

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Orlando Bottiglieri c/o Domenic Reda	:	
	:	
v.	:	C-2024-3047908
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Alphonso Arnold III  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the complaint of the Estate of Orlando Bottiglieri (“the Estate” or “Complainant”), filed by the Administrator of the Estate, for Complainant’s failure to comply with an Interim Order of the Presiding Officer directing an attorney to enter his or her appearance on the Estate’s behalf by July 26, 2024.

**HISTORY OF THE PROCEEDING**

On March 26, 2024, Domenic Reda (“Mr. Reda”) filed a Formal Complaint (“Complaint”) with the Pennsylvania Public Utility Commission (“Commission”) against Philadelphia Gas Works (“PGW”) on behalf of the Estate. Mr. Reda identified himself as the administrator for the Estate. On the Complaint form, Mr. Reda checked the box “other” as reason for the Complaint, and stated the following:

PGW is billing the estate of Orlando Bottiglieri (1136 Mercy St. Phila.) for the use of gas by Squatters, that being Syreeta Slaughter who had no legal rite [sic] to enter property this is NOT a case of a rental agreement between renter and landlord.

Complaint ¶ 4. For relief, Mr. Reda stated, “[w]e seek relief of total cost and the lifting of liens and/or judgments against the property.” Complaint ¶ 5. No attorney was identified in paragraph 10 of the Complaint, titled “legal representation.” Complaint ¶ 10. The Complaint was served on PGW on March 28, 2024.

On April 19, 2024, PGW filed an Answer with New Matter admitting or denying the allegations of the Complaint. In its New Matter, properly endorsed with a Notice to Plead, PGW averred that there are outstanding liens on the Estate for gas service pursuant to the Municipal Claim and Tax Lien Law, and that the Commission has no jurisdiction over the filing or administration of liens that exist pursuant to the Municipal Claim and Tax Lien Law. PGW concluded its Answer with New Matter by requesting dismissal of the Complaint.

Also on April 19, 2024, PGW filed Preliminary Objections, properly endorsed with a Notice to Plead, to the Complaint. In its Preliminary Objections, PGW argued that the Commission lacks jurisdiction over the Complaint, pursuant to 52 Pa. Code § 5.101(a)(1), stating that Mr. Reda is challenging PGW’s right to collect on municipal claims owed to PGW for gas service pursuant to the Municipal Claim and Tax Lien Law and that the Commission has repeatedly held that it does not have subject matter jurisdiction in cases involving a dispute over a municipal lien. PGW concluded its Preliminary Objections by requesting dismissal of the Complaint.

Mr. Reda did not file a Reply to PGW’s New Matter or an Answer to PGW’s Preliminary Objections.

On May 29, 2024, the Commission issued a Motion Judge Assignment Notice, assigning me as Presiding Officer to this proceeding.

On June 24, 2024, the Commission issued my Order sustaining in part and denying in part Respondent's Preliminary Objections. In my Order, I sustained the Preliminary Objections with respect to any claim in the Complaint relating to the municipal lien placed on the Estate but denied the Preliminary Objections with respect to any claim in the Complaint that may fall under Section 1501 of the Public Utility Code. I also noted in my Order that the Estate is required to be represented by an attorney in this proceeding.

On June 25, 2024, the Commission issued an Initial Telephonic Hearing Notice to the parties, scheduling this matter for an evidentiary hearing on August 8, 2024. Of relevance, the Hearing Notice stated the following:

**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.

June 25, 2024, Initial Telephonic Hearing Notice.

On June 26, 2024, the Commission issued my Prehearing Order to the parties, providing the parties with the procedural rules that would govern the hearing. Of relevance, the Prehearing Order stated the following:

**7. 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*. And, unless you are an attorney, you may not represent someone else.

June 26, 2024, Prehearing Order (footnote omitted).

Also on June 26, 2024, the Commission issued my Interim Order #1 to the parties. The Interim Order explained that the Estate must be represented by an attorney in this adversarial proceeding and directed that an attorney must enter his or her appearance on the Estate's behalf on or before July 26, 2024. The Interim Order also warned that failure to comply with the Order would result in dismissal of the Complaint.

No attorney entered his or her appearance on behalf of the Estate by July 26, 2024.

On July 29, 2024, the Commission issued a Hearing Cancellation Notice, cancelling the August 8, 2024, hearing.

Also on July 29, 2024, the Commission issued my Interim Order #2 to the parties. Due to Complainant's failure to comply with Interim Order #1, Interim Order #2 confirmed the cancellation of the evidentiary hearing and closed the evidentiary record.

For the reasons discussed below, the Complaint will be dismissed.

