

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Stan Services, LLC	:	
	:	
v.	:	C-2020-3018875
	:	
Pennsylvania Power Company	:	

**INITIAL DECISION**

Before  
Conrad A. Johnson  
Administrative Law Judge

**INTRODUCTION**

This decision dismisses the Complaint for lack of an attorney to prosecute the limited liability company’s Complaint in an adversarial proceeding.

**HISTORY OF THE PROCEEDINGS**

On February 25, 2020, Stan Services, LLC (Stan Services or Complainant), utilizing the Commission’s standard complaint form, filed a Formal Complaint against Pennsylvania Power Company (Penn Power or Respondent or Company). Complainant alleged 1) service termination issues and 2) denial of service to Complainant, a new company, after leasing space at 357 Northgate Drive, Unit 5, Warrendale, Pennsylvania (Service Location) from a previous company that had an outstanding balance at the Service Location. For relief, Complainant requested new service at the Service Location with no ties to the previous company. The complaint form was signed by a Mark Stanford. On the line of the complaint form which is only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions, Mr. Stanford’s title was listed as “Managing Member.” The

section of the Complaint which provided for the listing of Complainant’s lawyer and the lawyer’s address was blank.

On March 16, 2020, Penn Power filed an Answer and New Matter, which included a Notice to Plead. Penn Power admitted the Company provided service to the Service Location and that Stan Services was an applicant for service. Penn Power admitted the Company provided non-residential service to the Service Location in the name of Y-Clean (Customer). Answer ¶3. The Company averred, “Mr. Stanford was simply applying for service in the Complainant's name to perpetuate a fraud and avoid paying for the consumption billed under the Customer's name.” Answer at 3. Penn Power specifically denied that the attorney section of the complaint form should be left blank. Penn Power alleged Mr. Stanford, having filed prior complaints under the Customer's name and his personal name,<sup>1</sup> was aware that he could not represent the Complainant since it was a business entity registered in the Commonwealth of Pennsylvania on or about September 2, 2014. Answer at 5. Penn Power denied the remaining material allegations of the Complaint.

In its New Matter, Penn Power reiterated, “The Complainant must be represented by a licensed attorney in adversarial proceedings before the Commission.” New Matter at 7, ¶11.

Stan Services did not file a reply to Penn Power’s New Matter to dispute Complainant’s business status.<sup>2</sup> Under the Commission’s regulations, Complainant’s failure to timely reply to New Matter could be deemed in default, and relevant facts stated in the new matter could be deemed to be admitted.<sup>3</sup> Additionally, the Complaint on its face 1) listed Complainant as an “LLC,” that is, a limited liability company and 2) identified Complainant as a “new company.”

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<sup>1</sup> See Docket Nos. C-2018-3006025 and C-2018-3000480. Answer at 5, n.1.

<sup>2</sup> The time for replying to new matter is set at 20 days. 52 Pa.Code § 5.63(a).

<sup>3</sup> See 52 Pa.Code § 5.63(b).

By Notice dated May 13, 2020, the Parties were informed that the case was assigned to me for a telephonic hearing on July 28, 2020. On May 13, 2020, I issued a Prehearing Order setting forth the procedures for the conduct of hearings.

On May 20, 2020, Penn Power filed a Motion to Dismiss the Complaint (Motion). As grounds for the Motion, Penn Power asserted that Stan Services was a business entity, and therefore, under the Commission's regulations at 52 Pa.Code §§ 1.21-1.23 must be represented by an attorney licensed to practice in Pennsylvania. As relief, Penn Power requested dismissal of the Complaint in its entirety.

Stan Services did not file an answer or objection to Penn Power's Motion.<sup>4</sup>

By Interim Order entered on June 18, 2020, Complainant was deemed to be a business entity. Penn Power's Motion, under the Interim Order, was granted to the extent that to prosecute the Complaint, Stan Services required the representation of an attorney licensed to practice law in the Commonwealth of Pennsylvania.

Also, the Interim Order directed Complainant to have an attorney licensed to practice law in the Commonwealth of Pennsylvania to enter an appearance on behalf of Stan Services in accordance with 52 Pa.Code §§ 1.21-1.25, on or before July 6, 2020. The Interim Order further provided that in the event no attorney entered an appearance on behalf of Stan Services on or before July 6, 2020, the July 28, 2020 telephonic hearing would be cancelled, and the Complaint would be dismissed.

By July 6, 2020, no attorney had entered an appearance on behalf of Complainant. On July 15, 2020, a Second Interim Order was issued cancelling the July 28, 2020 telephonic hearing and informing the Parties that an Initial Decision would be issued dismissing the case. The record was closed on July 15, 2020.

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<sup>4</sup> The time for answering or objecting to motion is set at 20 days. 52 Pa.Code § 5.103(c).

## FINDINGS OF FACT

1. On February 25, 2020, a Formal Complaint for Complainant Stan Services, LLC, which listed the Service Location as 357 Northgate Drive, Unit 5, Warrendale, Pennsylvania, was filed against Respondent Pennsylvania Power Company at Docket No. C-2020-3018875.

