

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Shane Tracy	:	
	:	
v.	:	C-2024-3052319
	:	
Duquesne Light Company	:	

**INITIAL DECISION**

Before  
Emily I. DeVoe  
Administrative Law Judge

**INTRODUCTION**

This decision dismisses the Formal Complaint due to Complainant’s failure to comply with Interim Orders dated January 27, 2025 and April 1, 2025; appear at conferences held on February 10, 2025 and May 14, 2025; and generally, prosecute the Complaint.

**HISTORY OF THE PROCEEDING**

On November 27, 2024, Shane Tracy (Mr. Tracy or Tenant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Duquesne Light Company (DLC). Mr. Tracy checked the “other” box, writing,

I am a new Duquesne Light customer. I never had service with Duquesne Light. I recently started a new business at 633 Smithfield Street, Pittsburgh, PA 15222. I am trying

to get electric service there. Unfortunately, Duquesne Light is not giving me service. They are asking me to pay the previous tenant or other tenant bills which have nothing to do with me. I really need to get service on.

Complaint ¶ 4.

As relief, Mr. Tracy requested that DLC provide him service as a new customer and not discriminate against him as a minority new business owner.

Complaint ¶ 5. Regarding service by the Commission, Mr. Tracy requested he be served by email, checking the box next to this option.<sup>1</sup> Complaint ¶ 9.

On December 17, 2024, DLC filed an Answer and New Matter, denying the material averments in the Complaint. In its Answer, DLC denied that the Complaint involves an application for service under the name of Shane Tracy and averred it pertains to an application for service to open a commercial account at 633 Smithfield Street, Pittsburgh, PA 15222 (service location) under the business name of Panther Pitt Oakland, LLC (Panther Pitt Oakland).

DLC explained that service to the service location is currently shut off and that Mr. Tracy applied to restart service for a commercial account at the service location

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<sup>1</sup> By checking this box, Mr. Tracy agreed to the following:

You agree to receive all documents by email (using the email address you provided on page 1). Keep in mind, you will only be able to receive documents by email from the PUC. You will not be able to email documents to the Commission.

To file documents, you must submit them through an eFiling account or mail them. To create an eFiling account, visit <https://efiling.puc.gov/>.

Complaint ¶ 9.

under the name Panther Pitt Oakland on November 11, 2024. Answer ¶ 4. The Company noted it informed Mr. Tracy that in order to restore service to the service location, Mr. Tracy must pay a security deposit as well as certain outstanding balances for other commercial accounts associated with Mr. Tracy. *Id.* The Company averred it is currently investigating numerous closed accounts related to Mr. Tracy, the service location, and other commercial enterprises that have opened and closed without payment for service, leaving thousands of dollars in unpaid balances. As such, DLC denied that it is asking him to pay bills belonging to previous tenants and denied that Mr. Tracy has never had service with DLC before. *Id.*

In its New Matter, DLC argued that Mr. Tracy’s Complaint involves an application for service for a commercial account in the name of Panther Pitt Oakland, LLC, and, as such, Mr. Tracy is required to have an attorney represent Panther Pitt Oakland in this proceeding. New Matter ¶¶ 2, 3, 4.

The New Matter included a notice to plead, directing Mr. Tracy to file a response within twenty days.

Mr. Tracy did not file a response to the New Matter.

On January 22, 2024, the Commission issued a Hearing Notice, scheduling an evidentiary hearing for March 11, 2025. The Hearing Notice provided the parties with the Toll-Free Bridge Number and the PIN to call and participate in the telephonic hearing. The Hearing Notice further stated as follows:

**FAILURE TO APPEAR:** You may lose the case if you do not take part in this hearing and present evidence on the issue(s) raised. Your case may be dismissed “with prejudice” which means that you will be barred from filing another complaint raising the same claim(s) and issue(s) presented in the dismissed complaint.

**CONTINUANCES.** You may request a continuance of the hearing if you have a good reason. All continuances will be granted only for good cause. To request a continuance, you must submit a written request (a “motion”) at least five (5) days before the hearing. Your motion should include: 1) The case name, number, and hearing date; 2) The reason for the request; and 3) Whether the other party agrees (or if you do not know).

**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* January 22, 2025, Hearing Notice, p. 2.

Also on January 22, 2025, I issued a Prehearing Order, which reminded the parties of the date and time of the hearing. The Prehearing Order also stated the potential consequences if a party failed to appear at the hearing. Additionally, the Prehearing Order informed the parties about the applicable procedural rules and included the procedure to follow for requesting hearing continuances.

