

service location as termination activity was stayed upon receipt of the Informal Complaint filed with BCS.

Respondent further averred the Complainant does not pay its bills in full or by the due date and the last payment was received on February 12, 2024. The Respondent averred that at all times relevant to this proceeding, its actions have been reasonable and performed in accordance with all applicable laws, as well as Commission-approved tariffs, the Public Utility Code, and Commission regulations and orders.

Additionally, Respondent argued that per the Commission's regulations, Complainant, as a limited liability company, must be represented by counsel in these proceedings.

By Order dated April 11, 2024, Chief Administrative Law Judge Charles Rainey (CALJ Rainey) directed the parties to hold a mediation conference.

This matter was not resolved, so, on May 24, 2024, the Commission issued a Hearing Notice assigning this matter to me and scheduling an evidentiary hearing for July 1, 2024. The Hearing Notice reads, in pertinent part,

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.

See Hearing Notice, pg, 2.

On May 24, 2024, I issued a Prehearing Order, which reads, in pertinent part,

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 an attorney licensed to practice law in Pennsylvania, or admitted *pro hac vice*. And, unless you are an attorney, you may not represent someone else.

See Prehearing Order, pg. 4 (citations omitted).

On June 7, 2024, Respondent filed a Motion to Dismiss the Complaint, again arguing that Complainant, as a limited liability company, was required by the Commission's rules to be represented by counsel, and Complainant's failure to obtain counsel deprives the Commission of jurisdiction to adjudicate the matter. *Scheaffer v PPL Electric Utilities Corp.*, Docket No. F-2016-2577647 (Opinion and Order entered April 3, 2018).

Respondent has correctly recited the law with regards to representation before the Commission. The Commission's regulations provide that "[i]n adversarial proceedings, partnerships, corporations, trusts, associations, agencies, political subdivisions and government entities shall be represented only by . . . an attorney." 52 Pa. Code § 1.21. An adversarial proceeding begins with the filing of an Answer. 52 Pa. Code § 1.8; *New Fizon Catering, Inc. v. PECO Energy Company*, Docket Nos. C-2008-2065498 and C-2008- 2079076 (Order entered June 24, 2009).

A non-attorney owner/operator of a limited liability corporation may file a formal complaint pleading, without an attorney, but thereafter must be represented by counsel. *Tyler Run, LLC v. Penelec*, Docket No. C-200438888 (Order entered January 5, 3005); *Snyderville Community Development Corporation v. Philadelphia Gas Works*, Docket No. C-20055032 (Order entered July 31, 2006).

The Commission's obligation to require attorneys in adversarial proceedings for parties other than individual *pro se* proceedings is well-settled:

In Pennsylvania, the Supreme Court is responsible for regulating the practice of law, and this Commission is bound by the Supreme Court's rules. The only persons authorized to practice law in Pennsylvania are as follows:

(1) persons fully admitted to the Pennsylvania Bar; (2) persons admitted pro hac vice under Rule 301; and (3) persons qualified as certified legal interns under Rule 321. The Pennsylvania Supreme Court in *Shorz v. Farrell*, 327 Pa. 81, 193 A.20 (1937), held that if the nature of an administrative hearing is to determine questions of fact or interpretation of administrative law, then the hearing is of a judicial character. Any participation in such a hearing constitutes the practice of law. Accordingly, it would be unlawful to allow non attorney representation in adversarial proceedings before the Commission.

James and Judith Simon v. Franklin Water Company, Docket No. C-00956589 (Order entered January 29, 1996).

Since FE PA has now filed an Answer in this proceeding, it is considered adversarial. In order to proceed, Complainant must cause counsel to enter an appearance on its behalf or show cause why it is not required by the Commission's regulations to be represented by counsel.

THEREFORE,

IT IS ORDERED:

1. That, by **June 28, 2024**, Nora Hospitality LLC d/b/a Red Roof Inn shall either: (1) cause its counsel to enter his or her appearance in accordance with the provisions of 52 Pa.Code § 1.24(b), or (2) show cause why it is not required to be represented by counsel under the Commission's rules.

2. That the evidentiary hearing scheduled to be held on **July 1, 2024**, shall proceed as scheduled.

3. That Complainant's failure to comply with Ordering Paragraph 1 shall result in dismissal of the Complaint.

4. That the Motion to Dismiss filed by FirstEnergy Pennsylvania Company shall be held in abeyance pending the July 1, 2024, hearing.

Date: June 10, 2024

_____/s/
Emily I. DeVoe
Administrative Law Judge

**C-2024-3047524 - NORA HOSPITALITY LLC DBA RED ROOF INN v. FIRSTENERGY
PENNSYLVANIA ELECTRIC COMPANY**

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