

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jennifer Wiest/Eldridge Realty	:	
	:	
v.	:	C-2023-3038575
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Dennis J. Buckley
Administrative Law Judge

This Initial Decision dismisses a Complaint filed by Jennifer Wiest/Eldridge Realty (Complainant or Wiest) against PPL Electric Utilities Corporation (PPL or Respondent) alleging misbilling. The Complaint is dismissed because Complainant failed to prosecute her Complaint and for failure to comply with an administrative law judge’s order and/or Commission regulations requiring the Complainant to be represented by an attorney.

HISTORY OF THE PROCEEDING

On February 24, 2023, Wiest filed a formal Complaint against PPL alleging that PPL had misbilled her for electric service at six different locations. Complainant requested reimbursement for the alleged overcharges on estimated bills and challenged PPL to prove the accuracy of the charges. Complainant also alleged that PPL had not been responsive to her verbal and written inquiries.

On March 21, 2023, PPL filed an Answer to the Complaint. PPL stated that the accounts involved are commercial accounts and contended that Complainant must be represented by counsel as required by the Commission's regulations at 52 Pa. Code § 1.21(a)-(b). PPL admitted that it had rendered estimated bills for five of the six accounts identified in the Complaint but denied that there are incorrect charges on the Complainant's bills. PPL also stated that on December 15, 2022, PPL discovered that customer meter data was not transferring from the Company's meter data management system (MDMS) to its customer service system (CSS) for many customers. Although customer usage data was being accurately collected and stored at all times in MDMS, the Company was unable to generate bills based on actual usage because the meter data was not being transferred from MDMS to CSS. This led to the Company issuing bills based on estimated usage for many customers, including the Complainant. PPL stated that as part of that billing process, any overestimated bills were adjusted downward to reflect the actual amount of electric usage being lower than the estimated amount. Conversely, any underestimated bills were adjusted upward to reflect the actual amount of electric usage being higher than the estimated amount. Answer at 2. PPL also denied that it had failed to be responsive to Complainant's calls and inquiries. In its Answer, PPL provided detailed information with respect to the six accounts at issue. Finally, PPL contended that it does not have the burden of proving the accuracy of charges based solely on Complainant's demand.

On March 22, 2023, Charles E. Rainey, Chief Administrative Law Judge, issued an Order setting a mediation between the parties. The parties were unable to resolve their issues through mediation.

On May 1, 2023, pursuant to the Interim Order, PPL submitted a status report requesting the matter be set for hearing by the Commission's Office of Administrative Law

Judge (OALJ). On May 3, 2023, a telephonic hearing Notice was issued scheduling a hearing for June 21, 2023.¹

On June 8, 2023, an Order was issued directing Complainant to retain counsel pursuant to the Commissions regulations and cancelling the hearing of June 21, 2023, to afford Complainant an opportunity to do so.

On July 12, 2023, the undersigned sent an email to the Complainant and counsel for PPL, informing the Complainant that it was not in compliance with the June 8, 2023 Order.

On August 9, 2023, the undersigned sent a second email to the Complainant and counsel for PPL, informing the Complainant that if an attorney licensed to practice law in Pennsylvania or admitted to practice *pro hac vice* had not entered an appearance by August 23, 2023, the Complaint would be liable to dismissal for failure to prosecute and for failure to comply with an Order from the Judge.

On September 15, 2023, a further Order was issued rescheduling the hearing in this case for November 16, 2023. That Notice was served by email on the parties.

On September 25, 2023, PPL filed a Motion to Dismiss the Complaint, duly endorsed with a Notice to Plead, on the basis that Complainant had failed to comply with the Order of June 8, 2023, directing Complainant to retain counsel.

¹ A typographical error on the Hearing Notice indicates the date of the Hearing Notice to be April 3, 2023. But a review of the docket in this case reveals the Hearing Notice was issued and served on May 3, 2023.

On November 28, 2023, a telephonic hearing Notice was issued setting December 18, 2023, as a date for a prehearing conference in this matter. The Notice was served on the parties by email.

On December 18, 2023, a prehearing conference convened pursuant to Notice. Megan Rulli, Esquire, appeared on behalf of PPL. Complainant did not appear. Counsel for PPL renewed the request that the Complaint be dismissed based on failure to comply with the June 8, Order of the presiding officer and the failure of Complainant to appear at the hearing.

On January 9, 2024, the court reporting service filed a ten-page transcript of the hearing of December 18, 2023.

On January 10, 2024, a further telephonic hearing Notice was issued setting a prehearing conference for January 31, 2024. This Order was issued in error and was cancelled.

This matter is ready for adjudication.

FINDINGS OF FACT

1. The Complainant in this case is Jennifer Wiest/Eldridge Realty.
2. Respondent is PPL Electric Utilities Corporation, a Commission jurisdictional electric distribution company.
3. Respondent is a “public utility” as that term is defined at 66 Pa.C.S. § 102, as it was engaged in distributing electric energy in the Commonwealth of Pennsylvania for compensation.

