

May 20, 2020

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket No. C-2020-3018875
Stan Services, LLC v. Pennsylvania Power Company
Motion of Penn Power to Dismiss Complaint**

Dear Secretary Chiavetta:

Attached for filing is the Motion to Dismiss of Respondent, Pennsylvania Power Company to dismiss the Formal Complaint filed by Mark Stanford on behalf of Stan Services, LLC (Complainant).

A copy of the Motion to Dismiss has been forwarded to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please contact me.

Very truly yours,

Reger Rizzo & Darnall LLP

Margaret A. Morris

Margaret A. Morris

MAM/co
Enclosures

cc: The Hon. Conrad A. Johnson, PA Public Utility Commission [w/ encl.]
Teresa K. Harrold, Esquire, FirstEnergy Service Company [w/o encl.]
Mark Stanford [w/ encl.]

**Re: Docket No. C-2020-3018875
Stan Services, LLC v. Pennsylvania Power Company
Motion of Penn Power to Dismiss Complaint**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the person(s) listed below, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Via Electronic Mail

Mark Stanford
mark@stancleaningservices.com

Dated: May 20, 2020

Margaret A. Morris

Margaret A. Morris, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

STAN SERVICES, LLC :
 :
 v. : Docket No. C-2020-3018875
 :
 PENNSYLVANIA POWER COMPANY :

**MOTION OF PENNSYLVANIA POWER COMPANY
TO DISMISS THE COMPLAINT OF STAN SERVICES, LLC**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pennsylvania Power Company (Penn Power or the Company) by and through its attorneys, Reger Rizzo and Darnall, LLP files this Motion to Dismiss, pursuant to Section 5.103 of this Commission’s regulations, 52 Pa. Code §5.103. In support, Penn Power avers as follows:

I. Introduction

1. In this Motion, Penn Power seeks the dismissal of the Formal Complaint captioned *Stan Services, LLC v. Pennsylvania Power Company* (Formal Complaint) filed and signed by Mark Stanford as Managing Member on behalf of Stan Services, LLC (Complainant or Stan Services), a business entity registered on September 2, 2014, as a Pennsylvania corporation with the Pennsylvania Bureau of Corporations and, as such, is required at this stage of the proceeding to be represented by an attorney at law in accordance with Sections 1.21 through 1.23 of the Pennsylvania Public Utility Commission (Commission) regulations, 52 Pa. Code §§ 1.21-1.23.

II. Factual Background

2. The Formal Complaint was filed against Penn Power on or around February 25, 2020 and relates exclusively to the Company’s denial of service request of the Complainant for non-residential service provided to 357 Northgate Drive, Unit 5, Warrendale, Pennsylvania (Service Location). Service is currently in the name of another non-residential customer which Mr. Stanford is also listed as a officer for that corporation.

3. On March 16, 2020, Penn Power filed an Answer and New Matter to the Formal Complaint denying the material allegations therein. In the New Matter, Penn Power alleged that the Complainant is a Pennsylvania corporation and is not represented by an attorney as required by the Commission's regulations. A copy of the Complainant's Business Entity filing with the Commonwealth of Pennsylvania was attached to the Answer and New Matter and is provided as Attachment 1.

4. No response was filed to the New Matter. No attorney has filed an Entry of Appearance in the instant proceeding.

5. By Notice dated May 13, 2020, the Commission scheduled the matter for a Telephonic Hearing on July 28, 2020, before the Honorable Conrad A. Johnson.

III. Corporations must be represented by counsel

6. Representation before the Commission is governed by the Commission's regulations at 52 Pa. Code §§ 1.21-1.23. These regulations provide that "[i]n adversarial proceedings, partnerships, corporations, trusts, associations, agencies, political subdivisions and government entities shall be represented only by . . . an attorney." 52 Pa. Code § 1.21. An adversarial proceeding begins with the filing of an Answer. 52 Pa. Code § 1.8 *New Fizon Catering, Inc. v. PECO Energy Company*, Docket Nos. C-2008-2065498 and C-2008-2079076 (Order entered June 24, 2009).

7. A non-attorney owner/operator of a limited liability corporation may file a formal complaint pleading, without an attorney, but thereafter must be represented by counsel. *Tyler Run, LLC v. Penelec*, Docket No. C-200438888 (Order entered January 5, 3005) and *Snyderville Community Development Corporation v. Philadelphia Gas Works*, Docket No. C-20055032 (Order entered July 31, 2006).

8. The Commission's obligation to require attorneys in adversarial proceedings for parties other than individual *pro se* proceedings is well-settled:

In Pennsylvania, the Supreme Court is responsible for regulating the practice of law, and this Commission is bound by the Supreme Court's rules. The only persons authorized to practice law in Pennsylvania are as follows: (1) persons fully admitted to the Pennsylvania Bar; (2) persons admitted *pro hac vice* under Rule 301; and (3) persons qualified as certified legal interns under Rule 321. The Pennsylvania Supreme Court in *Shorz v. Farrell*, 327 Pa.

81, 193 A.20 (1937), held that if the nature of an administrative hearing is to determine questions of fact or interpretation of administrative law, then the hearing is of a judicial character. Any participation in such a hearing constitutes the practice of law. Accordingly, it would be unlawful to allow non attorney representation in adversarial proceedings before the Commission.

James and Judith Simon v. Franklin Water Company, Docket No. C-00956589 (Order entered January 29, 1996).

9. Consequently, a corporation that files a formal complaint with the Commission must obtain counsel to proceed with all other aspects of the proceeding, including, without limitation, discovery, testimony preparation, attendance at hearing examination of witnesses and briefing.

10. Furthermore, the Complainant is well aware that an attorney is needed to prosecute the instant Formal Complaint. He filed a Formal Complaint on November 14, 2018, at Docket No. C-2018-3006025, on behalf of the current customer. The Honorable Mary D. Long (Judge Long) granted Penn Power's Motion to Dismiss for failure to have counsel enter an appearance. The Initial Decision was adopted by the Commission; the Final Order was entered April 19, 2019.

11. A telephonic hearing is currently scheduled for July 28, 2020. At this point, Penn Power is required to incur the time and expense to prepare for a full evidentiary hearing without knowing if the Customer will even be represented by counsel.

12. In order to minimize any further prejudice, time and/or expense by Penn Power, the Complainant should be ordered to have counsel file an Entry of Appearance within ten (10) days, or the proceeding be dismissed. This relief is consistent with relief granted by Judge Long in Docket No. C-2018-3006025.

IV. Conclusion

WHEREFORE, for the foregoing reasons, the Pennsylvania Power Company respectfully requests that the Commission:

a) Enter an order directing Stan Services, LLC to have a Pennsylvania licensed attorney enter an appearance on behalf of Complainant within ten (10) days of the issued order; and

b) Dismiss the Formal Complaint in this proceeding, without a hearing, if a Pennsylvania licensed attorney does not enter appearance on behalf of Stan Services, LLC within ten (10) days of the date of any applicable order.

Respectfully submitted,

Dated: May 20, 2020

*Margaret A. Morris*_____

Margaret A. Morris, Esq.
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia PA 19104
(215) 495-6524 tel.
mmorris@regerlaw.com

Counsel for Pennsylvania Power Company