Both the January 22, 2025 Hearing Notice and the January 22, 2025 Prehearing Order were emailed to Complainant in the ordinary course of the Commission’s business to the email address that Complainant listed on his Complaint. Neither the Hearing Notice nor the Prehearing Order were returned to the Commission as undeliverable.

On November 11, 2024, about two weeks before Mr. Tracy filed his Complaint, Pete Bandhu (Mr. Bandhu or Landlord) filed a Formal Complaint with the Commission against DLC regarding service at his rental property located at the service location (Bandhu Complaint). Mr. Bandhu checked the box on the Complaint form indicating the utility was threatening to shut off his service or had already done so, as well as the “other” box, writing, “My tenant vacated the premises at 633 Smithfield Street, Pittsburgh PA 15222 and the electric got shut off. I am the landlord and am trying to get the service back on. The electric company is not turning on the power service. They are not serving minority customers like us.” Bandhu Complaint ¶ 4. As relief, Mr. Bandhu requests that DLC turn on the power to the service location. Bandhu Complaint ¶ 5. Regarding service by the Commission, Mr. Bandhu selected email, checking the box and initialing next to this option. Bandhu Complaint ¶ 9.

On December 2, 2024, DLC filed an Answer to the Bandhu Complaint. DLC admitted that service to the service location is currently shut off, and that Mr. Bandhu applied to restart service for a commercial account on November 8, 2024. The Company averred that to restore service, Mr. Bandhu must pay \$13,889.66 which consists of: (1) \$10,839.66 for the outstanding balances accrued within the past four years on commercial accounts established by Mr. Bandhu; (2) a \$2,800.00 security deposit; and (3) a \$250.00 reconnect fee. DLC further admitted that service to the service location has been shut off since November 7, 2024, when an individual contacted the Company stating that service had been fraudulently established under the name Paris Navy LLC. DLC denied that the Company is refusing to restore service to the service location because he is a minority or that the Company’s requirements for payment are acts of discrimination against him. The Company averred it has attempted to be responsive to all contacts from the Complainant and has treated the Complainant in the same fair and respectful manner as it does all its customers.

On December 4, 2024, the Commission issued a Hearing Notice, scheduling an evidentiary hearing on the Bandhu Complaint on February 10, 2025.

On December 5, 2024, I issued a Prehearing Order in the Bandhu matter at C-2024-3052041.

On January 17, 2025, DLC filed a certificate of service evidencing its service of interrogatories and requests for production of documents upon Mr. Bandhu.

#### January 27, 2025 Interim Order

After reviewing both filings in the Tracy matter and the Bandhu matter, I had concerns regarding whether (1) these two matters should be consolidated given they related to the same property and Mr. Tracy and Mr. Bandhu were requesting the same relief, and (2) Mr. Tracy's Complaint should be amended to list Panther Pitt Oakland as the Complainant, rather than Mr. Tracy as an individual.

Therefore, on January 27, 2025, I issued an Interim Order directing Mr. Tracy to: (1) file an amended Complaint, if necessary, and (2) cause counsel enter an appearance or show cause why he is not required to be represented by counsel.

I further noted that both cases (at Docket No. C-2024-3052041 and Docket No. C-2024-3052319) involve service to the same service location, explaining that one Complaint is filed by the Landlord and the other is filed by the Tenant. I noted that both Mr. Bandhu and Mr. Tracy claim DLC is requesting they make payments on prior outstanding account balances related to the service location to restore service. I explained that it appears there may be substantial overlap between these two proceedings, which may warrant consolidation for the sake of judicial economy, as well as to avoid

inconsistent findings of fact and incompatible resolutions if the two complaints were heard and decided separately.

Therefore, I directed DLC, Mr. Bandhu, and Mr. Tracy/Panther Pitt Oakland to show cause why the proceeding at Docket No. C-2024-3052041 should not be consolidated with Docket No. C-2024-3052319.

In consideration of the possible consolidation of these matters, I converted the proceeding scheduled in the Bandhu matter at Docket No. C-2024-3052041 on February 10, 2025, to a prehearing conference. Furthermore, I scheduled a prehearing conference in the Tracy matter at Docket No. C-2024-3052319 to occur concurrently on February 10, 2025. I directed the parties to be prepared at the February 10, 2025 conference to discuss the appropriateness of consolidating these matters, the necessity of Mr. Tracy being represented by counsel and/or amending his Complaint, as well as any other outstanding issues. I noted that the evidentiary hearing in the Tracy matter at Docket No. C-2024-3052319 would remain scheduled for March 11, 2025.

