

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0207

September Term, 2015

WILLIAM STEVERSON

v.

POTOMAC ELECTRIC POWER
COMPANY, ET AL.

Woodward,
Friedman,
Zarnoch, Robert A.
(Retired, Specially Assigned),

JJ.

Opinion by Woodward, J.

Filed: June 30, 2016

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

William Steverson, appellant, and Potomac Electric Power Company (“Pepco”), appellee, have engaged in numerous billing disputes over the last several years. During such time, appellant has filed several complaints against Pepco with the Public Service Commission (“the PSC”), appellee. This case concerns a September 30, 2014 order issued by the PSC that, among other things, instructed Pepco to credit appellant’s account \$30.03 for improperly charged late fees. On October 30, 2014, appellant responded by filing a petition for judicial review of the PSC’s decision in the Circuit Court for Prince George’s County. [E 9] Thereafter, the circuit court dismissed the petition as untimely.

On appeal, appellant presents two issues for our review, which we have rephrased as two questions:¹

1. Did the circuit court err in dismissing appellant’s petition for judicial review as untimely filed?

¹ Appellant’s issues, as presented in his brief, are as follows:

1. Whether the Circuit Court for Prince George’s County (circuit court or lower court) erred in dismissing the Petitioner’s, William Sterverson [sic], Petition for Judicial Review For An Administrative Agency, filed on October 4, 2014, as untimely filed.
2. Whether the circuit court erred in not granting Mr. Steverson an opportunity to be heard on his claims against Pepco for willful disregard of the Public Service Commission’s (PSC or commission) order to give him a payment plan and illegal disconnection of his electric service from February 23, 2009 to April 16, 2009, while his case was pending judicial review.

2. Did the circuit court err in not granting appellant an opportunity to be heard on his claims against Pepco while his case was pending judicial review?

For the reasons stated herein, we answer the first question in the affirmative and thus do not reach the second question. Accordingly, we reverse the judgment of the circuit court and remand the case to that court for further proceedings.

BACKGROUND

The instant case involves the most recent episode of appellant's ongoing dispute with Pepco. On December 9, 2008, the PSC issued a Letter Order dismissing a complaint that appellant had filed against Pepco, but in doing so also directed Pepco to offer appellant a 36-month payment plan. As a result of compliance issues that arose from that order, the PSC issued a Show Cause Order to Pepco on February 17, 2012. On June 4, 2013, the PSC issued an order in an attempt to resolve all outstanding issues in the matter. In said order, the PSC directed Pepco to credit appellant's account \$3,600, plus any late fees. Pepco responded by crediting appellant's account \$3,753.56. On July 19, 2013, appellant filed another letter with the PSC, complaining that the amount paid by Pepco did not cover the entirety of the late fees that he had been assessed. On September 30, 2014, the PSC issued an order, which is the subject of the instant appeal, directing Pepco to credit appellant an additional \$30.03.² The

² In its order, the PSC stated that Pepco arguably did not owe this additional amount, but that Pepco had agreed to pay it in order to resolve any lingering ambiguity.

order also stated that Pepco had otherwise complied with the previous order and had addressed all four payment issues that appellant had raised.

On October 30, 2014, appellant filed a petition for judicial review of the September 30 order. On March 26, 2015, the circuit court issued an order dismissing appellant's petition as untimely, because the petition had been filed more than thirty days after the date of the PSC order. On April 10, 2015, appellant noted his appeal of the circuit court's dismissal.

STANDARD OF REVIEW

Untimely filings of petitions for judicial review are governed by the law relating to statutes of limitations; thus we review them under the legally correct standard. *See Colao v. Cnty. Council of Prince George's Cnty.*, 109 Md. App. 431, 444 (1996), *aff'd*, 346 Md. 342 (1997). “[D]iscretion has been removed from the circuit court with respect to untimely filed petitions for judicial review of agency decisions. Accordingly, the petition must be filed within the thirty-day filing period in order for the circuit court to have authority to hear the appeal.” *Id.* (footnote omitted).

DISCUSSION

Maryland Rule 7-203 provides the time period parties are allotted for filing a petition for judicial review of an agency decision. Rule 7-203 states, in relevant part:

(a) Generally. Except as otherwise provided in this Rule or by statute, a petition for judicial review shall be filed within 30 days after the latest of:

- (1) **the date of the order or action of which review is sought;**
- (2) the date the administrative agency sent notice of the order or action to the petitioner, if notice was required by law to be sent to the petitioner; or
- (3) the date the petitioner received notice of the agency's order or action, if notice was required by law to be received by the petitioner.

(Emphasis added).

The order of which review is sought in this case is the PSC's September 30, 2014 order. Appellant filed his petition for judicial review on October 30, 2014. Appellant's petition for judicial review was filed exactly thirty days after the PSC order. Therefore, the petition was filed within the thirty-day requirement of Rule 7-203(a). Pepco concedes that the petition was timely filed.

Pepco argues, however, that dismissal by the circuit court was still proper, because the petition's caption did not include the PSC as an appellee, and instead only named Pepco. Pepco claims that the caption failed to comply with Rule 7-202, and thus a valid petition was never filed. We disagree.

“[M]ere technical defects respecting the petition for review will not cause an appeal from an administrative agency to be dismissed if the petitioner has otherwise substantially complied with the procedural rules and there is no prejudice to the respondent.” *Colao*, 109

Md. App. at 445. This case involves a years-long dispute in which appellant, Pepco, and the PSC have all been involved. Although appellant’s petition did not include the PSC in its caption as required by Rule 7-202(b), we hold such omission to be a mere technical defect. The petition was titled a “Petition for Judicial Review for an Administrative Agency,” and the first sentence of the petition states that appellant was “requesting a judicial review against the Public Service Commission (PSC) and their findings.” Moreover, there has been no showing of prejudice to the PSC or Pepco as a result of appellant’s omission of the PSC in the caption of his petition for judicial review. The certificate of service included in appellant’s petition indicates that he mailed the petition on October 30, 2014, to both the PSC and Pepco. Accordingly, the circuit court erroneously dismissed the petition for judicial review on the ground that it had exceeded the time limit for filing.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
REVERSED. CASE REMANDED TO THAT
COURT FOR FURTHER PROCEEDINGS
CONSISTENT WITH THIS OPINION;
PEPCO TO PAY COSTS.**