

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Deborah Wilson Funeral Home	:	
	:	
v.	:	C-2023-3043695
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Darlene Heep
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Complaint of Deborah Wilson Funeral Home 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 October 18, 2023, Deborah Wilson Funeral Home (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW, Respondent, or Company). The Complaint was signed by Deborah Wilson, CEO of the Complainant.

In the Complaint, it was stated that PGW had terminated service to Deborah Wilson Funeral Home, that there are incorrect charges on the Complainant's bill and that the Complainant would like a payment arrangement. No attorney was listed on the Complaint.

On November 10, 2023, Philadelphia Gas Works filed an Answer and New Matter and Preliminary Objection. In its Answer, PGW admitted that the Company terminated the Complainant's service and further stated that the service was provided under a commercial account. In the New Matter, PGW averred that the Complainant has filed several informal complaints challenging charges. PGW further stated that PGW abandoned service for the Complainant in 2011 and argued that the Commission lacks jurisdiction in this matter due to the three-year statute of limitations in 66 Pa.C.S. § 3314.

On December 15, 2023, the Preliminary Objection was assigned to me as Motion Judge. In the Preliminary Objection, PGW again contended that this matter should be dismissed due to lack of jurisdiction because the three-year statute of limitation to challenge service provided to an account that was closed in 2011 has expired.

The Complainant did not file a response to the Preliminary Objection. Given that it was not clear from the record whether the Complainant was seeking service as an applicant for service in addition to challenging the termination and previous bills, the matter was sent to scheduling to issue a hearing date to clarify the record as to these issues as well as whether the Complainant is a corporation.

By Call-In Telephonic Hearing Notice dated February 15, 2024, a call-in telephonic hearing was scheduled for April 18, 2024, at 10:00 a.m. A Prehearing Order was issued on February 21, 2024.

The Prehearing Order stated that no later than March 8, 2024, the Complainant may file a response to the Preliminary Objection and must have an attorney enter an appearance on its behalf or provide a statement as to why counsel is not required. On February 28, 2024, the Complainant called my legal assistant and stated that an attorney would enter an appearance on behalf of the Complainant the following week.

The Complainant did not file a response to the Preliminary Objection and no attorney entered an appearance on behalf of the Complainant by the March 8, 2024 deadline. On the morning of the hearing, April 18, 2024, my legal assistant received an email from Ms. Wilson stating that she had not secured an attorney and requesting a continuance. PGW objected to the continuance, noting the Complainant's failure to comply with the order to have attorney representation. By Order dated April 18, 2024, the continuance was granted given that it was the first request for continuance on behalf of the Complainant.

The parties agreed to a May 22, 2024 hearing date, and a Prehearing Order was issued on May 3, 2024. On May 20, 2024, Ms. Wilson sent an email to my legal assistant requesting a continuance of the May 22, 2024 hearing to allow her additional time to engage an attorney. PGW did not object to the continuance. The Parties were then notified that the matter would be sent to scheduling for a new hearing date.

A Cancelled/Rescheduled Initial Telephonic Hearing Notice #2 was issued on May 20, 2024, setting a hearing for July 30, 2024, at 10:00 a.m.

On May 23, 2023, a Prehearing Order was issued stating that no later than June 11, 2024, an attorney must enter an appearance on behalf of the Complainant and that the Complainant may file a response to the Preliminary Objection no later than June 18, 2024. No response to the PGW Preliminary Objection was filed and an attorney did not enter an appearance on behalf of the Complainant by the deadlines.

On June 26, 2024, PGW filed a Motion to Dismiss, noting the Complainant's failure to comply with the orders regarding representation by an attorney and reiterating its position that the Complaint was filed outside of the three-year statute of limitations.

The parties were notified that the hearing would be cancelled and a Hearing Cancellation Notice for the July 30, 3034 hearing was issued on July 16, 2024.

To date, there is no record of an attorney filing a notice of appearance on behalf of Deborah Wilson Funeral Home.

The record closed on July 20, 2024, the date the July 30, 2024 hearing was cancelled.

FINDINGS OF FACT

1. The Complainant is Deborah Wilson Funeral Home, corporation in the Commonwealth of Pennsylvania. *See* Entity Number 3129206 at: <https://file.dos.pa.gov/search/business>.
2. The Respondent is Philadelphia Gas Works.
3. On October 18, 2023, Deborah Wilson Funeral Home filed a Complaint with the Pennsylvania Public Utility Commission against Philadelphia Gas Works.
4. The Complaint was filed by Deborah Wilson, CEO of Deborah Wilson Funeral Home.

5. Deborah Wilson did not dispute that the Complainant is a corporation.

6. On November 10, 2023, Philadelphia Gas Works filed an Answer and New Matter, and Preliminary Objection.

7. By Call-In Telephonic Hearing Notice dated February 15, 2024, a call-in telephonic hearing was scheduled for April 18, 2024, at 10:00 a.m.

8. A Prehearing Order was issued on February 21, 2024 which stated that no later than March 8, 2024, the Complainant must have an attorney enter an appearance on its behalf or provide a statement as to why counsel is not required and may also file a response to the Preliminary Objection.

9. All Hearing Notices and Prehearing Orders issued state:

Individuals representing themselves are not required to be represented by an attorney. All others (corporation, partnership, association, trust or governmental agency or subdivision) **must** be represented by an attorney. An attorney representing you should file a Notice of Appearance **before** the scheduled hearing date.

