. *See, e.g., Sojda v. Metro. Ed. Co.*, Docket No. C-2017-2638350, at 7-8 (I.D. issued January 9, 2019; *adopted* by Final Order entered March 28, 2019) (*Sojda*); *Beckmann v. Metro. Ed. Co.*, Docket No. C-2017-2613702, at 7-10 (I.D. issued January 31, 2019; *adopted* by Final Order entered April 11, 2019); *Stanton v. Pa. Elec. Co.*, Docket No. C-2018-3001144, at 6-11 (I.D. issued May 10, 2019; *adopted* by Final Order entered July 11, 2019); *Cook v. W. Penn Power Co.*, Docket No. C-2018-3003051, at 6-10 (I.D. issued May 1, 2019; *adopted* by Final Order entered July 11, 2019); *Denlinger v. Duquesne Light Utils. Corp.*, Docket No. C-2018-3005721, at 4-11 (I.D. issued August 16, 2019; *adopted* by

Final Order entered September 26, 2019); *Toleno v. Duquesne Light Utils. Corp.*, Docket No. C-2019-3007821, at 4-10 (I.D. issued September 23, 2019; *adopted* by Final Order entered November 7, 2019).

B. ALJ's Initial Decision

ALJ Watson made 45 Findings of Fact and reached 7 Conclusions of Law. I.D. at 7-15, 27-29. 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 this Opinion and Order.

In the Initial Decision, the ALJ reiterated the detailed procedural history of this proceeding in the History of the Proceeding section, the Findings of Fact, and the Discussion section. I.D. at 2-7, 7-15, 16-25. Based upon the Kogers' failure to comply with several Interim Orders⁴ requiring the Complainants to provide discovery responses and witness identification information, as well as provide their proposed exhibits to the ALJ and Duquesne prior to the scheduled evidentiary hearing, the ALJ dismissed the Complaint, with prejudice. *Id.* at 1, 29. Specifically, the ALJ concluded that the Kogers did not comply with Interim Orders, as follows:

1. The Kogers did not comply with the June 11, 2025, Interim Order because they did not provide notice to Duquesne or the ALJ of any fact or expert witnesses or any summary of proposed evidence they planned to call at the evidentiary hearing. I.D. at 16.
2. The Kogers did not comply with the October 16, 2025, Interim Order because they did not provide their proposed evidence. *Id.* at 17-18.

⁴ See Interim Orders entered on July, 11, 2025, October 16, 2025, October 31, 2025, and November 20, 2025.

3. The Kogers did not comply with the October 31, 2025, Interim Order because the filing that they made purporting to comply with that order was not served on the ALJ, and they did not provide full and complete responses to the Duquesne's discovery requests. *Id.* at 18.
4. The Kogers did not comply with the November 20, 2025, Interim Order because the Complainants did not timely file a Certificate of Service indicating the service of full and complete discovery responses to Duquesne. *Id.* at 19.

Initially, the ALJ noted that the filings by the Kogers in this proceeding demonstrated their ability to understand the litigation process, including the consequences of failing to comply with Commission Orders and to properly respond to the discovery requests. Also, the ALJ stated that the November 25, 2025, Interim Order cautioned the Kogers that failing to comply with the requirements therein could, upon motion, result in the imposition of sanctions, including the potential dismissal of the Complaints. *I.D.* at 20 (citing November 25, 2025, Interim Order).

The ALJ concluded that the discovery requests propounded by Duquesne, which the Complainants failed or refused to answer, included: (1) straight-forward requests seeking details related to the allegations in the Complaints; (2) clarification as to the precise nature of the electrical issues the Complainants claim they are experiencing or have experienced; (3) information related to any repairs or investigations into the alleged electrical issues that the Complainants have made; (4) information related to the Complainants' allegations that Duquesne failed to properly process a damage claim submitted by the Complainants; (5) information and documentation regarding alleged elevated utility bills; (6) information related to the Complainants' contacts with Duquesne's contractor, CLEAResult, and the requirement to complete a Smart Comfort visit to enroll in CAP; (7) information in support of the Complainants' claims that

Duquesne's actions or omissions have caused damage to their property, including what items were claimed to be damaged and whether any of those items were replaced or repaired; (8) information related to the Complainants' statements made in an April 2, 2025, email to Duquesne, that their service box was replaced just prior to October 11, 2023, and that their service address had been recently converted to all electric appliances; (9) information related to the Complainants' statements made in a June 6, 2024, email to Duquesne, regarding damaged Xfinity equipment and communications with Xfinity technician(s), as well as allegations that the actions of Duquesne caused bodily harm; (10) information related to the history of any electrical work performed at the Complainants' service address since January 1, 2022; and (11) basic information about the Complainants' direct case, including that they identify any lay witnesses and expert witnesses planned to be called to testify.

