

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Zimoras 1 Stop Beauty Bar	:	
	:	
v.	:	C-2022-3030694
	:	
PECO Energy Company	:	

**INITIAL DECISION**

Before  
Arlene Ashton  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the Formal Complaint of Zimoras 1 Stop Beauty Bar due to the Complainant’s failure to comply with the presiding officer’s order to have an attorney licensed to practice law in Pennsylvania enter an appearance on its behalf.

**HISTORY OF THE PROCEEDING**

On February 1, 2022, Janice Thomas (Ms. Thomas) filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO) involving utility service provided to Zimoras 1 Stop Beauty Bar (Complainant) at 312 W. Trenton Ave., Morrisville, PA 19067 (service location) seeking a Commission payment arrangement.

PECO filed an Answer to the Complaint on February 17, 2022, in which PECO alleged that the Complainant is a commercial customer and is registered as a limited liability company under the name “Zimoras 1 Stop Beauty LLC.” PECO attached to its Answer an exhibit

with information available from the Pennsylvania Department of State which also shows that Complainant's business address is the same address as the service location of the Complaint. In the Answer, PECO requested that the Commission establish a date certain by which the Complainant is required to have an attorney enter an appearance in this matter.

By Initial Call-In Telephone Hearing Notice (Hearing Notice) issued on February 22, 2022, a call-in telephonic hearing was scheduled for April 5, 2022, at 10:00 a.m. and the matter was assigned to me. The Hearing Notice specifically advised the parties that:

**REPRESENTATION.** If you are an individual, you may represent yourself or you may have an attorney represent you. All others, including a partnership, corporation, trust, association, or governmental agency or subdivision, must be represented by an attorney licensed to practice law in Pennsylvania, or admitted *pro hac vice*. Only an attorney may represent someone else.

I issued a Prehearing Order on February 23, 2022 (Prehearing Order #1). Prehearing Order #1 directed the parties to comply with various procedural requirements. Specifically, Paragraph 6 of Prehearing Order #1 reiterated and emphasized the requirement that unless a party is an individual, the party must be represented by counsel.

On March 18, 2022, I issued Prehearing Order #2 (Prehearing Order #2), directing the Complainant, a limited liability company, to have an attorney licensed in Pennsylvania to enter his/her appearance on its behalf on or before March 31, 2022.

On April 5, 2022, the hearing commenced as scheduled. Prior to testifying, Ms. Thomas appeared on behalf of the Complainant, and confirmed that Zimoras 1 Stop Beauty Bar is a limited liability company, and the Complaint involves a commercial account. Tr. 13. Ms. Thomas also acknowledged that she understood that the Complainant was required to be represented by counsel, stated that she had not secured counsel to represent the Complainant, and requested a continuance to allow her additional time to secure representation for the Complainant. Tr. 14. Counsel to the Respondent did not object to the request and I granted the request for a continuance on the record. Tr.15. On April 6, 2022, I issued Prehearing Order #3 (Prehearing

Order #3), directing the Complainant to have an attorney licensed in Pennsylvania to enter his/her appearance on its behalf on or before April 19, 2022.

To date there is no record of an attorney filing a notice of appearance on behalf of Zimoras 1 Stop Beauty Bar LLC.

The record closed on April 19, 2022, the due date for the Complainant to have an attorney enter an appearance on its behalf.

### FINDINGS OF FACT

1. The Complainant is Zimoras 1 Stop Beauty Bar.
2. The Respondent is PECO Energy Company.
3. On February 1, 2022, Janice Thomas filed a Formal Complaint against PECO Energy Company involving utility service provided to Zimoras 1 Stop Beauty Bar at 312 W. Trenton Ave., Morrisville, PA 19067.
4. On February 17, 2022, PECO filed an Answer to the Complaint, in which PECO alleged that the Complainant is a commercial customer and is a limited liability company registered with the Pennsylvania Department of State under the name, Zimoras 1 Stop Beauty LLC.
5. By Initial Call-In Telephone Hearing Notice issued on February 22, 2022, a call-in telephonic hearing was scheduled for April 5, 2022, at 10:00 a.m.
6. The February 22, 2022, Hearing Notice informed the Complainant of the following requirement:

If you are an individual, you may represent yourself or you may have an attorney represent you. All others, including a partnership, corporation, trust, association, or governmental agency or subdivision, must be represented by an attorney licensed to practice law in Pennsylvania, or admitted *pro hac vice*. Only an attorney may represent someone else.

