

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Karen Feitt

v.

Peoples Natural Gas Company LLC

Public Meeting May 23, 2024

3040660-OSA

Docket No. C-2023-3040660

STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR.

Before the Pennsylvania Public Utility Commission (Commission) is a document filed by Higinio Mendoza, Jr. (Mr. Mendoza) on behalf of the Complainant Karen Feitt (Ms. Feitt), which the Commission's case management system identifies as "Exceptions" to the Initial Decision (ID) issued on August 22, 2023, in the above-captioned Formal Complaint proceeding.¹ The ID dismisses the Complaint, with prejudice, as legally insufficient because it is barred by the doctrine of *res judicata*² and constitutes an abuse of administrative process.³

I agree with the Motion to adopt the ID dismissing the Complaint. However, I note that Mr. Mendoza appears to have engaged in the unauthorized practice of law when he filed his document on behalf of the Complainant Ms. Feitt.

It is well-settled that participation in a formal adversarial proceeding before this Commission constitutes the practice of law.⁴ As such, that participation is limited to those who either file as individuals and represent themselves or to attorneys and certified legal interns who represent others.⁵ Just as an attorney cannot empower an individual to engage in the unauthorized practice of law, no agency can confer the power to engage in conduct like the unauthorized practice of law that is prohibited by Section 2524 of the Judicial Code, 42 Pa. C.S.

¹ On September 20, 2023, Peoples Natural Gas Company LLC filed Replies to Exceptions.

² *Res judicata* protects a litigant from having to relitigate a claim with the same party or his privy that was previously litigated at the Commission.

³ In finding that the instant Complaint constitutes an abuse of administrative process, the ID relies on *Moyer v. PPL Elec. Utils. Corp.*, Docket No. C-2022-3031294 (Opinion and Order entered December 8, 2022) (*Moyer*). The ID agrees that the same conditions in *Moyer* are present in the instant case as the Complainant and/or Mr. Mendoza filed "a nearly identical complaint to two previous complaints that have been reviewed, denied and dismissed." ID at 12. As such, the ID dismisses the instant Complaint, with prejudice, consistent with *Moyer*.

⁴ *Lesley A. Scheaffer for Leslie W. Scheaffer v. PPL Electric Utilities Corporation*, Docket No. F-2016-2577647 (Opinion and Order entered April 3, 2018) (*Scheaffer*); *Ronald Angle Jr. c/o Sharon Angle v. Metropolitan Edison Company*, Docket No. F-2018-3006055 (Opinion and Order entered December 19, 2019) (*Angle*).

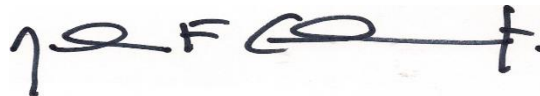
⁵ *Id.*, citing 52 Pa. Code §1.21.

§2524.⁶ To that end, it has been the established practice of this Commission to prevent non-attorneys from representing other people before the Commission.⁷

As noted above, Mr. Mendoza filed a document in response to the ID on behalf of the Complainant Ms. Feitt. The Commission's regulations permit individuals to represent themselves. But, if an individual chooses to be represented by another in an adversarial proceeding such as this,⁸ the representative must be an attorney or certified legal intern.⁹ Mr. Mendoza is neither. Therefore, Mr. Mendoza is not authorized to make filings at the Commission on the Complainant's behalf.

My concern about the unauthorized practice of law here is entirely consistent with my position taken in other Commission proceedings. In the Notice of Proposed Rulemaking (NOPR) seeking comments on proposed amendments to the Commission's procedural regulations (at Chapters 1, 3, and 5 of Title 52 of the Pennsylvania Code),¹⁰ I opposed proposed revisions to permit small business corporations or partnerships and certain individuals to be represented by a non-attorney before the Commission. I was concerned that the proposed revisions would allow for the unauthorized practice of law, which, again, is something the Commission typically seeks to prevent.

The practice of law in the Commonwealth is regulated by the Pennsylvania Supreme Court, not the Commission. The Commission, as a Commonwealth agency, should work cooperatively with the Pennsylvania Supreme Court by adopting and enforcing administrative regulations that do not conflict with applicable law. The failure to do so may call into question the lawfulness and effectiveness of official actions taken on matters that come before this agency. The Commission should follow its existing regulations until any proposed changes have been approved.



JOHN F. COLEMAN, JR.
COMMISSIONER

Date: May 23, 2024

⁶ *Scheaffer; Angle; see Kohlman v. Western Pennsylvania Hospital*, 652 A.2d 849 (Pa. Super. 1994), *alloc. denied*, 541 Pa. 640, 663 A.2d 692 (1995); *Westmoreland County v. Rodgers, et al.*, 693 A.2d 996 (Pa. Cmwlth. 1997), *alloc. denied*, 553 Pa. 685, 717 A.2d 536 (1998).

⁷ *LeStat Corporation v. Pennsylvania Power and Light Company*, Docket No. C-00946284 (Opinion and Order entered August 30, 1995).

⁸ The simple filing of a formal complaint does not automatically trigger an adversarial proceeding because until the answer is filed, it is not known whether the formal complaint will be contested. *Application of Walten Point Productions, LLC for Approval to Broker Passenger Carriers Between Points in Pennsylvania*, Docket No. A-2019-3013421 (Opinion and Order entered October 7, 2021). Furthermore, formal complaints may be and often are satisfied by the respondent, under the procedures outlined in 52 Pa. Code §5.24, or via the mediation process. *Id.* As such, this proceeding became adversarial when Peoples filed its Answer and New Matter denying the material allegations of the Complaint. *See* 52 Pa. Code §1.8.

⁹ 52 Pa. Code §§1.21 and 1.22.

¹⁰ The Commission's NOPR Order was entered on December 20, 2023, at Docket No. L-2023-3041347.