

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

Andree Lombard

v.

PECO Energy Company

Public Meeting May 23, 2024

3041719-OSA

Docket No. C-2023-3041719

STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR.

Before the Pennsylvania Public Utility Commission (Commission) are the Exceptions filed by Andree Lombard (Ms. Lombard or Complainant) to the Initial Decision (ID) issued on January 23, 2024, in the above-captioned Formal Complaint proceeding.¹ The ID dismisses the Complaint because the Complainant and her husband failed to meet their burden of proof.

The Motion proposes to adopt the ID dismissing the Formal Complaint. I agree that the Formal Complaint should be dismissed. However, I note that the Complainant's husband appears to have engaged in the unauthorized practice of law. Ms. Lombard filed the Complaint in her name only. The Verification included with the Complaint identifies Ms. Lombard as the sole complainant in this proceeding. However, Ms. Lombard did not appear at the hearing to prosecute her Complaint. Instead, the Complainant's husband appeared *pro se* at the hearing and testified on behalf of the Complainant, Ms. Lombard.

It is well-settled that participation in a formal adversarial proceeding before this Commission constitutes the practice of law.² 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.³ 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. §2524.⁴ To that end, it has been the established practice of this Commission to prevent non-attorneys from representing other people before the Commission.⁵

¹ On February 15, 2024, PECO Energy Company (PECO) filed Replies to Exceptions.

² *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*).

³ *Id.*, citing, 52 Pa. Code §1.21.

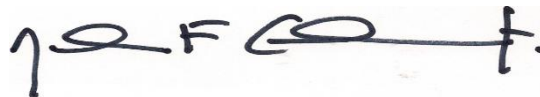
⁴ *Scheaffer*; *Angle*; see, *Kohlman v. Western Pennsylvania Hospital*, 652 A.2d 849 (Pa. Super. 1994), *alloc. denied*, 541 Pa. 640, 663 A.2d 692 (1995); *Westmoreland County v. Rodgers, et al.*, 693 A.2d 996 (Pa. Cmwlth. 1997), *alloc. denied*, 553 Pa. 685, 717 A.2d 536 (1998).

⁵ *LeStat Corporation v. Pennsylvania Power and Light Company*, Docket No. C-00946284 (Opinion and Order entered August 30, 1995).

As noted above, Mr. Lombard appeared *pro se* at the hearing and testified on behalf of the Complainant, Ms. Lombard. 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,⁶ the representative must be an attorney or certified legal intern.⁷ Mr. Lombard is neither. Therefore, Mr. Lombard is not authorized to prosecute the Formal Complaint on the Complainant's behalf.⁸

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),⁹ 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 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 PECO filed its Answer denying the material allegations of the Complaint. *See* 52 Pa. Code §1.8.

⁷ 52 Pa. Code §§1.21 and 1.22.

⁸ The presiding Administrative Law Judge (ALJ) may have required either that the absent spouse attend the hearing, or that an Amended Complaint be filed to include Mr. Lombard prior to proceeding to a hearing on the Complaint. In prior cases, ALJs have also ordered that both spouses be included as complainants and as ratepayers of record.

⁹ The Commission's NOPR Order was entered on December 20, 2023, at Docket No. L-2023-3041347.