On January 28, 2025, the Commission issued a Prehearing Conference Notice, scheduling the prehearing conference in the Tracy matter for February 10, 2025.

Both the January 27, 2025 Interim Order and January 28, 2025 Notice were emailed to Complainant in the ordinary course of the Commission's business to the email address that Complainant listed on his Complaint. Neither were returned to the Commission as undeliverable.

Mr. Tracy did not make any filing in response to the January 27, 2025, Interim Order.

DLC's Discovery Served Upon Mr. Tracy, The February 10, 2025, Prehearing Conference, and DLC's Motion to Continue March 11, 2025 Hearing

On February 6, 2025, DLC filed a certificate of service evidencing its service of Interrogatories and Requests for Production of Documents (discovery requests) and Requests for Admission on Mr. Tracy. The certificate of service indicates that DLC served Mr. Tracy by both email and First-Class Mail at the same addresses that appear on his Complaint.

The February 10, 2025 prehearing conference convened as scheduled. Megan Rulli, Esq., appeared on behalf of the Company. Neither Mr. Bandhu nor Mr. Tracy were present. Mr. William Bercik, Esq., was present and stated on the record that he represented Mr. Bandhu. Mr. Bercik explained he was familiar with Mr. Tracy, but he had not been retained to represent Mr. Tracy and was not sure he could be due to a potential conflict of interest. Tr. 12.

On March 4, 2025, DLC filed a Motion to Continue the hearing scheduled for Mr. Tracy's Complaint for March 11, 2025. DLC explained Mr. Tracy had not caused counsel to enter an appearance or shown that he is not required to be represented by an attorney, and Mr. Tracy had not responded to DLC's discovery requests served on him on February 6, 2025. Further, DLC explained that it contacted Mr. Tracy on February 27, 2025, regarding the outstanding discovery responses. During that conversation, DLC averred that Mr. Tracy indicated that his interests were being represented by Mr. Bercik in this proceeding. DLC noted that it contacted Mr. Bercik on February 28, 2025, to confirm whether he was representing Mr. Tracy and to inquire about the status of the outstanding discovery requests. DLC explained that Mr. Bercik indicated that he had not yet been engaged to represent Mr. Tracy before the Commission, but that he would consult with Mr. Tracy regarding representation and the Company's outstanding discovery requests.

On March 10, 2025, I issued an Interim Order granting DLC's Motion to Continue, and the Commission issued a Hearing Cancellation Notice, cancelling the evidentiary hearing for March 11, 2025.

On March 13, 2025, the Company filed a Motion to Dismiss the Complaint filed by Mr. Tracy. The Company argues Mr. Tracy failed to comply with my January 27, 2025, Interim Order by failing to: (1) file an amended complaint, or (2) cause counsel to enter an appearance, or show cause why he is not required to be represented by counsel. The Company further maintains Mr. Tracy failed to serve objections or responses to the discovery requests, which were due February 17, 2025, and February 26, 2025, respectively. Finally, DLC points out that Mr. Tracy failed to attend the prehearing conference on February 10, 2025.

The Motion to Dismiss included a Notice to Plead directing Mr. Tracy to file a response within 20 days.

Mr. Tracy did not file a response to the Motion to Dismiss.

In consideration of all the procedural history in this matter, and to give Mr. Tracy every opportunity to respond to my January 27, 2025, Interim Order and the Motion to Dismiss orally on the record, I determined it was appropriate to set this matter for a status conference.

On April 1, 2025, I issued an Interim Order, directing that a status conference be scheduled and holding the Motion to Dismiss in abeyance pending the status conference. My Interim Order read, in pertinent part,

*If Mr. Tracy appears at the status conference, I will hear arguments from the parties regarding: (1) the necessity of Mr. Tracy filing an amended complaint and/or being represented by counsel in this matter, (2) the outstanding discovery, and (3) the appropriateness of consolidating this matter with the matter at Docket No. C-2024-3052041, Bandhu v. DLC.*

*If Mr. Tracy fails to appear at the status conference, I will pull the Motion to Dismiss out of abeyance and issue an Initial Decision or Interim Order disposing of DLC's Motion to Dismiss.*

*April 1, 2025 Interim Order, pp. 6-7.*

The Ordering Paragraphs of the April 1, 2025 Interim Order read as follows:

THEREFORE,

IT IS ORDERED:

1. That the Motion to Dismiss the Complaint of Shane Tracy filed by Duquesne Light Company at C-2024-3052319 is held in abeyance pending the convening of a status conference.
2. That a status conference be scheduled in this matter.
3. That Shane Tracy appear at the status conference and be prepared to discuss the following matters: (1) the necessity of Mr. Tracy filing an amended complaint and/or being represented by counsel in this matter, (2) the outstanding discovery, and (3) the appropriateness of

consolidating this matter with the matter at Docket No. C-2024-3052041, Bandhu v. DLC.