The ALJ determined that the Complainants' refusal to answer these interrogatories fully, especially after being directed to do so by two Interim Orders, would deny Duquesne's due process rights and prevent the full and complete development of the evidentiary record. Further, the ALJ concluded that without full and complete responses to these discovery requests, Duquesne cannot properly respond to the Kogers' claims or prepare for the hearings.⁵ I.D. at 21-22.

In addition, the ALJ stated that Duquesne is entitled to the requested information to enable it to fully investigate and defend against the Complainants' allegations. The ALJ further noted that the Kogers neither complied with these discovery requests, even after various efforts to compel the production of such, nor did they seek any appropriate relief or continuance of the scheduled hearing. The ALJ concluded that requiring Duquesne to participate at a hearing without the benefit of responses to its

⁵ The ALJ also noted that, in addition to failing to respond to the discovery requests as required by the Interim Orders, the Kogers also failed to serve their proposed evidence by the deadline established by the ALJ. I.D. at 22.

discovery requests and the Complainants' proposed exhibits and requiring the Company to attempt to defend itself against asserted claims without the ability to prepare a defense, would constitute a deprivation of Duquesne's due process rights, which cannot be permitted under the circumstances presented in this case. I.D. at 25.

The ALJ acknowledged the Commission's well-established precedent to afford unrepresented complainants the opportunity to orally set forth their cases on the record rather than dismissing them on a preliminary basis. I.D. at 26-27 (citing *Carlock v. United Tel. Co. of Pa.*, Docket No. F-00163617 (Order entered July 14, 1993) (*Carlock*)). However, the ALJ found that the Kogers' conduct here demonstrated a complete disregard of the Interim Orders requiring the exchange of discovery responses and the exchange of proposed evidence and exhibits, as well as the rules and regulations of the Commission, by failing to comply with several straightforward Interim Orders, provide Duquesne with discovery responses, identify witnesses, and serve proposed exhibits and evidence.. I.D. at 22. Moreover, the ALJ concluded that every opportunity was provided to the Kogers to comply with Commission Regulations and orders. Consequently, in order to protect the due process rights of Duquesne, the ALJ determined that a hearing in this matter was not necessary or appropriate and was not in the public interest. Accordingly, the ALJ dismissed the Complaints, with prejudice. *Id.* at 27.

C. Exceptions and Replies

The Complainants' Exceptions⁶ consist of a ten-page typed document, wherein the Complainants assert that "the Initial Decision is legally and factually

⁶ We note that the format of the Exceptions does not strictly comply with Section 5.533(b) of our Regulations, which requires 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. 52 Pa. Code § 5.533(b). Nevertheless, recognizing that the Complainants are appearing *pro se*, we will accept the Exceptions as filed, pursuant to Section 1.2(a) of our Regulations, and consider the merits.

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.” Exc. at 1. The Kogers put forth five Exceptions in support of their request for the Commission to reverse the Initial Decision and remand this matter for a full evidentiary hearing. *Id.* at 1-5.

In their Exception No. 1, the Kogers argue that the ALJ misapplied Commission precedent that controls the dismissal of *pro se* complaints by improperly applying *Carlock*. The Kogers aver that *Carlock*, and other additional cases (citations omitted), stand for the proposition that dismissal is disfavored where unrepresented complainants have demonstrated a good-faith effort to comply with procedural requirements. The Kogers contend that the ALJ’s conclusion that dismissal was warranted despite these authorities constitutes reversible error. Exc. at 2-3.

Turning to their Exception No. 2, the Kogers argue that the sanction of dismissal, with prejudice, is disproportionate and contrary to the Commission’s Regulations at 52 Pa. Code §§ 5.371–5.372. The Kogers contend that dismissal with prejudice is the most severe sanction available under those rules, and that sanctions here are not just and proportionate to the conduct at issue. The Kogers submit that less severe sanctions were available, and that the record does not demonstrate intentional misconduct because the Complainants made efforts to participate despite their *pro se* status. The Kogers state that imposing the harshest sanction is inconsistent with Commission policy and was an abuse of discretion. Exc. at 3.

