

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Anna Marie Davis

v.

PPL Electric Utilities Corporation

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C-2024-3050994

INITIAL DECISION

Before
Gail M. Chiodo
Administrative Law Judge

INTRODUCTION

This decision dismisses without a hearing the Formal Complaint of an electric service customer, a limited liability company (LLC), because the LLC is not represented by an attorney, which is required to litigate a contested matter before this Commission.

HISTORY OF THE PROCEEDING

On August 30, 2024, Anna Marie Davis filed a Formal Complaint (Complaint) against PPL Electric Utilities Corporation (PPL or Company) with the Pennsylvania Public Utility Commission (Commission or PUC). In her Complaint, Ms. Davis requested a Commission payment arrangement. She also indicated that she was represented by counsel, M. Jacqueline Gross, Esquire. (Complaint ¶10).

On September 23, 2024, the Company timely filed an Answer. Through its Answer, the Company admitted that it issued a non-residential termination notice to the Complainant on July 22, 2024, but service has not been terminated since the filing of the Complaint. The Company also averred that the account at issue is a commercial account for the restaurant, Annie’s Farmhouse Bar & Grill. (Answer ¶ 4). The Company did not file any new matter or preliminary objections.

On October 2, 2024, a Hearing Notice was issued scheduling a telephone hearing for December 4, 2024, and assigning me as the presiding officer. On October 6, 2024, a Prehearing Order was issued advising the parties of various procedures that would govern the hearing. On November 20, 2024, I granted the Company’s informal request to me via email, and copying Ms. Davis, to continue the hearing. The Company indicated that it was not sure that Attorney Gross would be representing Ms. Davis.

By Hearing Notice dated November 25, 2024, the December hearing was continued and rescheduled for January 15, 2025, at 10:00 a.m.¹

On January 8, 2025, Attorney Gross emailed me, copying the Company and Ms. Davis, that she does not represent Ms. Davis on this matter because it involves a commercial account.² There was no need for Attorney Gross to withdraw her appearance, as she never entered her appearance or signed the Complaint, on behalf of the Complainant.

¹ A corrected Hearing Notice was issued the following day on November 26, 2024, which corrected minor typographical errors. The date and time of the Hearing, January 15, 2025, at 10:00 a.m., as well as the call-in information, remained the same as the previous Notice. This Notice, as well as all the Notices, were eServed on Ms. Davis.

² In her email, Attorney Gross identified herself as Staff Attorney for North Penn Legal Services.

By Hearing Notice issued on January 9, 2025, the hearing scheduled for January 15, 2025, was converted to a prehearing conference. I advised the parties via email that at this conference we would discuss whether Ms. Davis needs attorney representation and if so, whether she intends to obtain counsel. I explained that although it was clear that the account at issue concerned a commercial account for Annie's Farmhouse Bar & Grill, the record was unclear how the business was organized, whether, for example, as a corporation, LLC, partnership, or sole proprietorship.³

On January 15, 2025, at 10:00 a.m., the prehearing conference convened as scheduled. Alice A. Wade, Esquire, appeared on behalf of the Company. Ms. Davis did not appear. Therefore, the conference proceeded in Ms. Davis' absence. During the conference, attorney Wade stated that she confirmed that Annie's Farmhouse & Grill was organized as an LLC by Ms. Davis in 2022, with the same address at the account at issue, and with a Pennsylvania Corporations Bureau business entity number of 7519504.⁴

On January 17, 2025, the Commission issued my Order Directing Attorney Appearance on behalf of the Complainant. (January 2025 Order). In this Order, I initially noted that the failure to appear at a prehearing conference where the record does not reflect why the absence was unavoidable as in the instant case, has been held by the Commission as grounds to dismiss the Complaint. However, this Order explained that in the instant case, despite Ms. Davis' absence at the prehearing conference, she would be given an opportunity to obtain counsel, especially since there appears there was some effort by Ms. Davis to obtain counsel, albeit unsuccessfully. (January 2025 Order at 3).

³ A sole proprietor stands in the same position as an individual and thus would not require attorney representation. *Bureau of Investigation & Enforcement v. Ruffo*, Dkt. No. A-00122379 ((Opinion & Order entered Jan. 24, 2013).

⁴ See <https://file.dos.pa.gov/search/business> (last visited 1/15/2025); Tr. at 5-6.

Therefore, the January 2025 Order directed Ms. Davis to cause an attorney licensed in Pennsylvania to enter an appearance on behalf of the LLC and commercial account at issue, no later than February 7, 2025. This Order further stated that the Commission has long held that failure to comply with an order issued by an administrative law judge (ALJ) warrants dismissal of the complaint without a hearing.⁵ Finally, this Order also stated that the failure to have an attorney enter an appearance in this matter would result in the dismissal of the Complaint in its entirety without a hearing. (January 2025 Order, at 4).

To date, no attorney has entered an appearance on behalf of the LLC.

FINDINGS OF FACT

1. The Complaint was filed by Anna Marie Davis, member-owner of Annie's Farmhouse Bar & Grill, a Limited Liability Company. (Tr. at 5-6).

2. On August 30, 2024, Ms. Davis filed the Complaint on behalf of Annie's Farmhouse & Grill LLC seeking a Commission payment arrangement on the balance owed on the LLC's commercial electric account.

3. The Complainant elected to receive all Commission documents via eService. Complaint ¶ 9.

4. The service location is Annie's Farmhouse & Grill LLC at 31 Cottonwood Road, Bear Creek Township, Pennsylvania, 18702. (Complaint ¶ 1).

⁵ Citing *New Fizon Catering, Inc. v. PECO Energy Co.*, Dkt. No. C-2008-2065498 (Opinion and Order entered June 24, 2009).