2. Complainant is a limited liability company.

3. The Formal Complaint did not list an attorney for Complainant.

4. Respondent Pennsylvania Power Company is a jurisdictional public utility.

5. On March 16, 2020, Penn Power filed an Answer and New Matter, which included a Notice to Plead. Penn Power admitted the Company provided service to the Service Location and that Stan Services was an applicant for service.

6. In New Matter, Penn Power asserted, “The Complainant must be represented by a licensed attorney in adversarial proceedings before the Commission.”

7. Complainant did not file a reply the Respondent’s New Matter.

8. On May 20, 2020, Respondent filed a Motion to Dismiss the Complaint, asserting that Complainant was a business entity, and therefore under the Commission’s regulations at 52 Pa.Code §§ 1.21-1.23, Complaint must be represented by an attorney licensed to practice in Pennsylvania.

9. Complainant did not file an answer or objection to Respondent’s Motion to Dismiss.

10. By Interim Order dated June 18, 2020, Complainant was directed to have an attorney licensed to practice law in the Commonwealth of Pennsylvania to enter an appearance on behalf of Stan Services, on or before July 6, 2020.

11. Under the June 18, 2020 Interim Order, Complainant was informed that failure to have an attorney enter an appearance by July 6, 2020, on behalf of Complainant would result in dismissal of the Complaint.

12. No attorney entered an appearance of behalf of Complainant by July 6, 2020.

### DISCUSSION

The filing of Stan Services' Complaint and Penn Power's Answer and New Matter thereto constituted a contested or adversarial proceeding.<sup>5</sup> The Commission rules require that all non-individuals be represented by counsel in adversarial proceedings.<sup>6</sup> This rule is consistent with the Pennsylvania Bar Rules promulgated by the Supreme Court.<sup>7</sup> The absence of an attorney where one is required deprives the forum of jurisdiction to adjudicate the matter.<sup>8</sup>

Stan Services did not file a reply to Penn Power's New Matter or Motion to Dismiss to dispute Complainant's business status. Complainant's failure to reply to New Matter

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<sup>5</sup> An adversarial proceeding is defined as, "[a] proceeding initiated by a person in order to seek authority, approvals, tariff changes, enforcement, fines, remedies or other relief from the Commission which is contested by one or more other persons and which will be decided on the basis of a formal record." 52 Pa.Code § 1.8. *See also New Fizon Catering, Inc. v. PECO Energy Company*, Docket No. C-2008-2065498 (Opinion and Order entered June 24, 2009) (*New Fizon Catering*).

<sup>6</sup> 52 Pa.Code § 1.21(b). *See also Cars R Us 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>7</sup> *See New Fizon Catering*, cited above at pp. 7-8.

<sup>8</sup> *Adventure Alley CLC, LLC v. PECO Energy Company*, 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).

resulted in the deeming of Complainant as a business entity, requiring attorney representation to continue prosecution of the Complaint. Importantly, the Complaint on its face 1) listed Complainant as an “LLC,” that is, a limited liability company and 2) identified Complainant as a “new company.”

In *New Fizon Catering*,<sup>9</sup> the Commission denied exceptions to an initial decision dismissing the complaint because the corporate complainant had failed to secure attorney representation. Like Complainant Stan Services, the corporate complainant in *New Fizon Catering* had been provided the opportunity to secure appropriate legal representation. In dismissing the complaint, the Commission held that the failure to secure legal representation in an adversarial proceeding required dismissal of the complaint. Consistent with the ruling in *New Fizon*, Stan Services’ Complaint must be dismissed for lack of attorney representation.

#### CONCLUSIONS OF LAW

1. The filing of a complaint and answer thereto constitutes a contested or adversarial proceeding. 52 Pa.Code § 1.8. *See also New Fizon Catering, Inc. v. PECO Energy Company*, Docket No. C-2008-2065498 (Opinion and Order entered June 24, 2009) (*New Fizon Catering*).

2. Complainant, a limited liability company, failed to comply with the Commission’s regulations, 52 Pa.Code §1.21-1.22, requiring a duly licensed attorney to represent a limited liability company in an adversarial proceeding.

3. A business entity must be represented by duly licensed legal counsel in an adversarial proceeding because such an entity may not represent itself. *New Fizon Catering, Inc. v. PECO Energy Company*, Docket No. C-2008-2065498 (Opinion and Order entered June 24, 2009); *Cars R Us 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).

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<sup>9</sup> See n.5, above.

4. 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*, 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)).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Stan Services, LLC against Pennsylvania Power Company at Docket No. C-2020-3018875, is dismissed for the failure of Stan Services LLC to be represented by an attorney licensed to practice in the Commonwealth of Pennsylvania.

2. That the Commission's Secretary's Bureau shall market Docket No. C-2020-3018875 closed.

Date: July 27, 2020

\_\_\_\_\_/s/  
Conrad A. Johnson  
Administrative Law Judge