10. The Complainant did not file a response to the Preliminary Objection and no attorney entered an appearance on behalf of the Complainant by the March 8, 2024 deadline.

11. On the morning of the scheduled hearing, April 18, 2024, Ms. Wilson sent an email requesting a continuance to allow her more time to find an attorney to represent the Complainant.

12. The Parties selected May 22, 2024 as a hearing date and a Prehearing Order was issued on May 3, 2024.

13. On May 20, 2024, Ms. Wilson emailed my legal assistant and requested a continuance of the May 22, 2024 hearing, stating that she needed more time to engage an attorney.

14. The May 22, 2024 hearing was continued without objection from PGW and a Cancelled/Rescheduled Initial Telephonic Hearing Notice #2 was issued on May 20, 2024, setting a hearing for July 30, 2024, at 10:00 a.m.

15. On May 23, 2023, a Prehearing Order was issued stating that no later than June 11, 2024, an attorney must enter an appearance on behalf of the Complainant and that the Complainant may file a response to the Preliminary Objection no later than June 18, 2024.

16. Counsel did not enter an appearance on behalf of the Complainant by June 11, 2024.

17. The Complainant did not file a response to the Preliminary Objection.

18. To date, an attorney has not filed a notice of appearance on behalf of Deborah Wilson Funeral Home and the Complainant has not stated why an attorney is not required.

DISCUSSION

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.

(c) In nonadversarial proceedings, persons may be represented in the following manner:

(1) A partner may represent the partnership.

(2) A bona fide officer of a corporation, trust or association may represent the corporation, trust or association.

(3) An officer or employee of an agency, political subdivision or government entity may represent the agency, political subdivision or government entity.

§ 1.22. Appearance by attorney or certified legal intern.

(a) Subject to § 1.21(a) (relating to appearance), an attorney at law admitted to practice before the Supreme Court of Pennsylvania shall represent persons in Commission proceedings.

(b) An attorney not licensed in this Commonwealth may appear before the Commission in accordance with the Pennsylvania Bar Admission Rules.

(c) A law student meeting the requirements of Pa.B.A.R. No. 321 (relating to requirements for formal participation in legal matters by law students) may appear in a Commission proceeding consistent with Pa.B.A.R. No. 322 (relating to authorized activities of certified legal interns).

§ 1.23. Other representation prohibited at hearings.

(a) Persons may not be represented at a hearing before the Commission or a presiding officer except as stated in §1.21 or §1.22 (relating to appearance; and appearance by attorney or certified legal intern).

§ 1.24. Notice of appearance or withdrawal.

(a) *Individuals.* An individual appearing without legal representation before the Commission or a presiding officer shall file with the Secretary an address for service of a notice or other written communication. A change in address which occurs during the course of the proceeding shall be reported to the Secretary promptly.

(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.¹ Deborah Wilson, filing the Complainant on behalf of Deborah Wilson Funeral Home, identified herself on the Complaint form as CEO of the Complainant. PGW stated in its Motion to

¹ *Pa. Pub. Util. Comm’n v. West Penn Utilities*, Docket No. C-2022-3031862 (Opinion and Order entered May, 18, 2023); *New Fizon Catering, Inc. v. PECO Energy Company*, Docket No. C-2008-2065498 (Opinion and Order entered Jun. 24, 2009) (*New Fizon*).

Dismiss that the Complainant is a corporation, referencing the Pennsylvania Department of State records for Entity Number 3129206.²

Neither the Complainant nor Ms. Wilson disputed that the Complainant funeral home is a corporation. Also, on two occasions, in response to orders setting deadlines by which an attorney was to enter an appearance on behalf of the Complainant, Ms. Wilson requested additional time to find and engage an attorney to represent the Complainant.

Accordingly, the Complainant is incorporated and is required to be represented by counsel. No attorney is listed on the Complaint, nor has one entered an appearance to represent the Complainant.

The Complainant failed to comply with the February 23, 2024 and May 23, 2024 orders requiring that an attorney make an appearance on behalf of the Complainant. Failure to comply with an order issued by a presiding officer warrants dismissal of the complaint. *See, e.g., New Fizon; 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, 2003 Pa.P.U.C. LEXIS 3 (March 3, 2003)); *Franconia Mennonite Conf. v. Verizon Pa. Inc.*, Docket No. C-2010-2193709 (Final Order entered June 6, 2003).

The Complainant has failed to comply with the orders and the Complaint is dismissed. As this matter will be dismissed for the Complainant's failure to comply with

² On review, the link provided by PGW for Pennsylvania Department of State is no longer valid. Corporation records are available at: <https://file.dos.pa.gov/search/business> and this record is a "public document" within the scope of 52 Pa. Code § 5.406.

the orders of the Administrative Law Judge, PGW's Motion to Dismiss will be dismissed as moot.

CONCLUSIONS OF LAW

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

2. 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.

3. This proceeding became an "adversarial proceeding" when an Answer was filed by Philadelphia Gas Works. 52 Pa. Code § 1.8.

4. 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, 2003 Pa.P.U.C. LEXIS 3 (Mar. 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 Formal Complainant of Deborah Wilson Funeral Home filed against Philadelphia Gas Works at C-2023-3043695 is dismissed.
2. That the Motion to Dismiss of Philadelphia Gas Works is dismissed as moot.
3. That the docket in this case be marked closed.

Date: October 16, 2024

/s/
Darlene Heep
Administrative Law Judge