Regarding the Complainants’ Exception No. 3, the Kogers argue that the ALJ’s finding of prejudice to Duquesne is unsupported by the record. The Kogers aver that the ALJ’s determination that Duquesne was deprived of due process because it lacked discovery responses was improper for the following reasons: (1) Duquesne had extensive notice of the claims; (2) Duquesne had already produced its own discovery;

(3) Duquesne did not demonstrate actual prejudice; and (4) any alleged prejudice could have been remedied through procedural adjustments. The Kogers assert that Commission precedent requires a showing of actual, non-speculative prejudice before dismissal is justified, and this standard was not met. Exc. at 3-4.

With respect to their Exception No. 4, the Kogers submit that the ALJ failed to consider reasonable alternatives to dismissal before imposing this sanction. The Kogers aver that Commission precedent requires consideration of other alternatives, such as reopening discovery, issuing a revised scheduling order, holding a prehearing conference, or proceeding to an evidentiary hearing to clarify disputed facts. The Kogers argue that the ALJ's omission of meaningful consideration of these alternatives in the Initial Decision constitutes reversible error. Exc. at 4.

Finally, in their Exception No. 5, the Kogers argue that the Initial Decision conflicts with the Commission's policy favoring resolution on the merits. The Kogers aver that the Commission has repeatedly emphasized that cases should be resolved on substantive merits rather than procedural technicalities, and that this policy is especially strong where *pro se* litigants are involved. The Kogers submit that the ALJ's dismissal of the Complaint without a hearing, despite the existence of clear factual disputes, undermines this policy and deprives the Complainants of their right to be heard. Exc. at 5.

In reply to the Complainants' Exception Nos. 1 and 5, Duquesne argues that the ALJ properly dismissed the Complaints without a hearing. Duquesne states that the Complainants' repeated failure to comply with the Commission's Regulations and Interim Orders warranted dismissal of their Complaints without a hearing. Duquesne avers that the ALJ properly applied *Carlock* and the other cases cited by the Complainants because those cases do not excuse unrepresented parties from complying with an ALJ's Orders or the Commission's Regulations. Further, Duquesne submitted

that the ALJ properly applied prior holdings of the Commission where complaints were dismissed because orders of an ALJ were not complied with or where complainants failed to answer discovery. Duquesne contends that the Complainants' *pro se* status does not excuse them from complying with the Interim Orders, and that dismissal of the Complaints, with prejudice, is well-grounded in Commission precedent. R. Exc. at 5-6 (citations omitted).

In addition, Duquesne contends that the Complainants' description of their actions in this proceeding as good faith efforts to comply with procedural requirements mischaracterize the record and should be rejected outright. Duquesne avers that the Complainants, without any valid reason or excuse, failed to provide any responses to discovery requests despite twice being ordered to do so and warned that failure to comply could result in the imposition of sanctions. Also, Duquesne argues that the Complainants never objected to the discovery or provided reasonable reasons for failing to comply with the Interim Orders. Duquesne asserts that it is the Complainants' own failure to act reasonably that resulted in the dismissal of the Complaints. R. Exc. at 6-9 (citations omitted).

Turning to its replies to the Complainants' Exception Nos. 2 and 4, Duquesne states that the ALJ appropriately dismissed the Complaints, with prejudice. Duquesne avers that the Commission's Regulations do not require a showing that lesser sanctions were not available or that the affected party engaged in intentional misconduct. R. Exc. at 10 (citing 52 Pa. Code §§ 5.371-5.372). Rather, Duquesne contends dismissal of the Complaints, with prejudice, was reasonable and foreseeable due to the Complainants' failure to comply with the Interim Orders, and that there is no Commission precedent that requires alternatives to be considered. Duquesne submits that its due process rights must be protected; therefore, a hearing in this matter is not necessary or appropriate. Moreover, Duquesne contends that the Complainants' lack of reasons or excuses for their failure to comply with the Interim Orders supports a finding

that any other alternative sanctions are unwarranted under the circumstances of this case. *Id.* at 11.

