

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Henry John – One Dollar Wise, LLC	:	
	:	
v.	:	C-2022-3030843
	:	
Metropolitan Edison Company	:	

INITIAL DECISION

Before
John M. Coogan
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the formal complaint of Henry John – One Dollar Wise, LLC due to Complainant’s failure to have an attorney enter an appearance in this proceeding since the formal complaint concerns utility service for a property owned by a limited liability company.

HISTORY OF THE PROCEEDING

On February 10, 2022, Henry John (Mr. John) filed a formal complaint on behalf of One Dollar Wise, LLC (Complainant) with the Pennsylvania Public Utility Commission (Commission) against Metropolitan Edison Company (Met-Ed). In the formal complaint, Mr. John identified himself as the owner of One Dollar Wise, LLC. Complainant alleged Met-Ed is threatening to shut off service or has already shut off service, and it would like a payment agreement. Complainant stated it wants the Commission’s help with setting up a payment arrangement because the business is unable to afford full payments due to COVID-19 and other challenges.

On March 2, 2022, Met-Ed filed an answer and new matter to the formal complaint. In its answer, Met-Ed admitted or denied the various averments in the formal complaint. In particular, Met-Ed averred that it provides non-residential electric service to One Dollar Wise, LLC, and Henry John is listed as an authorized contact. Met-Ed denied that a Commission payment arrangement is permitted for One Dollar Wise, LLC because it is a commercial account. Additionally, Met-Ed alleged that two Met-Ed payment agreements for One Dollar Wise, LLC defaulted due to non-payment. Met-Ed's new matter alleged One Dollar Wise, LLC, as a Pennsylvania limited liability company, must be represented by a licensed Pennsylvania attorney in adversarial proceedings before the Commission, and the Public Utility Code does not authorize the Commission to direct a payment arrangement for a non-residential account with no residential end use.

On March 29, 2022, the Commission issued an initial telephonic hearing notice setting a formal call-in telephonic hearing for this matter for May 11, 2022, at 10:00 a.m. and assigned me as the presiding officer. In anticipation of that hearing, I issued a prehearing order on March 29, 2022, setting forth various rules that would govern that proceeding. The prehearing order noted that non-individuals, including a limited liability company, must be represented by an attorney.

On March 31, 2022, Met-Ed filed a motion to dismiss the formal complaint. The motion to dismiss included a notice to plead. Met-Ed's motion to dismiss asserted One Dollar Wise, LLC is a Pennsylvania corporation, and therefore is required to be represented in this proceeding by an attorney in accordance with Commission regulations. Met-Ed's motion noted no attorney has filed an entry of appearance on behalf of One Dollar Wise, LLC, and Met-Ed is required to incur the time and expense to prepare for a full evidentiary hearing without knowing if One Dollar Wise, LLC will be represented by counsel. Therefore, in order to minimize any further prejudice, time and/or expense by Met-Ed, Met-Ed requested that One Dollar Wise, LLC should be ordered to have a licensed attorney file an entry of appearance within ten days of the entry of an order, or the proceeding be dismissed.

Complainant did not file an answer to Met-Ed's motion to dismiss.

On April 25, 2022, I issued an order granting Met-Ed's motion to dismiss in part, and Complainant was ordered to have an attorney enter his or her appearance on behalf of One Dollar Wise, LLC to pursue the formal complaint at a formal evidentiary hearing. Complainant was provided thirty calendar days to have an attorney enter his or her appearance at the docket for this proceeding. The April 25, 2022 order stated that, if an appearance on behalf of One Dollar Wise, LLC was entered within thirty calendar days, a new date for an evidentiary hearing would be scheduled. However, the order also stated that, if an appearance is not entered within thirty calendar days, the formal complaint may be dismissed.

To date there is no record of an attorney filing a notice of appearance on behalf of One Dollar Wise, LLC.

The record closed on May 25, 2022, the due date for an attorney to enter an appearance on behalf of One Dollar Wise, LLC.

FINDINGS OF FACT

1. The Complainant is One Dollar Wise, LLC.
2. The Respondent is Metropolitan Edison Company.
3. The formal complaint regards utility service for a property owned by a limited liability company, One Dollar Wise, LLC.
4. Henry John is the owner of One Dollar Wise, LLC.
5. On February 10, 2022, Henry John filed a formal complaint on behalf of One Dollar Wise, LLC against Met-Ed, requesting the Commission's help with setting up a payment arrangement for an arrearage One Dollar Wise, LLC has for utility service with Met-Ed.
6. On March 2, 2022, Met-Ed filed an answer and new matter to the formal complaint.

7. An initial telephonic hearing notice was issued on March 29, 2022, scheduling a hearing for May 11, 2022, at 10:00 a.m.

8. The March 29, 2022 hearing notice informed Complainant of the following requirement:

[i]f 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.

9. By prehearing order dated March 29, 2022, the Complainant was informed of the following requirement:

[i]f you are an individual, you may represent yourself or you may have an attorney represent you. All others, including a partnership, limited liability company, 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*. Unless you are an attorney, you may not represent someone else.

10. On March 31, 2022, Met-Ed filed a motion to dismiss the formal complaint.

11. On April 25, 2022, I issued an order granting Met-Ed's motion to dismiss in part, continuing the May 11, 2022 hearing, and providing Complainant 30 days from April 25, 2022 to retain counsel and have counsel enter a notice of appearance in this proceeding.