7. By Prehearing Order #1 dated February 23, 2022, the Complainant, a limited liability company, was instructed to have an attorney licensed to practice law in Pennsylvania enter an appearance on its behalf.

8. By Prehearing Order #2 dated March 18, 2022, the Complainant was instructed to have an attorney licensed in Pennsylvania to enter his/her appearance on its behalf on or before March 31, 2022.

9. A hearing in this matter commenced as scheduled on April 5, 2022. Prior to taking testimony, Ms. Thomas acknowledged that the Complainant was a limited liability company. Tr. 13.

10. At the hearing, Ms. Thomas was advised that as a limited liability company, the Complainant was required to be represented by counsel and she acknowledged that she understood the requirement. Tr 14.

11. Prehearing Order #3, issued on April 6, 2022, again directed the Complainant, to have an attorney licensed to practice law in Pennsylvania enter an appearance on its behalf on or before April 19, 2022.

12. The Hearing Notice, Prehearing Order #1, Prehearing Order #2, and Prehearing Order #3 were served upon the Complainant at the address provided by the Complainant in the pleadings.

13. The Hearing Notice, Prehearing Order #1, Prehearing Order #2, and Prehearing Order #3 were not returned as undeliverable.

14. To date, no attorney has entered an appearance on behalf of the Complainant.

### DISCUSSION

The Complainant in this case is a limited liability company that is not represented by counsel. The Commission's regulations concerning representation and notice of appearance are set forth in 52 Pa. Code §§ 1.21-1.24. The Commission's regulations require partnerships, corporations, other business organizations, trusts, associations, agencies, political subdivisions, and government entities to be represented by attorneys in adversarial proceedings before the Commission. 52 Pa. Code §§ 1.21-1.23.

The Commission's regulations at 52 Pa. Code §§ 1.21-1.24 provide in pertinent part:

#### **§ 1.21. Appearance**

(a) Individuals may represent themselves.

(b) Except as provided in subsection (a), persons in adversarial proceedings shall be represented in accordance with § 1.22 (relating to appearance by attorneys and legal intern). For purposes of this section, any request for a general rate increase under §1307(f) or §1308(d) of the act (relating to sliding scale of rates; adjustments; and voluntary changes in rates) shall be considered to be an adversarial proceeding.

#### **§ 1.24. Notice of appearance or withdrawal.**

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(b) *Attorneys.*

(1) *Appearance by initial pleading.* An attorney who signs an initial pleading in a representative capacity shall be considered to have entered an appearance in that proceeding.

(2) *Appearance in all other instances.* An attorney shall file with the Secretary a written notice of appearance.

(i) *Content of notice.* Initial pleadings, entries of appearance and notices of withdrawal must include:

(A) The attorney's name, mailing address and electronic mailing address, if available.

(B) Pennsylvania attorney identification number or, if not licensed in this Commonwealth, identification of the jurisdictions in which the attorney is licensed to practice law.

(C) Telephone number and telefacsimile number, if applicable.

(D) The name and address of the person represented.

(ii) *Filing.*

(A) *Appearance.* The notice of appearance shall be served on the parties to the proceeding, and a certificate of service shall be filed with the Secretary.