Finally, in reply to the Complainants' Exception No. 3, Duquesne argues that the ALJ correctly found that Duquesne was prejudiced by the Complainants' failure to provide any discovery responses. Without being provided with responses to its discovery requests, Duquesne avers that the ALJ properly determined that its due process rights would be violated should the case proceed to hearing because Duquesne would be unable to properly respond to the Complainants' claims or prepare for the hearing. Moreover, Duquesne asserts that the prejudice to the Company was not speculative. R. Exc. at 12-14.

D. Disposition

At the outset, we advise the Parties that any issue or argument that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider, expressly or at length, each contention or argument raised by the parties. *Consl. Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, Univ. of Pa. v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).⁷

Turning to the Kogers' Exception No. 1, the Kogers argue that the ALJ failed to properly apply the Commission's longstanding precedent under *Carlock* because the dismissal of complaints of *pro se* litigants is disfavored where such complainants

⁷ *See also Metropolitan Edison Co. v. Pa. PUC*, 22 A.3d 353 (Pa. Cmwlth. 2011), *appeal denied*, 22 A.3d 353 (Pa. 2012) (citing *Wheeling & Lake Erie Railway Company v. Pa. PUC*, 778 A.2d 785, 794 (Pa. Cmwlth. 2001) for the proposition that the Commission is not required to expressly consider all of the arguments set forth by the parties in its Order).

have demonstrated a good-faith effort to comply with procedural requirements. We disagree.

We have examined the ALJ's decision in light of the fact that the Kogers are *pro se* complainants. In *Carlock*, the Commission held that in the normal course, it would not dismiss a *pro se* complaint without first providing a hearing during which the *pro se* complainant could further explain his or her position and the factual basis for the complaint. The Commission's concern was that in general, *pro se* complainants may find it difficult to navigate through pre-hearing motions and should be given the chance to orally describe their basic issue and supporting facts. However, there are some cases, such as the one presently before us, where proceeding with a hearing would not be appropriate and cannot be permitted. This is because proceeding to a hearing here would deprive Duquesne of its fundamental due process rights, given that the Kogers' behavior and lack of a good faith effort to comply with procedural requirements in the instant proceeding prevented Duquesne from preparing for hearing and presenting a defense.

As an administrative agency of the Commonwealth, the Commission is required to provide due process to the parties appearing before it. *Schneider v. Pa. PUC*, 479 A.2d 10, 15 (Pa. Cmwlth. 1984) (*Schneider*) (citing *Fusaro v. Pa. PUC*, 382 A.2d 794 (Pa. Cmwlth. 1978)). Due process is satisfied when the parties are afforded notice and the opportunity to appear and be heard. *Schneider*. The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *Montefiore Hospital Ass'n of Western Pennsylvania v. Pa. PUC*, 421 A.2d 481, 484 (Pa. Cmwlth. 1980). This includes ensuring that a respondent is advised of the allegations against it so that it is afforded a meaningful chance to prepare and defend its actions at hearing. *Schneider*.

In this proceeding, Duquesne was entitled to engage in discovery in order to obtain information that is relevant and material to the issues raised by the Kogers to

enable it to fully investigate and defend against the Complainants' allegations. *See* 52 Pa. Code § 5.321(c); *Sojda* at 6. However, as the ALJ pointed out in the Initial Decision, the Complainants failed or refused to comply with various efforts to compel the production of appropriate discovery responses. I.D. at 25.

Furthermore, the Kogers failed to comply with several Interim Orders issued by the ALJ, as discussed, *supra*. Specifically, the Complainants failed to comply with Interim Orders directing responses to Duquesne's discovery requests, the provision of witness information, and the exchange of proposed evidence and exhibits. *See* I.D. at 27. The Kogers' lack of compliance with the ALJ's Interim Orders in the instant matter is a sufficient basis to dismiss the Complaint. *See Snyderville; Treffinger; Weisenberger, et al. v. PECO*, Docket No. C-2010-2182281 (Final Order entered December 22, 2011). Moreover, the dismissal of complaints of *pro se* complainants for failure to answer interrogatories in accordance with the Commission's Regulations and as required by Order of a presiding ALJ is consistent with prior Commission practice. *See, e.g., Joseph M. Kapusnik v. Verizon Pennsylvania, Inc.*, Docket No. C-20031224 (Final Order acknowledging finality of Initial Decision entered April 13, 2004); *Albert Majkowski v. Columbia Gas of Pennsylvania, Inc.*, Docket No. F-01087321 (Opinion and Order entered March 28, 2003); *Barbara Brown v. Bell Atlantic-Pennsylvania, Inc.*, Docket No. C-00957014 (Opinion and Order entered April 23, 1996); *Thomas Merchant v. The Bell Telephone Company of Pennsylvania*, Docket No. C-00935253 (Opinion and Order entered June 20, 1994); *Application of Santos E. Pineda*, Docket No. A-2009-2126367 (Final Order issued June 21, 2010).