5. The Respondent is PPL Electric Utilities Corporation, which provides electric service to Annie's Farmhouse Bar & Grill LLC as a commercial customer.

6. On September 23, 2024, PPL filed an Answer to the Complaint, averring that the account at issue is a commercial account for the restaurant Annie's Farmhouse Bar & Grill and as relief, requested that the Complaint be dismissed in its entirety.

7. On October 2, 2024, a Hearing Notice was issued scheduling a telephone hearing for December 4, 2024. The hearing notice provided that only individuals can represent themselves and all others must be represented by an attorney.

8. On October 6, 2024, a Prehearing Order was issued advising the parties of various procedures that would govern the hearing. This Order provided that only individuals can represent themselves and all others must be represented by an attorney.

9. On November 25, 2024, a Hearing Notice was issued which rescheduled the December 4, 2024 hearing for January 15, 2025, at 10:00 a.m.

10. On January 9, 2025, a hearing notice was issued converting the hearing into a prehearing conference for January 15, 2025, at 10:00 a.m.

11. All Notices and Prehearing Orders, including the January 9, 2025, notice, were successfully eServed on Ms. Davis.

12. On January 15, 2025, the prehearing conference was held as scheduled.

13. At the prehearing conference, no attorney appeared on behalf of the Annie's Farmhouse Bar & Grill LLC, and Ms. Davis did not appear at the conference.

14. On January 17, 2025, an Order was issued directing Ms. Davis to cause an attorney licensed in Pennsylvania to enter an appearance on behalf of Annie's Farmhouse Bar & Grill LLC, regarding the commercial account at issue, no later than February 7, 2025, or this matter would be dismissed without a hearing.

15. No attorney licensed to practice in Pennsylvania has filed a notice of appearance on behalf of the Complainant.

DISCUSSION

Ms. Davis, on behalf of Annie's Farmhouse Bar & Grill LLC, filed a Complaint requesting a Commission-issued payment arrangement for the outstanding balance on the LLC's commercial account. However, Ms. Davis has not caused an attorney to enter an appearance on behalf of the LLC to litigate this contested matter, as directed in the Interim Order issued on January 17, 2025. Further, Ms. Davis failed to appear at a prehearing conference on January 15, 2025, to discuss the LLC's requirement for attorney representation and whether the LLC was trying to obtain counsel.

Pursuant to the PUC's regulations, individuals may represent themselves or be represented by an attorney. However, in an adversarial proceeding, if a party is not an individual, such as a limited liability company, the party must have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *pro hac vice* to represent the party at the hearing. 52 Pa. Code §§ 1.21-23. A complaint proceeding becomes "adversarial" upon the filing of an Answer, which occurred in the instant case.

New Fizon Catering, Inc. v. PECO Energy Co., Docket. No. C-2008-2065498 (Opinion and Order entered June 24, 2009); *see also* 52 Pa. Code § 1.8.

The Commission has explained how the attorney representation requirement implicates the unauthorized practice of law as follows:

It is well-settled in Commission practice that participation in a formal adversarial proceeding before this Commission constitutes the practice of law. *See, e.g., Lesley A. Scheaffer for Leslie W. Scheaffer v. Pa. PUC*, Docket No. F-2016-2577647 (Opinion and Order entered April 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. 52 Pa. Code § 5.21. 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 that is prohibited by Section 2524 of the Judicial Code, 42 Pa. C.S. § 2524. *See, Kohlman v. Western Pennsylvania Hospital*, 652 A.2d 849 (Pa. Super. 1994), *alloc. denied*, 541 Pa. 640, 663 A.2d 692 (1995); and *Westmoreland County v. Rodgers, et al.*, 693 A.2d 996 (Pa. Cmwlth. 1997), *alloc. denied*, 717 A.2d 536 (Pa. 1998).

Angle v. Metropolitan Edison Co., Dkt. No. F-2018-3006055 at 9-10 (Opinion and Order entered Dec. 19, 2019); *see also Hineman v. Duquesne Light Co.*, Dkt. No. C-2023-3044412 (Final Order entered Jan. 10, 2025) (upholding the ALJ’s Initial Decision granting the utility’s motion for judgment on the pleadings for the failure of an LLC to have attorney representation in a contested matter).

Pursuant to the Commission’s regulations, the filing of a formal complaint entitles the complainant to a formal hearing “except that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public

interest.” 52 Pa. Code § 5.21(d). A hearing is not necessary in this matter since the LLC is without attorney representation which is required to litigate this contested matter.

Accordingly, the Complaint will be dismissed.

CONCLUSIONS OF LAW

1. In an adversarial proceeding, a limited liability company must have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *pro hac vice*, to represent it at the hearing. 52 Pa. Code §§ 1.21-23.

2. A complaint proceeding becomes “adversarial” upon the filing of an Answer. *New Fizon Catering, Inc. v. PECO Energy Co.*, Dkt. No. C-2008-2065498 (Opinion and Order entered June 24, 2009); 52 Pa. Code § 1.8.

3. It is well-settled in Commission practice that participation in a formal adversarial proceeding before this Commission constitutes the practice of law *Angle v. Metropolitan Edison Co.*, Dkt. No. F-2018-3006055 (Opinion and Order entered Dec. 19, 2019).

4. The filing of a formal complaint entitles the complainant to a formal hearing except that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. 52 Pa. Code § 5.21(d).

5. A hearing is not necessary because the Complainant is without the required attorney representation to litigate this contested matter.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Anna Marie Davis, on behalf of Annie's Farmhouse Bar & Grill LLC against PPL Electric Utilities Corporation, at Docket No. C-2024-3050994, is hereby dismissed.
2. That the docket at Docket No. C-2024-3050994 be marked closed.

Date: April 1, 2025

/s/
Gail M. Chiodo
Administrative Law Judge