4. That Shane Tracy, if represented by counsel in this matter, shall cause counsel to enter his or her appearance at least five business days prior to the status conference.
5. That this matter may be dismissed if Shane Tracy fails to appear at the status conference.
6. That Mr. Tracy be served a copy of this Interim Order by both email at [djshane-tracy@gmail.com](mailto:djshane-tracy@gmail.com) and by First-Class Mail at 1135 Evergreen Avenue, Millvale, PA 15209.

On April 1, 2025, the Commission issued a Notice, scheduling a Status Conference for May 14, 2025. The Notice provided the parties with the Toll-Free Bridge Number and the PIN to call and participate in the telephonic conference. The Notice further stated as follows:

**FAILURE TO APPEAR:** You may lose the case if you do not take part in this hearing and present evidence on the issue(s) raised. Your case may be dismissed “with prejudice” which means that you will be barred from filing another complaint raising the same claim(s) and issue(s) presented in the dismissed complaint.

**CONTINUANCES.** You may request a continuance of the hearing if you have a good reason. All continuances will be granted only for good cause. To request a continuance, you must submit a written request (a “motion”) at least five (5) days before the hearing. Your motion should include: 1) The case name, number, and hearing date; 2) The reason

for the request; and 3) Whether the other party agrees (or if you do not know).

**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 April 1, 2025 Notice, pg. 2.

Both the April 1, 2025, Interim Order and the April 1, 2025 Notice were served on Complainant by First-Class Mail at the address he listed on the Complaint as his mailing address and were emailed to Complainant. None of the copies served on him were returned to the Commission as undeliverable.

On May 14, 2025, I convened the conference as scheduled. Attorney Rulli was again present on behalf of the Company. Complainant was not present. I advised Ms. Rulli that, consistent with the April 1, 2025 Interim Order, I would pull the Company's Motion to Dismiss out of abeyance and issue an appropriate order or decision.

On June 9, 2025, I issued an Interim Order closing the record.

This matter is now ripe for adjudication. This decision grants the Respondent's Motion to Dismiss the Complaint.

#### FINDINGS OF FACT

1. The Complainant is Shane Tracy.

2. The Respondent is Duquesne Light Company.
3. On November 27, 2024, Complainant filed a Formal Complaint against Respondent.
4. On December 17, 2024, Respondent filed an Answer and New Matter to the Complaint.
5. The New Matter included a notice to plead, directing Mr. Tracy to file a response within twenty days.
6. Mr. Tracy did not file a response to the New Matter.
7. On January 22, 2025, a Call-In Telephone Hearing Notice was served on Complainant assigning this matter to me and scheduling an initial telephonic hearing for March 11, 2025, at 10:00 a.m.
8. The January 22, 2025 Notice provided the parties with the Toll-Free Bridge Number and the PIN to call and participate in the telephonic hearing.
9. On January 22, 2025, a Prehearing Order was served on Complainant providing additional information to the parties regarding the hearing.
10. Both the January 22, 2025 Hearing Notice and January 22, 2025, Prehearing Order were served on Complainant by email at the email address Complainant listed on his Complaint.

11. Neither the January 22, 2025 Hearing Notice nor the January 22, 2025 Prehearing Order were returned as undeliverable.

12. On January 27, 2025, I issued an Interim Order directing Mr. Tracy to: (1) file an amended Complaint, if necessary, and (2) cause counsel enter an appearance or show cause why he is not required to be represented by counsel.

13. The January 27, 2025, Interim Order also directed Mr. Tracy to show cause why his case at Docket No. C-2024-3052319 should not be consolidated with the Bandhu Complaint at Docket No. C-2024-3052041.

14. The January 27, 2025 Interim Order also directed that a prehearing conference be scheduled in the Tracy matter to occur concurrently with a prehearing conference in the Bandhu matter on February 10, 2025.

15. On January 28, 2025, the Commission issued a Prehearing Conference Notice, scheduling the prehearing conference in the Tracy matter for February 10, 2025, and providing the parties with the Toll-Free Bridge Number and the PIN to call and participate in the conference.