We agree with the ALJ that dismissal of the Complaints, with prejudice, is appropriate given the Complainants' egregious refusal to comply with valid discovery requests in the instant case. In this case, the Parties were permitted to engage in discovery and were ordered to identify expert and factual witnesses. However, the Complainants' conduct in this proceeding involves not just failing to comply with an

order of the ALJ, but it also involves the failure of the Kogers to provide the Respondent with responses to discovery requests in order to provide the Respondent with an opportunity to prepare a defense to the claims advanced by the Complainants. The Complainants simply refused to comply with the Interim Orders and the Commission's Regulations. The failure to make a good-faith effort to comply with several Interim Orders in this case, in addition to the Kogers' refusal to answer properly propounded discovery, demonstrates their lack of cooperation and willingness to participate in this proceeding, as required under the Commission's Regulations. Moreover, as the ALJ noted, the Kogers showed their ability to understand the litigation process, as well as the consequences of failing to comply with Commission Orders and properly respond to discovery requests, through the types and substance of various filings that they submitted in this case.

For these reasons, and in order to protect the fundamental due process rights of the parties appearing before this Commission, including the Respondent, we find that a hearing in this matter is not appropriate, necessary, or in the public interest. Accordingly, on this basis, we distinguish *Carlock* from the case now before us.

With respect to the Kogers' argument in their Exception No. 5 that the ALJ's Initial Decision conflicts with the Commission's policy in *Carlock* favoring resolution on the merits, as explained, *supra*, we agree with the ALJ that a hearing is not appropriate and should not be permitted here based upon the Kogers' behavior depriving Duquesne of its fundamental due process rights by preventing the Respondent from preparing for hearing and presenting a defense.

Therefore, for the reasons set forth above, the Kogers' Exception Nos. 1 and 5 shall be denied.

With respect to their Exception No. 2, the Kogers argue that dismissal of the Complaints, with prejudice, is a disproportionate sanction that is inconsistent with the Commission's Regulations. Again, we disagree.

Upon review, we agree with the ALJ that, given the Complainants' behavior under the circumstances here, the matter should be dismissed, in its entirety, with prejudice. The Kogers were given sufficient opportunities to provide the information requested by Duquesne and ordered by the ALJ but failed to do so. As discussed, *supra*, the ALJ found that the Kogers failed to comply with several Interim Orders that required them to provide discovery responses and witness identification information, as well as to provide their proposed exhibits to the ALJ and Duquesne prior to the scheduled evidentiary hearing. *See* I.D. at 1, 29. The Kogers failed to comply with the June 11, 2025, Interim Order by not providing notice to Duquesne or the ALJ of any fact or expert witnesses or any summary of proposed evidence they planned to call at the evidentiary hearing. *See Id.* at 16. The Kogers also did not comply with the October 16, 2025, Interim Order when they failed to provide their proposed evidence. *See Id.* at 17-18. Furthermore, the Kogers did not comply with the October 31, 2025, Interim Order because the filing that they made purporting to comply with that order was not served on the ALJ, and they did not provide full and complete responses to Duquesne's discovery requests. *See Id.* at 18. Finally, the Kogers failed to comply with the November 20, 2025, Interim Order because they did not timely file a Certificate of Service indicating the service of full and complete discovery responses to Duquesne. *See Id.* at 19.

The ALJ determined that the filings made by the Kogers in this proceeding demonstrated their ability to understand the litigation process, including the consequences of failing to comply with Commission Orders and to properly respond to the discovery requests. We agree. We further note that the November 25, 2025, Interim Order warned the Kogers that failing to comply with the requirements therein

could result in sanctions, including the dismissal of the Complaints. *See* I.D. at 20 (citing November 25, 2025, Interim Order).

