

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Yea Ryong Church c/o David Wong	:	
	:	
v.	:	C-2017-2626578
	:	
Metropolitan Edison Company	:	

INITIAL DECISION

Before
Dennis J. Buckley
Administrative Law Judge

This Initial Decision dismisses the formal Complaint filed by Yea Ryong Church (Complainant or Church) against Metropolitan Edison Company (Respondent or Met-Ed) for failure by Complainant to comply with a prehearing Order of the presiding officer directing the Church to retain counsel to represent it in this adversarial proceeding.

HISTORY OF THE PROCEEDING

On September 26, 2017, David Wong filed a formal Complaint on behalf of Yea Ryong Church in Delaware Water Gap, Pennsylvania, alleging that Met-Ed had misbilled the Church and was threatening to terminate service, that Met Ed may have terminated service twice previously, and that Met-Ed had “jerked up,” the Church’s rates.

On October 17, 2017, Met-Ed filed an Answer and New Matter, properly endorsed with a Notice to Plead, to the Complaint. Met-Ed denied that it had misbilled the Church, that it had previously terminated service, or that it had impermissibly increased its rates. Met-Ed admitted that it had notified the Church of pending termination of service for non-payment. In its New Matter, Met-Ed contended that the Church, as the customer of Met-Ed,

must be represented by counsel in any litigated proceeding and requested that this case be referred to the Office of Administrative Law Judge's Mediation Unit.¹

No Answer or responsive pleading to Met-Ed's New Matter was filed by Complainant.

On December 14, 2017, the Mediation Unit submitted a concluding report in this matter.

Also on December 14, 2017, a hearing Notice was issued setting February 8, 2018, as the date for a telephonic hearing in this case.

On January 2, 2018, Met-Ed filed a Motion to Dismiss the Complaint based on Mr. Wong's alleged lack of standing to file the Complaint and the Church's lack of representation in an adversarial proceeding by an attorney licensed to practice in the Commonwealth of Pennsylvania.

No Answer or responsive pleading to the Motion to Dismiss was filed.

On January 22, 2018, an Order was issued that granted Met-Ed's Motion in part, affording Yea Ryong Church (JHS), Inc. ten (10) days to obtain counsel. The Order further required that counsel: (1) file a Notice of Appearance, and (2) amend the Complaint at this docket to list Yea Ryong Church (JHS), Inc., as Complainant. Finally, the Order specified that David Wong's legal capacity in this case is as a witness, only.

On February 2, 2018, the hearing scheduled for February 8, 2018, was cancelled due to Complainant's failure to comply with the January 22, 2018 Order of the Presiding Officer as is discussed, below.

¹ Met-Ed further averred that this case is, in fact, an appeal of a previous determination by the Commission's Bureau of Consumer Services (BCS) at Case No. 3529767.

As of February 14, 2018, no counsel had entered an appearance on behalf of the Church, nor has any communication been received by the Office of Administrative Law Judge (OALJ) from Yea Ryong Church (JHS), Inc. The failure on the part of Complainant to comply with the Order of January 22, 2018 requires dismissal of the Complaint.

FINDINGS OF FACT

1. Yea Ryong Church (JHS), Inc. is the Complainant in this case.
2. In the formal Complaint, David Wong lists himself as the Manager of Yea Ryong Church (JHS), Inc.
3. Metropolitan Edison Company, a Commission jurisdictional electric distribution company, is the Respondent in this case.
4. According to the records of the Pennsylvania Department of State Corporation Bureau, Yea Ryong Church (JHS), Inc. is registered in Pennsylvania as a not-for-profit corporation.
5. The records of the Disciplinary Board of the Pennsylvania Supreme Court do not list David Wong as an attorney.
6. On January 22, 2018, an Order was issued by the presiding officer that required Yea Ryong Church (JHS), Inc. to obtain counsel, that counsel file a Notice of Appearance within ten (10) days of the date of issuance of the Order, and that counsel amend the Complaint at this docket to list Yea Ryong Church (JHS), Inc., as Complainant.
7. Yea Ryong Church (JHS), Inc. has failed to comply with the requirements of the January 22, 2018 Order.

DISCUSSION

As was initially discussed in the January 22, 2018 Order, the primary focus in this case is on the parties' pleadings. Met-Ed has taken the position that David Wong lacks standing to file the present Complaint.

