

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Mark Stanford	:	
	:	
v.	:	C-2018-3006025
	:	
Pennsylvania Power Company	:	

**INITIAL DECISION**

Before  
Mary D. Long  
Administrative Law Judge

**INTRODUCTION**

A formal complaint is dismissed where the ratepayer of record is a corporation and therefore required to secure representation by an attorney.

**HISTORY OF THE PROCEEDINGS**

On November 14, 2018, Mark Stanford (Complainant) filed a formal complaint against Pennsylvania Power Company (Penn Power) challenging the accuracy of charges on his bill and requesting a payment arrangement. On December 4, 2018, Penn Power filed an answer. Penn Power admitted that it provides service to the service address, but alleged that the account is in the name of “Y-Clean” which is a commercial establishment. Penn Power denied the remaining material allegations in the complaint. Penn Power also included a new matter along with a notice to plead which stated that the customer, as a commercial enterprise, must be represented by counsel.

By notice dated January 16, 2019, the complaint was assigned to me and scheduled for a hearing on March 14, 2019. On January 17, 2019, I issued my customary prehearing order which set forth the procedures for the conduct of hearings.

On January 25, 2019, Penn Power filed a motion to dismiss the complaint. The basis for the motion was that the ratepayer of record for the account is a business entity, Y-Clean, and must be represented by counsel. The Complainant did not file a response to the motion to dismiss.<sup>1</sup>

By interim order dated February 25, 2019, Penn Power's motion to dismiss was granted to the extent that the Complainant in this matter requires the representation of an attorney licensed to practice law in the Commonwealth of Pennsylvania. The Complainant was directed to cause an attorney to enter an appearance on behalf of Y-Clean, Inc. in accordance with 52 Pa.Code §§ 1.21-1.25, on or before March 8, 2019.

By interim order dated March 11, 2019, the March 14, 2019 evidentiary hearing was cancelled. As of this writing, no attorney has entered an appearance on behalf of the Complainant.

#### FINDINGS OF FACT

1. A formal complaint was filed by Mark Stanford who listed a service address of 357 Northgate Drive, Suite 5, Warrendale, Pennsylvania. (Formal Complaint).
2. The Respondent is Pennsylvania Power Company, a jurisdictional public utility.

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<sup>1</sup> The time for answering a motion is set at 20 days. 52 Pa.Code § 5.103. The motion was served by first-class mail, therefore an additional three days is permitted. 52 Pa.Code § 1.56(b).

3. The ratepayer of record for 357 Northgate Drive, Suite 5, Warrendale, Pennsylvania is Y-Clean, Inc. (Affidavit of Charles Howlett).

4. Y-Clean, Inc. receives commercial service under Pennsylvania Power's tariff. (Affidavit of Charles Howlett).

5. Mark Stanford was directed to cause an attorney to file an entry of appearance on or before March 8, 2019 in order to pursue the formal complaint related to the ratepayer of record, Y-Clean, Inc. (Interim Order dated February 25, 2019).

6. To date, no attorney has filed an appearance of behalf of the ratepayer of record, Y-Clean, Inc.

#### DISCUSSION

The Commission rules require that all non-individuals be represented by counsel in adversarial proceedings.<sup>2</sup> Once the answer is filed, the proceeding becomes adversarial.<sup>3</sup> This rule is consistent with the Pennsylvania Bar Rules promulgated by the Supreme Court.<sup>4</sup> The absence of an attorney where one is required deprives the forum of jurisdiction to adjudicate the matter.<sup>5</sup>

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<sup>2</sup> 52 Pa.Code § 1.21. See also *Cars R Us c/o Holman Copeland v. Philadelphia Gas Works*, Docket No. C-2008-2033437 (Opinion and Order entered February 4, 2010); *Torino Incorporated v. PECO Energy Co.*, Docket No. C-2008-2034595 (Opinion and Order entered February 2, 2010).

<sup>3</sup> *New Fizon Catering, Inc. v. PECO Energy Company*, Docket Nos. C-2008-2065498 and C-2008-2079076, (Opinion and Order entered June 24, 2009)(*New Fizon Catering*); see also 52 Pa.Code § 1.8.

<sup>4</sup> See *New Fizon Catering*, at pp. 7-8.

<sup>5</sup> *Adventure Alley CLC, LLC v. PECO Energy Company and Great American Power*, Docket No. C-2014-2430850 (Final Order entered November 25, 2014)(citing *McCain v. Curione, Pa. Board of Probation and Parole*, 527 A.2d 591 (Pa.Cmwlt.1987)) (Commonwealth Court was without jurisdiction to consider arguments and motions made on behalf of parolee in a civil action that was filed by another prisoner who was not licensed to practice law).

Mr. Stanford did not respond to Penn Power's motion to dismiss to dispute the corporate status of the account or the commercial nature of the service location. In *New Fizon Catering, Inc. v. PECO Energy Company*,<sup>6</sup> the Commission denied exceptions to an initial decision where a complaint was dismissed because the corporate complainant failed to secure the representation of an attorney. Like Mr. Stanford, the complainant in *New Fizon Catering* had been provided multiple opportunities to secure appropriate representation. In dismissing the complaint the Commission agreed that the failure to secure representation in an adversarial proceeding was not merely a technical error. Like the complaint in *New Fizon*, the formal complaint here must be dismissed.

### CONCLUSIONS OF LAW

1. A business entity must have counsel in order to proceed in any legal action because such an entity may not represent itself. *New Fizon Catering, Inc. v. PECO Energy Company*, Docket Nos. C-2008-2065498 and C-2008-2079076 (Opinion and Order entered June 24, 2009); *Cars R Us c/o Holman Copeland v. Philadelphia Gas Works*, Docket No. C-2008-2033437 (Opinion and Order entered February 4, 2010); *Torino Incorporated v. PECO Energy Co.*, Docket No. C-2008-2034595 (Opinion and Order entered February 2, 2010).

2. The absence of an attorney where one is required deprives the forum of jurisdiction to adjudicate the matter. *Adventure Alley CLC, LLC v. PECO Energy Company and Great American Power*, Docket No. C-2014-2430850 (Final Order entered November 25, 2014)(citing *McCain v. Curione, Pa. Board of Probation and Parole*, 527 A.2d 591 (Pa.Cmwlt.1987)).

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<sup>6</sup> Docket Nos. C-2008-2065498 and C-2008-2079076 (Opinion and Order entered June 24, 2009).

