

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Tracey McDonald
v.
Philadelphia Gas Works

Public Meeting held June 11, 2015
2394318-ALJ
Docket No. F-2013-2394318

**JOINT MOTION OF CHAIRMAN GLADYS M. BROWN
AND COMMISSIONER PAMELA A. WITMER**

Before the Commission for consideration, is the Initial Decision issued in the above-captioned case. The Complainant filed a Formal Complaint alleging, *inter alia*, improper termination and incorrect billing. A Hearing Notice dated February 12, 2014 scheduled the hearing for Monday, March 24, 2014, at 10:00 a.m. A Prehearing Order, dated February 25, 2014, advised the Parties that the hearing would be held on Monday, March 24, 2014, at 2:00 p.m. On the morning of the scheduled hearing, the presiding ALJ discovered the timing discrepancy and called the Complainant to notify her that the hearing would be held at 10:00 a.m. When the Complainant did not answer, the ALJ left a message informing the Complainant that the hearing would be held at 10:00 a.m.

The hearing proceeded at 10:18 a.m., on March 24, 2014. The Complainant did not appear and PGW moved to dismiss the matter, with prejudice, for lack of prosecution.

By Initial Decision issued on March 25, 2014, ALJ Fordham granted PGW's Motion and dismissed the Complaint, with prejudice.


An argument could be made that because the hearing times in the Hearing Notice and the Prehearing Order differed, that the Complainant was not afforded due process.¹ To cure this error, we believe that the ALJ's Initial Decision which dismissed the case, with prejudice, should be modified to a dismissal, without prejudice. This will allow the Complainant to refile the Complaint, if she chooses.

THEREFORE, WE MOVE THAT:

1. The Initial Decision be modified consistent with this Motion.
2. The Office of Special Assistants draft an Opinion and Order consistent with this Motion.

June 11, 2015
Date


Gladys M. Brown, Chairman


Pamela A. Witmer, Commissioner

¹ The Commission has stated that it is in the public interest that all litigants, particularly *pro se* litigants, be afforded a meaningful opportunity to be heard. *Amir V. Williams v. PECO Energy Co.*, Docket No. C-2010-2190024 (Order entered January 13, 2011).