16. The January 27, 2025 Interim Order and January 28, 2025 Notice were emailed to Complainant at the email address that Complainant listed on his Complaint.

17. Neither the January 27, 2025 Interim Order nor the January 28, 2025 Notice were returned to the Commission as undeliverable.

18. Mr. Tracy did not make any filing in response to the January 27, 2025, Interim Order.

19. On February 6, 2025, DLC filed a certificate of service evidencing its service of discovery requests on Mr. Tracy. The certificate of service indicates that DLC served Mr. Tracy by both email and First-Class Mail at the same addresses that appear on his Complaint.

20. Mr. Tracy did not appear at the February 10, 2025, conference.

21. On March 4, 2025, DLC filed a Motion to Continue the hearing scheduled for Mr. Tracy's Complaint on March 11, 2025, due to outstanding discovery and Mr. Tracy's statement to DLC that Mr. Bercik was representing him in this matter.

22. On March 10, 2025, I issued an Interim Order granting DLC's Motion to Continue, and the Commission issued a Hearing Cancellation Notice, cancelling the evidentiary hearing for March 11, 2025.

23. On March 13, 2025, the Company filed a Motion to Dismiss the Complaint filed by Mr. Tracy, arguing that Mr. Tracy failed to comply with the January 27, 2025, Interim Order by failing to: (1) file an amended complaint, or (2) cause counsel to enter an appearance, or show cause why he is not required to be represented by counsel.

24. In its Motion to Dismiss, the Company further argued Mr. Tracy failed to serve objections or responses to the discovery requests, which were due by February 17, 2025, and February 26, 2025, respectively.

25. The Motion to Dismiss included a Notice to Plead directing Mr. Tracy to file a response within 20 days.

26. Mr. Tracy did not file a response to the Motion to Dismiss.

27. On April 1, 2025, I issued an Interim Order, directing that a status conference be scheduled and holding the Motion to Dismiss in abeyance pending the status conference.

28. The April 1, 2025 Interim Order read, in pertinent part,

*If Mr. Tracy appears at the status conference, I will hear arguments from the parties regarding: (1) the necessity of Mr. Tracy filing an amended complaint and/or being represented by counsel in this matter, (2) the outstanding discovery, and (3) the appropriateness of consolidating this matter with the matter at Docket No. C-2024-3052041, Bandhu v. DLC.*

*If Mr. Tracy fails to appear at the status conference, I will pull the Motion to Dismiss out of abeyance and issue an Initial Decision or Interim Order disposing of DLC's Motion to Dismiss.*

*April 1, 2025 Interim Order, pp. 6-7.*

29. The April 1, 2025 Interim Order directed Mr. Tracy to: (1) appear at the status conference and be prepared to discuss the following matters: (a) the necessity of Mr. Tracy filing an amended complaint and/or being represented by counsel in this matter, (b) the outstanding discovery, and (c) the appropriateness of consolidating this matter with the matter at Docket No. C-2024-3052041, Bandhu v. DLC; and (2) if represented by counsel in this matter, cause counsel to enter his or her appearance at least five business days prior to the status conference.

30. The April 1, 2025 Interim Order explicitly stated, "this matter may be dismissed if Shane Tracy fails to appear at the status conference."

31. On April 1, 2025, the Commission issued a Notice, scheduling a Status Conference for May 14, 2025, providing the parties with the Toll-Free Bridge Number and the PIN to call and participate in the telephonic conference.

32. Both the April 1, 2025 Interim Order and April 1, 2025 Notice were served on Complainant by First-Class Mail at the mailing address listed on his Complaint as well as by email at the email address that Complainant listed on his Complaint.

33. No copies of the April 1, 2025 Interim Order nor the April 1, 2025 Notice served on Complainant were returned to the Commission as undeliverable.

34. Complainant failed to appear and participate in the conference on May 14, 2025.

35. At the conference, consistent with the April 1, 2025 Interim Order, the Company's Motion to Dismiss was pulled from abeyance.

36. On June 9, 2025, an Interim Order was issued closing the record.

37. Complainant has not contacted the Commission to explain why his failure to appear at the February 10, 2025 conference or the May 14, 2025 conference was unavoidable.

### DISCUSSION

In its Motion to Dismiss, DLC argues the Complaint should be dismissed because Complainant failed to appear at conferences on February 10, 2025, and May 14,

2025; failed to comply with Interim Orders dated January 27, 2025, and April 1, 2025; and has generally failed to participate in these proceedings to pursue the Complaint.