#### FINDINGS OF FACT

1. Complainant is the Estate of Orlando Bottiglieri.
2. Domenic Reda identified himself in the Complaint as the Administrator of the Estate of Orlando Bottiglieri.

3. Respondent is Philadelphia Gas Works.
4. On March 26, 2024, Mr. Reda, as Administrator of the Estate of Orlando Bottiglieri, filed a Complaint against PGW indicating that the Complaint involves utility service provided to the Estate of Orlando Bottiglieri.
5. Mr. Reda did not represent that he was an attorney on the Complaint.
6. No attorney was listed on paragraph 10 of the Complaint, titled “legal representation.”
7. On April 19, 2024, PGW filed an Answer with New Matter to the Complaint.
8. Also on April 19, 2024, PGW filed Preliminary Objections against the Complaint.
9. On June 24, 2024, the Commission issued my Order sustaining in part and denying in part Respondent’s Preliminary Objections wherein I noted, amongst other things, that the Estate is required to be represented by an attorney in this proceeding.
10. On June 25, 2024, the Commission issued an Initial Telephonic Hearing Notice and served it on the parties, scheduling this matter for an evidentiary hearing on August 8, 2024.

11. On June 26, 2024, the Commission issued my Prehearing Order and served it on the parties, providing the parties with the procedural rules that would govern the hearing.

12. The Hearing Notice and Prehearing Order informed the parties that only individuals could represent themselves, and that all others must be represented by an attorney.

13. On June 26, 2024, the Commission issued my Interim Order #1 and served it on the parties which explained that the Estate must be represented by an attorney in this adversarial proceeding and directed that an attorney must enter his or her appearance on the Estate's behalf on or before July 26, 2024.

14. Interim Order #1 warned that failure to comply with the Interim Order would result in dismissal of the Complaint.

15. Mr. Reda was eServed with my Order sustaining in part and denying in part Respondent's Preliminary Objections, the Hearing Notice, the Prehearing Order, and my Interim Order #1.

16. Mr. Reda selected to be served documents from the Commission via the Commission's eService process. Complaint ¶ 9.

17. The Commission has received no notification that my Order sustaining in part and denying in part Respondent's Preliminary Objections, the Hearing Notice, the Prehearing Order, and my Interim Order #1 failed to be electronically served.

18. No attorney entered an appearance on behalf of the Estate on or before July 26, 2024.

19. On July 29, 2024, the Commission issued a Hearing Cancellation Notice, cancelling the August 8, 2024, hearing scheduled in this matter.

20. Also on July 29, 2024, the Commission issued my Interim Order #2, which confirmed the cancellation of the scheduled evidentiary hearing and closed the evidentiary record.

## DISCUSSION

### *Legal Standards*

The Commission's Regulations provide specific requirements concerning representation before the Commission, as set forth in 52 Pa. Code §§ 1.21-1.24. Specifically, the Commission's Regulations provide that persons in adversarial proceedings be represented in accordance with 52 Pa. Code § 1.22 (relating to appearance by attorneys and legal interns). 52 Pa. Code § 1.21(b). The Commission's regulations further provide that an attorney who signs an initial pleading in a representative capacity shall be considered to have entered an appearance in that proceeding, but that in all other instances shall file with the Secretary a written notice of appearance. 52 Pa. Code § 1.24(b)(1), (2). It is well-settled in Commission practice that participation in a formal adversarial proceeding before the Commission constitutes the practice of law. *See, e.g., Lesley A. Scheaffer for Leslie W. Scheaffer v. Pa. Pub. Util. Comm'n*, Docket No. F-2016-2577647 (Opinion and Order entered Apr. 3, 2018) ("*Scheaffer*"). As such, that participation is limited to those who either file as individuals and represent themselves or to attorneys who are representing others. *Id.*

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.” 52 Pa. Code § 1.8. Further, 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.*

The Commission has long held that failure to comply with an order issued by a presiding officer warrants dismissal of the application or complaint. *See, e.g., Application of Robert Bautista t/a Collado Luxury Ride, LLC*, Docket No. A-2015-2476824, (Final Order entered Feb. 1, 2016); *Application of And Ex Car*, Docket No. A-2012-2337848 (Final Order entered June 19, 2013); *New Fizon Catering, Inc. v. PECO Energy Co.*, Docket No., C-2008-2065498 (Opinion and Order entered June 24, 2009). More specifically, the Commission has dismissed complaints when a complainant failed to comply with an order of the presiding officer directing it to have an attorney enter his/her appearance on its behalf. *See Am. Housing Sols. v. York Water Co.*, Docket No. F-2023-3043623 (Final Order entered July 2, 2024); *Application of Home Concept Servs. LLC for approval to provide paratransit serv. in Phila., Montgomery, Bucks and Delaware Cntys.*, Docket No. A-2022-3034706 (Opinion and Order entered Apr. 20, 2023); *Yea Ryong Church c/o David Wong v. Metro. Edison Co.*, Docket No. C-2017-2626578 (Final Order entered May 9, 2018).