4. On June 8, 2023, an Order was issued directing Complainant to retain counsel pursuant to the Commissions regulations at 52 Pa. Code § 1.21-1.23.

5. On September 25, 2023, PPL filed a Motion to Dismiss the Complaint, duly endorsed with a Notice to Plead, on the basis that Complainant had failed to comply with the Order of June 8, 2023, directing Complainant to retain counsel.

6. On December 18, 2023, a prehearing conference convened pursuant to Notice for the purpose of determining whether Complainant intended to procure counsel. Megan Rulli, Esquire, appeared on behalf of PPL. Complainant did not appear.

7. At the conference on December 18, 2023, PPL renewed its Motion to Dismiss the Complaint.

DISCUSSION

Commission regulations require a corporation to be represented by an attorney in an adversarial proceeding. 52 Pa. Code §§ 1.21-1.23. A complaint may be filed by a corporation not represented by an attorney. *Rock Street Realty c/o Marie Griglock v. PPL Gas Utils. Corp.*, Docket No. C-20078194 (Opinion and Order entered July 18, 2008). However, with the filing of an Answer, the proceeding becomes adversarial, and the corporation is then required to be represented by an attorney. *Id*; *see also, Snyderville Cmty. Dev. Corp. v. Phila. Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006). An officer of a corporation cannot represent the corporation at a hearing on the complaint in lieu of an attorney. *Moore v. I. Berman and Cross, Inc.*, 49 Pa.P.U.C. 427 (Sept. 17, 1975).

In the present case, Jennifer Wiest/Eldridge Realty, a corporation, filed a Complaint alleging that PPL had misbilled her company for electric service at six different locations. Complainant requested reimbursement for the alleged overcharges on estimated

bills and challenged PPL to prove the accuracy of the charges. Complainant also alleged that PPL had not been responsive to her verbal and written inquiries.

The Complaint was filed by Jennifer Wiest, who described herself as a “member” of Complainant on the signature line of the Complaint intended for “authorized employee or officer” of a business entity. Complaint ¶ 9. Respondent subsequently filed an Answer on March 21, 2023, denying that it had violated any provision of the Public Utility Code (Code) or regulation of the Commission. With the filing of the Answer, the proceeding became adversarial, and Complainant was required to be represented by an attorney. This was made clear in the Prehearing Order that I issued on June 8, 2023. No attorney entered an appearance on behalf of Complainant in this matter. Despite extensive efforts prior to the prehearing conference to determine Complainant’s intentions with respect to compliance with the Order of June 8, 2023, neither Ms. Wiest nor counsel for Complainant appeared at the conference on December 18, 2023.

A complaint may be dismissed for failure to comply with an administrative law judge’s order. *Snyderville Cmty. Dev. Corp. v. Phila. Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006); *Treffinger v. PPL Elec. Utils. Corp.*, Docket No. C-20027978 (Opinion and Order entered Mar. 3, 2003). A complaint may also be dismissed for failure to comply with Commission regulations requiring a corporation to be represented by an attorney in an adversarial proceeding. *Rock Street Realty c/o Marie Griglock v. PPL Gas Utils. Corp.*, Docket No. C-20078194 (Opinion and Order entered July 18, 2008). At the prehearing conference in the present case, PPL’s attorney moved to dismiss the Complaint because Complainant failed to comply with my prehearing Order and Commission regulations requiring it to be represented by an attorney. I will grant the motion and dismiss the Complaint because of Complainant’s failure to comply with my prehearing Order and Commission’s regulations requiring it to be represented by an attorney. Notwithstanding the above, since Ms. Wiest is *pro se* and her failure to obtain counsel for her business entity Eldridge Realty, is curable, I will dismiss the Complaint without prejudice.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S. § 701.
2. Commission regulations require a corporation to be represented by an attorney in an adversarial proceeding. 52 Pa. Code §§ 1.21-23.
3. The Prehearing Order issued on June 8, 2023, stated that if a party is a corporation, it must be represented by an attorney.
4. A complaint may be dismissed for failure to comply with an administrative law judge's order and/or Commission regulations requiring the complainant to be represented by an attorney. *Snyderville Cmty. Dev, Corp. v. Phila. Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006); *Rock Street Realty c/o Marie Griglock v. PPL Gas Utils. Corp.*, Docket No. C-20078194 (Opinion and Order entered July 18, 2008).
5. The Complaint is dismissed for failure to comply with the prehearing Order of June 8, 2023, and Commission regulations requiring Complainant to be represented by an attorney.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion to Dismiss the Complaint made by PPL Electric Utilities Corporation is granted.
2. That the Formal Complaint filed by Jennifer Wiest/Eldridge Realty in Jennifer Wiest/Eldrige Realty v. PPL Electric Utilities Corporation at Docket No. C-2023-3038575 is dismissed without prejudice.
3. That this case be marked closed.

Date: December 12, 2024

_____/s/_____
Dennis J. Buckley
Administrative Law Judge