Moreover, as we discussed in our disposition of the Kogers' Exception No. 1, *supra*, allowing the Complaints to proceed forward with a hearing would result in the denial of the Respondent's fundamental due process rights, which must be protected. Therefore, we find that the failure of the Complainants to comply with the requirements of multiple Interim Orders is a sufficient basis supporting the dismissal of the Complaints as an appropriate sanction under the circumstances in this matter.

We also disagree with the Kogers' argument in their Exception No. 4 that the ALJ failed to consider reasonable alternatives to dismissal. As explained, *supra*, we agree with the ALJ that, due to the Complainants' behavior in failing to comply with multiple Interim Orders, the appropriate sanction in this matter is to dismiss the Complaints, with prejudice. We note with approval that the record reflects that the ALJ took careful steps to ensure the protection of the due process rights of the *pro se* Complainants by expressly advising them of the possible consequences for the failure to comply with the ALJ's discovery orders, including the possible dismissal of the Complaints. The ALJ also acted properly to protect the due process rights of the Respondent, where the Complainants' acted in willful disregard of the expressly stated discovery orders of the ALJ.

Accordingly, we will deny the Kogers' Exception Nos. 2 and 4. As a result, out of concern for the waste of the Commission's (and the Respondent's) time and resources, the Complaints will be dismissed, with prejudice. *See Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Opinion and Order entered December 26, 1995); *Cynthia Santore Smith v. PECO Energy Company*, Docket No. F-2014-2446204 (Opinion and Order entered September 3, 2015); *Marilyn Day v. PECO Energy Company*, Docket No. C-2010-2181515 (Opinion and Order entered

June 10, 2011); *Patricia Geary v. Verizon Pennsylvania, Inc.*, Docket No. C-2009-2118625 (Opinion and Order entered September 16, 2010).

Finally, regarding the Kogers' Exception No. 3, we disagree with their assertion that the ALJ's finding of prejudice to the Respondent is unsupported by the record. To the contrary, the ALJ, in the Initial Decision, clearly explained how the Kogers' behavior, by refusing to comply with various efforts to compel the production of appropriate discovery responses to Duquesne, and failing to comply with other directives in several Interim Orders, prevented Duquesne from engaging in discovery to obtain relevant and material information to the issues raised by the Kogers so that they could investigate and defend against the Complainants' allegations. As discussed in our disposition of the Kogers' Exception No. 1, *supra*, moving forward to a hearing in this proceeding under these circumstances clearly would violate Duquesne's fundamental due process rights. Therefore, we will deny the Kogers' Exception No. 3.

For the reasons set forth above, we agree with the ALJ that a hearing in this matter is not necessary, appropriate, or in the public interest, and that the Complaints should be dismissed, with prejudice. This result comes after the Complainants were provided with multiple opportunities to comply with the Commission's Regulations and several Interim Orders, which they failed to do. Furthermore, this result protects the due process rights of all parties.

III. Conclusion

Based upon our review of the ALJ's Initial Decision, and the Exceptions and Replies thereto, we shall deny the Kogers' Exceptions and adopt ALJ Watson's Initial Decision that grants Duquesne's Motion to Dismiss and dismisses the Kogers' Complaints, with prejudice, consistent with this Opinion and Order; **THEREFORE**,

IT IS ORDERED:

1. That the Exceptions of Todd Elliott Koger, Sr. and Elliott-Todd Parker Koger, filed on January 26, 2026, to the Initial Decision of Administrative Law Judge Jeffrey A. Watson, issued on January 13, 2026, at Docket Nos. C-2024-3049627 and C-2025-3054190, are denied, consistent with this Opinion and Order.

2. That the Initial Decision of Administrative Law Judge Jeffrey A. Watson, issued on January 13, 2026, at Docket Nos. C-2024-3049627 and C-2025-3054190, is adopted, consistent with this Opinion and Order.

3. That the Formal Complaints filed by Todd Elliott Koger, Sr. and Elliott-Todd Parker Koger, against Duquesne Light Company, at Docket Nos. C-2024-3049627 and C-2025-3054190, are dismissed, with prejudice.

4. That the Secretary's Bureau shall mark Docket Nos. C-2024-3049627 and C-2025-3054190 as closed.

BY THE COMMISSION



Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: March 12, 2026

ORDER ENTERED: March 12, 2026