In 52 Pa. Code § 1.8, the term “adversarial proceeding” is defined as “[a] proceeding initiated by a person 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.” Additionally, the term “person” is defined as “individuals, corporations, partnerships, associations, joint ventures, other business organizations, trusts, trustees, legal representatives, receivers, agencies, governmental entities, municipalities or other political subdivisions.” *Id.*

Once the Answer was filed, this became an adversarial proceeding. 52 Pa. Code § 1.8. Accordingly, the Complainant, a limited liability company, is required to be represented by counsel. 52 Pa. Code § 1.21(b). No attorney is listed on the Complaint, nor has one entered an appearance to represent the Complainant.

The Complainant was informed of the requirement that it must have counsel by the Hearing Notice dated February 22, 2022, and my Prehearing Order dated February 23, 2022. This requirement was also reiterated and explained to Ms. Thomas at the hearing held on April 5, 2022.

Additionally, the Complainant failed to comply with Prehearing Order #2 and Prehearing Order #3, each directing it to be represented by counsel because it is a limited liability company. Failure to comply with an order issued by a presiding officer warrants dismissal of the complaint. See, e.g., *New Fizon Catering, Inc. v. PECO Energy Co.*, Docket No. C-2008-2065498 (Opinion and Order entered June 24, 2009); *Snyderville Cmty. Dev. Corp. v. Phila. Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006) (citing *Treffinger v. PPL Elec. Utils. Corp.*, Docket No. C-20027978 (Opinion and Order entered March 3, 2003)); *Franconia Mennonite Conf. v. Verizon Pa. Inc.*, Docket No. C-2010-2193709 (Final Order entered June 6, 2003).

The Hearing Notice, Prehearing Order #1, Prehearing Order #2, and Prehearing Order #3 were all e-served to the Applicant, and none of these documents were returned as undeliverable. Accordingly, I must presume that the Hearing Notice, Prehearing Order #1, Prehearing Order #2, and Prehearing Order #3, which were sent in the ordinary course of business, were received by the Complainant. *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered April 7, 2017); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered January 31, 2017).

In addition to the above-referenced written notices of this requirement, the need for the Complainant to obtain counsel was also reiterated and explained verbally to Ms. Thomas at the hearing held on April 5, 2022. At the hearing, I specifically instructed the Complainant, a limited liability company, to have an attorney licensed to practice in the Commonwealth of Pennsylvania enter an appearance to represent it prior to April 19, 2022. The Complainant has not contacted me regarding such representation, nor has an attorney filed a notice of appearance on behalf of the Complainant. Therefore, the Complainant failed to comply with Prehearing Order #3. Consequently, no further hearing for this matter will be scheduled and the Complaint is dismissed.

## CONCLUSIONS OF LAW

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

2. Documents electronically served and not returned as undeliverable are presumed to have been received. *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered April 7, 2017); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered January 31, 2017).

3. The Commission's regulations require partnerships, corporations, other business organizations, trusts, associations, agencies, political subdivisions, and government entities to be represented by attorneys in adversarial proceedings before the Commission. 52 Pa. Code §§ 1.21-1.23.

4. This proceeding became an "adversarial proceeding" when the Answer was filed. 52 Pa. Code § 1.8.

5. Failure to comply with an order issued by a presiding officer warrants dismissal of the complaint. *See, e.g., New Fizon Catering, Inc. v. PECO Energy Co.*, Docket No. C-2008-2065498 (Opinion and Order entered June 24, 2009); *Snyderville Cmty. Dev. Corp. v. Phila. Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006) (citing *Treffinger v. PPL Elec. Utils. Corp.*, Docket No. C-20027978 (Opinion and Order entered March 3, 2003)); *Franconia Mennonite Conf. v. Verizon Pa. Inc.*, Docket No. C-2010-2193709 (Final Order entered June 6, 2003).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Zimoras 1 Stop Beauty Bar at Docket No. C-2022-3030694 is dismissed with prejudice.
2. That the Secretary's Bureau shall mark Docket No. C-2022-3030694 as closed.

Date: June 15, 2022

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/s/  
Arlene Ashton  
Administrative Law Judge