### **Complainant's Failure to Appear**

Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984). This due process requirement is satisfied when the parties are provided notice and the opportunity to be heard. *Id.*

The record shows that Complainant was provided notice and the opportunity to be heard, not once, but twice. On January 27, 2025, I issued an Interim Order directing, *inter alia*, that a prehearing conference be scheduled in the Tracy matter to occur concurrently with a prehearing conference in the Bandhu matter on February 10, 2025. The Interim Order detailed the purpose of the conference and laid out the issues to be discussed, specifically, the necessity of Mr. Tracy filing an amended Complaint and/or being represented by counsel in this matter, as well as the appropriateness of consolidation of the Tracy matter with the Bandhu matter.

On January 28, 2025, the Commission issued a Prehearing Conference Notice, scheduling the prehearing conference in the Tracy matter for February 10, 2025, and providing the parties with the Toll-Free Bridge Number and the PIN to call and participate in the conference. Further, the Notice provided information regarding how to request a continuance.

Both the January 27, 2025 Interim Order and January 28, 2025 Notice were emailed to Complainant at the email address that Complainant listed on his Complaint. Neither the January 27, 2025 Interim Order nor the January 28, 2025 Notice were returned to the Commission as undeliverable. Both the January 27, 2025 Interim Order

and were electronically served to the email address provided by Complainant to the Commission. Neither was returned to the Commission as undeliverable. Accordingly, it must be presumed that these documents sent to Complainant were received by Complainant. *Skow v. Metro. Edison Co.*, Docket No. F-2023-3042228 (Final Order entered May 7, 2024) (*Skow*); *Hu v. PECO Energy Co.*, Docket No. C-2019-3012075 (Order entered Dec. 19, 2019) (*Hu*); *Zirkel v. Phila. Gas Works*, Docket No. C-2016-2561176 (Final Order entered Apr. 7, 2017) (*Zirkel*); *Morella v. PECO Energy Co.*, Docket No. C-2016-2553416 (Final Order entered Jan. 31, 2017) (*Morella*).

Although Complainant failed to appear on February 10, 2025, a second conference was scheduled after DLC filed a Motion to Dismiss the Complaint. Although Complainant did not file a response to the Motion to Dismiss, well-established Commission precedent tends to afford unrepresented complainants the opportunity to orally set forth their cases on the record and cautions against dismissing cases on a preliminary basis. *Carlock v. The United Tel. Co. of Pa.*, Docket No. F-00163617 (Opinion and Order entered July 14, 1993).

Therefore, on April 1, 2025, I issued an Interim Order, directing that a status conference be scheduled and holding the Motion to Dismiss in abeyance pending the status conference.

Again, the purpose of the conference was explained in detail. I directed Mr. Tracy to: (1) appear at the status conference and be prepared to discuss the following matters: (a) the necessity of Mr. Tracy filing an amended complaint and/or being represented by counsel in this matter, (b) the outstanding discovery, and (c) the appropriateness of consolidating this matter with the matter at Docket No. C-2024-3052041, *Bandhu v. DLC*.” *April 1, 2025 Interim Order*, pp. 6-7. Further, I explained the consequences of Mr. Tracy’s failure to appear. I explained, “*If Mr. Tracy fails to appear at the status conference*, I will pull the Motion to Dismiss out of abeyance and

issue an Initial Decision or Interim Order disposing of DLC's Motion to Dismiss." *Id.* The Ordering Paragraphs explicitly stated that, "[T]his matter may be dismissed if Shane Tracy fails to appear at the status conference."

On April 1, 2025, the Commission issued a Notice, scheduling a Status Conference for May 14, 2025, providing the parties with the Toll-Free Bridge Number and the PIN to call and participate in the telephonic conference. The Notice also provided the parties with the Toll-Free Bridge Number and the PIN to call and participate in the conference. Further, the Notice provided information regarding how to request a continuance.

Both the April 1, 2025 Interim Order and April 1, 2025 Notice were served on Complainant by First-Class Mail at the mailing address listed on his Complaint as well as by email at the email address that Complainant listed on his Complaint. None of the copies of the April 1, 2025 Interim Order nor the April 1, 2025 Notice served on Complainant were returned to the Commission as undeliverable. Notice served by email in the ordinary course of business on a complainant who has elected to receive such service, with no indication it is undeliverable, is presumed to have been received by the complainant. *Skow; Hu; Zirkel; Morella*. Further, notice served in the ordinary course of business on a complainant by First-Class Mail, without being returned as undeliverable, is presumed to have been received by the complainant. *Berkowitz v. Mayflower Sec., Inc.*, 317 A.2d 584 (Pa. 1974); *Meierdierck v. Miller*, 147 A.2d 406 (Pa. 1959); *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. 1997); *Judge v. Celina Mut. Ins. Co.*, 449 A.2d 658 (Pa. Super. 1982).