12. To date, no attorney has entered an appearance on behalf of One Dollar Wise, LLC.

DISCUSSION

It is apparent from the pleadings that the formal complaint solely concerns utility service to a property owned by a limited liability company, One Dollar Wise, LLC. Specifically, the formal complaint requests a payment arrangement for a business; names “Henry John – One Dollar Wise” as the Complainant; and is signed by Henry John, owner of One Dollar Wise, LLC. Also, no response was filed to Met-Ed’s new matter, where it was alleged that Complainant, as a registered corporation, must be represented by an attorney in this proceeding. Relevant facts stated in the new matter may be deemed admitted after failure to file a timely reply to new matter. 52 Pa. Code § 5.63(b).

In an adversarial proceeding, Commission regulations require a limited liability company be represented by counsel. Specifically, the Commission’s regulations at 52 Pa. Code §§ 1.21 - 1.24 provide in part, that, except for individuals, persons in adversarial proceedings before the Commission must be represented by an attorney or certified legal intern. 52 Pa. Code §§ 1.21 - 1.24. The term “person” includes “...individuals, corporations, partnerships, associations, joint ventures, other business organizations, trusts, trustees, legal representatives, receivers, agencies, governmental entities, municipalities, municipal corporations or other political subdivisions.” 52 Pa. Code § 1.8(a). Under Commission regulations, 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.” *Id.*

Once the answer and new matter were filed, this became an adversarial proceeding. *Id.* Accordingly, One Dollar Wise, LLC, a limited liability company, is required to be represented by counsel. *Pa. Pub. Util. Comm’n v. Harrisburg City Cab, Inc.*, Docket No. C-2019-3015167 (Opinion and Order entered July 6, 2020); *Cars R Us v. Phila. Gas Works*, 2010 Pa. PUC LEXIS 602 (2010); *Torino Inc. v. PECO Energy Co.*, 2009 WL 6691160 (Pa.P.U.C. 2010). No attorney is listed on the formal complaint, nor has one entered an appearance to represent One Dollar Wise, LLC. Likewise, there is no basis to find that Mr. John

satisfies Commission requirements to represent a limited liability company. Therefore, Complainant cannot proceed with the formal complaint unless it is represented by counsel pursuant to Commission regulations.

Complainant was informed of the requirement that One Dollar Wise, LLC must be represented by counsel by the initial telephonic hearing notice and prehearing order, both dated March 29, 2022, and by the order dated April 25, 2022. The aforementioned hearing notice, prehearing order, and order were e-served on Complainant at the email address provided by Complainant in the formal complaint. Notification of filings via electronic mail constitutes valid service of e-filed documents. *See, e.g., Messick v. PPL Elec. Utils. Corp.*, Docket No. C-2018-3004260 (Opinion and Order entered June 18, 2020); *Potora v. Pa. Am. Water Co.*, Docket No. C-2017-2627873 (Opinion and Order entered August 8, 2019). Accordingly, Complainant was adequately notified that it must obtain counsel to proceed with the Formal Complaint.

Additionally, Complainant failed to comply with my April 25, 2022 order directing it to have counsel enter a notice of appearance in this proceeding within 30 days. No attorney has filed a notice of appearance in this proceeding. 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); *Treffinger v. PPL Elec. Utils. Corp.*, 2003 Pa. PUC LEXIS 3 (Pa.P.U.C. 2003). Consequently, because Complainant failed to comply with my order to have an attorney enter its appearance on behalf of One Dollar Wise, LLC, as is required, no further hearing will be scheduled, and the Formal 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. Relevant facts stated in the new matter may be deemed admitted after failure to file a timely reply to new matter. 52 Pa. Code § 5.63(b).

3. The Commission requires corporations, partnerships, associations, joint ventures, other business organizations, trusts, trustees, legal representatives, receivers, agencies, governmental entities, municipalities, municipal corporations or other political subdivisions to be represented in adversarial proceedings before the Commission by an attorney or law student meeting certain requirements. 52 Pa. Code §§ 1.8, 1.21-1.23; *Pa. Pub. Util. Comm'n v. Harrisburg City Cab, Inc.*, Docket No. C-2019-3015167 (Opinion and Order entered July 6, 2020); *Cars R Us v. Phila. Gas Works*, 2010 Pa. PUC LEXIS 602 (2010); *Torino Inc. v. PECO Energy Co.*, 2009 WL 6691160 (Pa.P.U.C. 2010).

4. This proceeding became an “adversarial proceeding” when the answer and new matter was filed. 52 Pa. Code § 1.8.

5. Notification of filings via electronic mail constitutes valid service of e-filed documents. *See, e.g., Messick v. PPL Elec. Utils. Corp.*, Docket No. C-2018-3004260 (Opinion and Order entered June 18, 2020); *Potora v. Pa. Am. Water Co.*, Docket No. C-2017-2627873 (Opinion and Order entered August 8, 2019).

6. 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); *Treffinger v. PPL Elec. Utils. Corp.*, 2003 Pa. PUC LEXIS 3 (Pa. P.U.C. 2003).

7. Complainant, an LLC, failed to obtain counsel to represent it consistent with my order and Commission regulations. 52 Pa. Code §§ 1.8, 1.21-1.23

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Henry John – One Dollar Wise, LLC against Metropolitan Edison Company at Docket No. C-2022-3030843 is dismissed for failure of the Complainant, as a limited liability company, to have an attorney enter an appearance on its behalf.
2. That the Secretary's Bureau shall mark Docket No. C-2022-3030843 as closed.

Date: June 21, 2022

/s/
John M. Coogan
Administrative Law Judge