

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17120**

**Rebecca Mueller  
v.  
PECO Energy Company**

**Public Meeting November 4, 2010  
2028862-ALJ  
Docket No. C-2008-2028862**

**DISSENTING STATEMENT, IN PART, OF  
COMMISSIONER JOHN F. COLEMAN, JR.**

Before the Commission for disposition is an Initial Decision dismissing the above-captioned Formal Complaint for failure to meet the burden of proof in accordance with Section 332(a) of the Public Utility Code, 66 Pa. C.S. § 332(a), and related Commission precedent.

I agree that PECO's lack of follow up after the temporary fix was done and the amount of time that the temporary fix remained in place is not reasonable service and violates Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501. However, I do not have an issue with PECO's initial method of obtaining adequate line clearance because the credible record is that PECO used its standard practice for a fix of this nature, and there is no record evidence that the temporary fix violated the National Electrical Safety Code.

In addition, I believe there are mitigating factors against assessing any fine, including, but not limited to, PECO's willingness to correct a potential unsafe condition that was arguably the customer's responsibility to correct and PECO's decision in May 2009 to install a utility pole at no charge to the customer that served as the permanent fix to obtain adequate line clearance. Therefore, I do not agree with the decision to impose a fine in this case.

It is also my opinion that our finding of unreasonable service here should not be construed as a finding that PECO's actions in this case were the actual or proximate cause of the outage and damage to Complainant's personal property occurring on or about January 30, 2008.

**DATE: November 4, 2010**

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**JOHN F. COLEMAN, JR.  
COMMISSIONER**