Again, Complainant failed to appear at the scheduled conference on May 14, 2025.

After being notified, a party who fails to appear at a scheduled hearing shall be deemed to have waived the opportunity to participate in the hearing. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a). Complainant had notice of the conferences and an opportunity to be heard in this proceeding, but, despite my explanations of the purposes of the conferences and the consequences for failing to appear, Mr. Tracy chose not to participate. Therefore, Complainant's due process rights have been fully protected. *Sentner v. Bell Tel. Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered Oct. 25, 1993).

### **Complainant's Failure to Comply with Interim Orders**

DLC made averments in its Answer and New Matter suggesting that Mr. Tracy's Complaint should list his company as the complainant, rather than Mr. Tracy as an individual. It averred Mr. Tracy's Complaint involved his application for commercial service at the service location under the name of Panther Pitt Oakland, LLC. If the account Mr. Tracy wishes to open with DLC is in fact a commercial account in the name of Panther Pitt Oakland, LLC, there is a question as to whether Mr. Tracy has standing to pursue a Complaint and seek relief on behalf of this corporate entity. On January 27, 2025, I issued an Interim Order directing Mr. Tracy to: (1) file an amended Complaint, if necessary, and (2) cause counsel enter an appearance or show cause why he is not required to be represented by counsel.

Mr. Tracy's Complaint is substantially similar to that filed by Mr. Bandhu at Docket No. C-2024-3052041, with both Mr. Tracy and Mr. Bandhu requesting that service be established at the service location. Therefore, I explained, "it appears there may be substantial overlap between these two proceedings which may warrant consolidation for the sake of judicial economy, as well as to avoid inconsistent findings of fact and incompatible resolutions if the two Complaints were heard and decided separately." The January 27, 2025 Interim Order directed Mr. Tracy to show cause why

his case at Docket No. C-2024-3052319 should not be consolidated with the Bandhu Complaint at Docket No. C-2024-3052041.

Despite my clear directives to (1) cause counsel to enter an appearance or show cause why he is not required to be represented by counsel and (2) show cause why the two complaints should not be consolidated, Mr. Tracy made no filing in response to the January 27, 2025 Interim Order, thus violating it.

The April 1, 2025 Interim Order directed Mr. Tracy to: (1) appear at the status conference and be prepared to discuss the following matters: (a) the necessity of Mr. Tracy filing an amended complaint and/or being represented by counsel in this matter, (b) the outstanding discovery, and (c) the appropriateness of consolidating this matter with the matter at Docket No. C-2024-3052041, *Bandhu v. DLC*; and (2) if represented by counsel in this matter, cause counsel to enter his or her appearance at least five business days prior to the status conference.

Despite my order to appear at the May 14, 2025 conference, Mr. Tracy did not, thus violating the April 1, 2025 Interim Order.

The Commission has held that parties must comply with the orders of an administrative law judge, and a complainant's failure to do so is a sufficient basis to support dismissal of the matter. *Snyderville Cmty. Dev. Corp. v. Phila. Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006).

In this case, the issue regarding whether Mr. Tracy may appropriately move forward on the Complaint as a *pro se* individual or whether the Complaint should be amended to list Panther Pitt Oakland, LLC as the Complainant, which would require Mr. Tracy to retain counsel to represent Panther Pitt Oakland, remains unresolved. This

is a preliminary matter that needs to be resolved before Mr. Tracy can be permitted to continue to pursue the Complaint.

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 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.

A non-attorney owner/operator of a limited liability corporation may file a complaint, but, once an answer is filed, the limited liability corporation must thereafter be represented by counsel. *Cars R Us c/o Holman Copeland v. Phila. Gas Works*, Docket No. C-2008-2033437 (Opinion and Order entered Feb. 4, 2010). The absence of an attorney where one is required deprives the Commission of jurisdiction to adjudicate the matter. *Scheaffer v PPL Elec. Utils. Corp.*, Docket No. F-2016-2577647 (Opinion and Order entered Apr. 3, 2018).

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.

*Simon v. Franklin Water Co.*, Docket No. C-00956589 (Opinion and Order entered Jan. 29, 1996) (Statement of Vice Chairman Lisa Crutchfield at p. 2 dated Jan. 25, 1996).