Section 701 of the Public Utility Code (Code) provides, in pertinent part:

[A]ny person, corporation, or municipal corporation having an interest in the subject matter, or any public utility concerned, may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.

66 Pa.C.S. § 701.

David Wong, who is listed as “care of” in the case caption, and who filed the Complaint in this matter, identified himself on the formal Complaint form as the “Manager,” of the Church. Met-Ed, in its Answer, stated that the Church is the customer of record in this case. I agree with Met-Ed that the Church as the account holder and customer is properly the Complainant. It is not clear on the face of the Complaint what Mr. Wong's responsibilities as Manager entail. However, according to the records of the Pennsylvania Department of State Corporation Bureau, Yea Ryong Church is registered in Pennsylvania as a not-for-profit corporation under the name Yea Ryong Church (JHS), Inc. The records of the Disciplinary Board of the Pennsylvania Supreme Court do not list Mr. Wong as an attorney.

Under the Commission's procedural rules at 52 Pa. Code § 1.21, persons in adversarial proceedings shall be represented in accordance with 52 Pa. Code § 1.22, which requires that an attorney at law admitted to practice before the Supreme Court of Pennsylvania shall represent corporations in Commission proceedings.

While Mr. Wong's position as “Manager” of the Church may provide a sufficient legal basis for standing to file the formal Complaint in this matter, that is no longer the issue. Complainant is not an attorney at law admitted to practice before the Supreme Court of

Pennsylvania, and he cannot represent the Church in an adversarial proceeding, which became the status of this case when a hearing was scheduled on December 14, 2017.

As stated above, on January 22, 2018, with an evidentiary hearing imminent, an Order was issued that granted Met-Ed's Motion to Dismiss in part, affording Yea Ryong Church (JHS), Inc. ten (10) days to obtain counsel. The Order further required that counsel file a Notice of Appearance and amend the Complaint at this docket to list Yea Ryong Church (JHS), Inc., as Complainant. Finally, the Order specified that David Wong's legal capacity in this case is as a witness only.

The ten-day period allowed for entry of appearance by counsel on behalf of Yea Ryong Church (JHS), Inc. ended on January 31, 2018, and because no attorney had filed an appearance on behalf of the Church, the hearing of February 8, 2018, had to be cancelled.

As of February 14, 2018, no attorney has entered an appearance, nor has any communication of any sort been received by the OALJ from Yea Ryong Church (JHS), Inc. Yea Ryong Church (JHS) has failed to comply with the Order of January 22, 2018.

A presiding officer's orders must be complied with, and a lack of compliance presents a sufficient basis to dismiss a complaint. *Treffinger v. PPL Electric Utilities Corp.*, Docket No. C-20027978 (Order entered March 3, 2003); *Snyderville Community Development Corp. v. PGW*, Docket No. C-20055032 (Order entered July 31, 2006); *Application of Black Diamond Cab Co.*, Docket No. A-00122566 (Order entered December 1, 1966).

As Yea Ryong Church (JHS), Inc. has failed to comply with the Order of January 22, 2018, the formal Complaint at this docket must be dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties in this proceeding.
66 Pa. C.S. § 701.

2. As the party seeking affirmative relief from the Commission, Complainant bears the burden of proof. 66 Pa. C.S. § 332(a).

3. Under the Commission's procedural rules at 52 Pa. Code § 1.21, persons in adversarial proceedings shall be represented in accordance with 52 Pa. Code § 1.22, which requires that an attorney at law admitted to practice before the Supreme Court of Pennsylvania shall represent corporations in Commission proceedings. 52 Pa. Code §§ 1.21, 1.22.

4. The failure to comply with the order issued by an Administrative Law Judge constitutes grounds for dismissal of the complaint. *Snyderville Community Development Corporation v. Verizon Pennsylvania, Inc.*, Docket No. C-20055032 (Opinion and Order adopted June 22, 2006, entered July 31, 2006).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal Complaint of Yea Ryong Church (JHS), Inc. at Docket No. C-2017-2626578 is dismissed.

2. That the Secretary of the Commission mark this case closed.

Date: February 14, 2018

/S/
Dennis J. Buckley
Administrative Law Judge