

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17105**

**Lesley A. Scheaffer for  
Leslie W. Scheaffer**

**v.**

**PPL Electric Utilities Corporation**

**Public Meeting held March 1, 2018**

**2577647-OSA**

**Docket No. F-2016-2577647**

**MOTION OF COMMISSIONER DAVID W. SWEET**

Before the Commission are the Exceptions of Lesley A. Scheaffer, who filed the exceptions and appeared at the hearing on behalf of her late father, Leslie W. Scheaffer. The Initial Decision adjudicates the complaint and treats Ms. Scheaffer as a witness despite the fact that she is not the legal representative of his estate nor is she an attorney licensed to practice law in Pennsylvania. Because Ms. Scheaffer lived with her father, the Initial Decision concluded that she was a customer of the utility and could properly prosecute the complaint.

The ALJ initially, correctly, concluded that while Ms. Scheaffer did not meet the definition of “customer” under Section 1403 of the Public Utility Code, she was a “user without contract” as defined by the Commission’s regulations. Specifically, she became a user without contract after her father died, and she continued to reside at the service address without applying for service in her own name. A user without contract might have standing to maintain an action before the Commission, depending on the facts of the case. Here however, the ALJ incorrectly construed the Commission’s regulations together with PPL’s tariff to find that she was a customer with standing to seek relief for issues that arose prior to the death of her father, who was the customer of record.

It is well-settled in Commission practice that participation in a formal adversarial proceeding before this Commission constitutes the practice of law. As such, that participation is limited to those who either file as individuals and represent themselves, or attorneys who are representing others.<sup>1</sup> Just as an attorney cannot empower an individual to engage in the unauthorized practice of law, no agency can confer the power to engage in conduct that is prohibited by the Judicial Code.<sup>2</sup> Therefore, the daughter of the decedent was unable to prosecute the formal complaint on behalf of her deceased father. The analysis that was utilized at the hearing, that the daughter be permitted to testify as a witness, falls short with the realization that there is no prosecutor and, therefore, no one to call her as a witness.

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<sup>1</sup> 52 Pa. Code §52.21.

<sup>2</sup> *Kohlman v. Western Pennsylvania Hospital*, 438 Pa. Super. 352, 652 A.2d 849 (1994), petition for allowance of appeal denied, 541 Pa. 640, 663 A.2d 692 (1995).” *Westmoreland County v. Rodgers, et al.*, 693 A.2d 996; 1997 Pa. Commw. LEXIS 161 (1997).

It is important to note that the absence of an attorney where one is required actually deprives the forum of jurisdiction to adjudicate the matter.<sup>3</sup> Accordingly, we are unable to adjudicate this complaint and have no choice but to dismiss it. The dismissal, which is not on the merits of the Complaint, will be without prejudice so that the appropriate party may refile if desired.

THEREFORE,

I MOVE:

1. That the Initial Decision of Administrative Law Judge Benjamin J. Myers be reversed.
2. That the Complaint in the matter captioned *Lesley A. Scheaffer for Leslie W. Scheaffer v. PPL Electric Utilities Corporation*, docket No. F-2016-2577647, be dismissed.
3. That the Office of Special Assistants prepare an appropriate order.

March 1, 2018  
DATE

  
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DAVID W. SWEET  
COMMISSIONER

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<sup>3</sup>. See *McCain v. Curione, Pa. Board of Probation and Parole*, 527 A.2d 591 (Pa.Cmwlth.1987)(Commonwealth Court was without jurisdiction to consider arguments and motions); *Spirit of the Avenger Ministries v. Commonwelath*, 767 A.2d 1130 (Pa.Cmwlth.Ct. 2001) (appeal quashed because the court was without jurisdiction to consider the claims raised by a person not licensed to practice law in Pennsylvania).