If Mr. Tracy is seeking relief on behalf of a limited liability company, the Commission's regulations may require him to amend his Complaint to name Panther Pitt Oakland, LLC as the complainant and retain counsel to represent it. Unfortunately, Mr. Tracy has failed to appear at two conferences and respond to two Interim Orders that specifically raise this issue. Mr. Tracy has been afforded multiple opportunities to address this matter, both in writing and orally at a conference, but has failed to provide any information or legal argument on the matter.

The Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary to the public interest. 66 Pa.C.S. § 703(b); 52 Pa. Code § 5.21(d). Unless Mr. Tracy engages in the Commission's efforts to resolve this issue and establish whether the Complaint is properly filed by Mr. Tracy as a *pro se* individual, the matter cannot move forward to an evidentiary hearing.

Both parties have due process rights that must be protected. To proceed to an evidentiary hearing in this matter without resolving the issue of whether the Complaint is properly filed by Mr. Tracy as a *pro se* individual, would result in the denial of Respondent's due process rights. It would cause the Company to incur costs

related to hearing preparation and attorney's fees for a hearing that may not be appropriate to convene in the first place.

Although the Company did not file a motion to compel responses to the discovery requests, I note that Mr. Tracy filed no response disputing DLC's averments in its Motion to Dismiss that he failed to submit responses to the discovery requests as required by the Commission's regulations. *See* 52 Pa. Code § 5.342. If I were to deny DLC's Motion to Dismiss, the Commission's regulations would permit DLC to file a motion to compel Mr. Tracy's responses to the discovery requests. *See* 52 Pa. Code § 5.342(g).

Complainant has had *multiple* opportunities to engage in the litigation process before the Commission, but he has failed to engage in *any way* since filing the Complaint. Under the circumstances, it is appropriate to dismiss the Complaint without a hearing. 66 Pa.C.S. § 703(b); 52 Pa. Code § 5.21(d). Further, to hold a hearing under the circumstances would violate the Company's due process rights, and not serve the public interest.

Therefore, the Company's Motion to Dismiss shall be granted and the Complaint shall be dismissed without prejudice.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding. 66 Pa.C.S. § 701.
2. The Commission is required to provide due process to the parties appearing before them; this due process requirement is satisfied when the parties are

provided notice and the opportunity to be heard. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

3. Notice electronically served to a party with no notification that service failed is presumed received. *Skow v. Metro. Edison Co.*, Docket No. F-2023-3042228 (Final Order entered May 7, 2024); *Hu v. PECO Energy Co.*, Docket No. C-2019-3012075 (Order entered Dec. 19, 2019); *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).

4. Notice mailed via U.S. First-Class Mail to a party and not returned to the Commission as undeliverable is presumed received. *Berkowitz v. Mayflower Sec., Inc.*, 317 A.2d 584 (Pa. 1974); *Meierdierck v. Miller*, 147 A.2d 406 (Pa. 1959); *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. 1997); *Judge v. Celina Mut. Ins. Co.*, 449 A.2d 658 (Pa. Super. 1982).

5. After being notified, a party who fails to appear at a scheduled hearing shall be deemed to have waived the opportunity to participate in the hearing. 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

6. Parties must comply with the orders of an administrative law judge, and a complainant's failure to do so is a sufficient basis to support dismissal of the matter. *Snyderville Cmty. Dev. Corp. v. Phila. Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006).

7. Complainant's due process rights have been fully protected in this proceeding. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

8. The Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary to the public interest. 66 Pa.C.S. § 703(b); 52 Pa. Code § 5.21(d).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of Duquesne Light Company to Dismiss the Complaint of Shane Tracy filed on November 27, 2024, at Docket No. C-2024-3052319 is granted.

2. That the Formal Complaint filed by Shane Tracy against Duquesne Light Company at Docket No. C-2024-3052319 is hereby dismissed without prejudice due to Complainant's failure to appear at conferences on February 10, 2025, and May 14, 2025, and comply with Interim Orders dated January 27, 2025, and April 1, 2025.

3. That the Secretary's Bureau shall mark Docket No. C-2024-3052319 as closed.

4. That Shane Tracy receive copies of this Initial Decision by both email and First-Class Mail. Complainant should be served by email at

[djshanetracy@gmail.com](mailto:djshanetracy@gmail.com) and by First-Class Mail at 1135 Evergreen Avenue, Millvale,  
PA 15209.

Date: July 29, 2025

\_\_\_\_\_/s/  
Emily I. DeVoe  
Administrative Law Judge