

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                        |   |                |
|------------------------|---|----------------|
| Bettye R. Sloans       | : |                |
|                        | : |                |
| v.                     | : | C-2017-2606254 |
|                        | : |                |
| Philadelphia Gas Works | : |                |

**INITIAL DECISION**

Before  
Darlene Davis Heep  
Administrative Law Judge

**INTRODUCTION**

The Complainant passed away during the proceedings and, although her daughter appeared at the hearing, the Complainant's estate was not represented by an attorney. This matter will be dismissed for lack of jurisdiction, without prejudice.

**HISTORY OF THE PROCEEDING**

On May 24, 2017, Virginia Jones filed a Complaint against Philadelphia Gas Works on behalf of her mother, Bettye R. Sloans (Complainant or Ms. Sloans), with whom she resides. The Complaint states that there are incorrect charges on the bill and questions whether PGW is properly crediting payments to the account.

A hearing convened on August 15, 2017. Present were counsel for PGW, Graciela C. Christlieb, Esquire, Ms. Jones and Ms. Sloans. Ms. Sloans was an elderly lady who appeared infirm. It was established during the hearing that Ms. Sloans had a guardian appointed by the Orphans Court. The Guardian is an attorney, Debra G. Speyer, Esquire.

Ms. Speyer failed to appear for the hearing even though she was aware of it given that, according to statements at the hearing on August 15, 2017, she had contact with and discussed this matter extensively with PGW counsel.

The hearing was continued to allow service of Attorney Speyer and the matter was set for further hearing on November 1, 2017. Ms. Speyer was directly served with the hearing notice.

Ms. Speyer again failed to appear for the hearing and, consequently, failed to represent her charge. PGW moved for dismissal of the matter based on lack of standing. That motion was denied.

Ms. Jones testified that she lived at the service address with Ms. Sloans and could provide relevant information and would otherwise be held responsible for charges at the service address. See, e.g., 52 Pa. Code § 56.35(b)(1).

Upon review of the transcript received on November 1, 2017, an Order was issued re-opening the record, identifying Ms. Speyer, court-appointed guardian of the Complainant, as an indispensable party and directing that Ms. Speyer be served with a copy of the Answer and the matter be set for further hearing.

The further hearing was held on February 14, 2018. Ms. Jones appeared with a neighbor to testify as a witness. Ms. Speyer also made an appearance and read into the record an Orphan's Court Decree appointing her as a limited guardian for writing checks, helping Ms. Sloans pay her bills and other financial matters. (Tr. 6).

Shortly thereafter, Ms. Jones announced that Ms. Sloans had passed away. (Tr. 9). She also presented a copy of the funeral program of her mother. Ms. Speyer then immediately announced that her appointment ended with the passing of Ms. Sloans.

After a short discussion between Ms. Jones and Ms. Speyer, the matter was adjourned. The record closed upon receipt of the transcript on March 13, 2018.

### FINDINGS OF FACT

1. The Complainant was Bettye R. Sloans, who resided at 2538 N. 29th Street in Philadelphia, Pennsylvania.
2. Philadelphia Gas Works is the Respondent.
3. On May 24, 2017, the Complainant filed this action.
4. The Respondent filed an Answer on June 20, 2017.
5. By Notice dated June 26, 2017, the Commission scheduled an Initial Hearing for August 15, 2017, at 10:00 a.m.
6. Ms. Sloans and her daughter, Virginia Jones, appeared for the hearing on August 15, 2017.
7. Also appearing for the hearing on August 15, 2017, was counsel for PGW, Graciela Chrislieb, Esquire.
8. During the August 15, 2017, hearing, Attorney Christlieb moved to dismiss the matter for lack of standing as it had recently come to the attention of PGW that a court had appointed Debra Speyer, Esquire to serve as guardian for Ms. Sloans to handle her financial matters. (Tr. 6).
9. The motion to dismiss was not granted and the matter was continued to allow PGW time to meet with the guardian of Ms. Sloans and to have the matter rescheduled and notice of the hearing sent to the guardian, Ms. Speyer. (Tr. 13-15).

10. A Notice of Further Hearing was sent to all parties, including court-appointed guardian Debra Speyer, setting the hearing for November 1, 2017.