### *Analysis*

The Complaint in this matter was filed by Mr. Reda on behalf of the Estate, as the Estate’s administrator. Mr. Reda did not indicate that he was an attorney licensed to practice law in Pennsylvania. Further, no attorney is identified in paragraph 10 of the

Complaint titled “legal representation.” The Complaint became contested once Respondent filed its Answer with New Matter to the Complaint. Therefore, once the Answer with New Matter was filed, this proceeding became an “adversarial proceeding” as defined by the Commission’s regulations. *See* 52 Pa. Code § 1.8. Accordingly, upon the filing of the Answer in this matter, the Estate was required to be represented by an attorney. 52 Pa. Code § 1.21(b); *Scheaffer*; *see also Daniel v. Phila. Gas Works*, Docket No. F-2019-3013371 (Initial Decision issued May 20, 2020; Final Order entered July 10, 2020) (estates must be represented by an attorney in adversarial proceedings before the Commission).

Mr. Reda was informed of the requirement that the Estate must be represented by counsel on three separate occasions: in my June 24, 2024 Order sustaining in part and denying in part Respondent’s Preliminary Objections; in the June 25, 2024 Hearing Notice; and in the June 26, 2024 Prehearing Order. All three documents were eServed upon Mr. Reda and the Commission has received no notification that the documents failed to be electronically served. Therefore, I presume that Mr. Reda received all three documents. *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered Apr. 7, 2017); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered Jan. 31, 2017).

Given the requirement that the Estate must be represented by counsel in this proceeding, the Commission issued my Interim Order #1 to the parties on June 26, 2024. Therein I ordered an attorney to enter his or her appearance on the Estate’s behalf on or before July 26, 2024, or else the Complaint would be dismissed. Complainant failed to comply with this Order, as no attorney entered his or her appearance on behalf of the Estate by the deadline. As failure to comply with an order of a presiding officer warrants dismissal of a Complaint, the Complaint filed in this matter will be dismissed in the Ordering paragraphs below.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties in this proceeding. 66 Pa.C.S. § 701.
  
2. Notice electronically served to a party's registered email address with no notification that service failed to be delivered to that email address is presumed to have been received. *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered Jan. 27, 2017); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered Nov. 16, 2016).
  
3. Persons in adversarial proceedings must be represented by legal counsel in proceedings before the Commission. 52 Pa. Code § 1.21(b).
  
4. An attorney who signs an initial pleading in a representative capacity shall be considered to have entered an appearance in that proceeding, but that in all other instances shall file with the Secretary a written notice of appearance. 52 Pa. Code § 1.24(b)(1), (2).
  
5. 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." 52 Pa. Code § 1.8.
  
6. 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." 52 Pa. Code § 1.8.

7. An estate must be represented by an attorney in adversarial proceedings before the Commission. *Daniel v. Phila. Gas Works*, Docket No. F-2019-3013371 (Initial Decision issued May 20, 2020; Final Order entered July 10, 2020).

8. The Commission has long held that failure to comply with an order issued by a presiding officer warrants dismissal of the application or complaint. *See, e.g., Application of Robert Bautista t/a Collado Luxury Ride, LLC*, Docket No. A-2015-2476824 (Final Order entered Feb. 1, 2016); *Application of And Ex Car*, Docket No. A-2012-2337848 (Final Order entered June 19, 2013); *New Fizon Catering, Inc. v. PECO Energy Co.*, Docket Nos., C-2008-2065498 and C-2008-2079076 (Opinion and Order entered June 24, 2009).

9. The Commission has dismissed complaints when a complainant failed to comply with an order of the presiding officer directing it to have an attorney enter his/her appearance on its behalf. *See Am. Housing Sols. v. York Water Co.*, Docket No. F-2023-3043623 (Final Order entered July 2, 2024); *Application of Home Concept Sers. LLC for approval to provide paratransit serv. in Phila., Montgomery, Bucks and Delaware Cntys*, Docket No. A-2022-3034706 (Opinion and Order entered Apr. 20, 2023); *Yea Ryong Church c/o David Wong v. Metro. Edison Co.*, Docket No. C-2017-2626578 (Final Order entered May 9, 2018).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of the Estate of Orlando Bottiglieri in Orlando Bottiglieri c/o Domenic Reda v. Philadelphia Gas Works at Docket No. C-2024-3047908, is dismissed.
2. That the docket at Docket No. C-2024-3047908 be marked closed.

Date: October 22, 2024

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/s/  
Alphonso Arnold III  
Administrative Law Judge