11. None of the notices were returned as undeliverable.

12. The further hearing began as scheduled on November 1, 2017.

13. Present were Attorney Christlieb, Ms. Jones, and Ms. Sloans.

14. Debra Speyer did not appear, did not request a continuance, did not contact the undersigned or the Commission, and did not respond in any way to the Hearing Notice.

15. On December 11, 2017, an Order was issued re-opening the record, identifying Ms. Speyer, court-appointed guardian of the Complainant, as an indispensable party, and directing that Ms. Speyer be served with a copy of the Answer and the matter be set for further hearing.

16. The further hearing was held on February 14, 2018.

17. Ms. Jones appeared with a neighbor to testify as a witness.

18. Debra Speyer also made an appearance and read into the record an Orphan's Court Decree appointing her as a limited guardian for writing checks, helping Ms. Sloans pay her bills and other financial matters. (Tr. 6).

19. Ms. Jones announced that Ms. Sloans had passed away, presenting a copy of the funeral program.

20. Upon hearing that Ms. Sloans had passed away, Debra Speyer immediately announced that her appointment as guardian was ended.

## DISCUSSION

In this case, the Complainant passed away during the course of adversarial proceedings against PGW. Her daughter, Mrs. Jones, who resided in the same home in which her mother resided, appeared at a hearing to proceed with the case after her mother had passed away. Under similar circumstances, the Commission dismissed the Complaint for lack of jurisdiction in *Lesley A. Scheaffer for Leslie W. Scheaffer v. PPL Electric Utilities Corporation*, Docket No. F-2016-2577647 (Order and Opinion entered April 3, 2018).

In *Scheaffer*, the Commission determined that the daughter, who had lived with the Complainant/Customer of Record, could not proceed given that her father passed away after the matter was filed. The Commission stated that participation in a formal adversarial proceeding constitutes the practice of law and, referencing 52 Pa. Code § 1.21, noted that participation is limited to those who either file as individuals and represent themselves, or attorneys who are representing others. See also 52 Pa. Code § 1.22 and 1.23. The Commission concluded that the daughter of the Customer/Complainant could not prosecute the Complaint on behalf of the parent. *Id.* at 12. This is particularly true where the complainant seeks relief for issues that arose prior to the death of the parent. *Id.*

The Commission went on to state that "the absence of an attorney where one is required actually deprives the forum of jurisdiction to adjudicate the matter." *Id.*, citing *McCain v. Curione*, 527 A.2d 591 (Pa. Cmwlth. 1987) (Commonwealth Court was without jurisdiction to consider arguments and motions); and *Spirit of the Avenger Ministries v. Commonwealth*, 767 A.2d 1130 (Pa. Cmwlth. 2001) (appeal quashed because the court was without jurisdiction to consider the claims raised by a person not licensed to practice law in Pennsylvania).

Here, as in *Schaeffer*, the issues in the Complaint, allegations of incorrect billing and not properly crediting the account for payment, arose prior to the death of the parent/customer of record. Following *Schaeffer*, allowing Mrs. Jones, who is the daughter of the Complainant but not an attorney, to proceed would be in violation of 52 Pa. Code § 1.21. The Complainant had passed away and there was no attorney present at the hearing to represent her

or her estate in this adversarial proceeding. In accordance with the Order and Opinion of the Commission in *Schaeffer*, the Commission cannot adjudicate this Complaint because it does not have jurisdiction and the matter must be dismissed. It will be dismissed without prejudice to allow any future appropriate party to refile. *Schaeffer* at 13.

### CONCLUSIONS OF LAW

1. Given that the Complainant passed away during this adversarial proceeding and the estate of the decedent is not represented by counsel, the Commission does not have jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 701; in *Lesley A. Schaeffer for Leslie W. Schaeffer v. PPL Electric Utilities Corporation*, Docket No. F-2016-2577647 (Order and Opinion entered April 3, 2018).

2. Participation in a formal adversarial proceeding is limited to those who either file as individuals and represent themselves, or attorneys who are representing others. 52 Pa. Code § 5.21.

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Bettye R. Sloans against Philadelphia Gas Works at Docket Number C-2017-2606254 is dismissed, without prejudice.

2. That the proceeding at this docket be marked closed.

Date: June 18, 2018

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/s/  
Darlene Davis Heep  
Administrative Law Judge