

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

John Brooks	:	
	:	
v.	:	C-2025-3054296
	:	
FirstEnergy Pennsylvania Electric Company	:	

INITIAL DECISION

Before
Chad L. Allensworth
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Formal Complaint of the Complainant due to the Complainant’s failure to have an attorney enter an appearance in this proceeding in accordance with the order of the Presiding Officer because the Formal Complaint concerns utility service in the name of a limited liability company.

HISTORY OF THE PROCEEDING

On March 31, 2025, John Brooks (“Complainant”) filed a Formal Complaint (“complaint”) against FirstEnergy Pennsylvania Electric Company¹ (“Respondent”) regarding electric service at 8148 Bausch Road, New Tripoli, PA 18066

¹ Complainant is served by the Metropolitan Edison (“Met-Ed”) Rate District of FirstEnergy Pennsylvania Electric Company. Answer and New Matter ¶ 2.

(“service property”). The complaint indicated that Respondent is threatening to shut off service or has already shut off service at the service property and requested a payment arrangement. Complaint ¶ 4. As relief, Complainant requested onsite inspection of the five meters at the service property with two of the five meters noted as being as “commercial.” Complaint ¶ 5. Complainant attached two “non-residential shut-off notices” to his complaint that listed “Lynnville Holdings LLC” as the ratepayer for account number ending in 1199 and account number ending in 8591.² Complaint Attachments.

On April 21, 2025, Respondent timely filed an Answer and New Matter, which included a Notice to Plead advising Complainant that he had 20 days to reply or otherwise plead to the New Matter. In its Answer, Respondent denied that Complainant is the customer of record and averred the actual customer for all five accounts with meters at the service property is Lynnville Holdings LLC (“the Customer”). Answer ¶¶ 1, 3-4. Respondent further averred that the account at number ending in 1199 is for a restaurant, the account at number ending in 8591 is for a hotel and the remaining three accounts are residential. Answer ¶¶ 3-4.

In its New Matter, Respondent averred that the Customer for the accounts at the service property is a limited liability corporation and must be represented by a licensed attorney in adversarial proceedings. (New Matter ¶ 12).

Complainant did not file a reply or other responsive pleading to the New Matter.

² This decision only lists the last four digits of the account numbers in this matter to maintain confidentiality.

On May 23, 2025, the Commission issued an Initial Telephonic Hearing Notice scheduling a hearing in this matter for June 30, 2025 at 10:00 a.m. That same day, the Commission issued a Prehearing Order setting forth the general rules for the hearing.

On May 28, 2025, Respondent filed a Motion to Dismiss the Formal Complaint of John Brooks (“Motion”) arguing that the actual customer of record is Lynnville Holdings LLC, which is a limited liability company. (Motion ¶ 1). The Motion included a Notice to Plead advising Complainant that he had 20 days to answer or otherwise object to the Motion. In the Motion, Respondent further argues that the current proceeding is now adversarial and the Customer, as a limited liability company, must be represented by counsel pursuant to 52 Pa. Code §§ 1.21 and 1.22. (Motion ¶¶ 6-9).

Complainant did not file an answer or otherwise object to the Motion.

On June 18, 2025, the Commission issued a Hearing Cancellation Notice cancelling the evidentiary hearing scheduled for June 30, 2025.

Additionally, on June 18, 2025, I entered an Interim Order directing Complainant to retain counsel on or before July 18, 2025³ and held the Motion in abeyance.

On July 23, 2025, I entered a Corrected Interim Order correcting typographical errors regarding the due date to retain counsel and extending the date for Complainant to retain counsel to July 30, 2025.

³ The Interim Order entered on June 18, 2025 contained typographical errors in Ordering Paragraphs Numbers 3 and 5 that mistakenly listed the due date for counsel to enter an appearance as June 18, 2025.

To date, there is no record of an attorney filing a notice of appearance on behalf of Complainant or the Customer.

The record closed on July 30, 2025, which was the due date for an attorney to enter an appearance on behalf of Complainant and/or the Customer.

This decision grants Respondent's Motion to Dismiss.

FINDINGS OF FACT

1. Complainant is John Brooks.
2. Respondent is FirstEnergy Pennsylvania Electric Company.
3. The complaint concerns electric service for a property located at 8148 Bausch Road, New Tripoli, PA 18066. Complaint ¶¶ 1, 3.
4. There are five electric meters at the service property, which monitor five separate electric accounts with Respondent. Complaint ¶ 5.
5. Of the five metered accounts at the service property, two of the metered accounts are commercial/non-residential and the other three accounts are residential. Complaint ¶ 5; Complaint Attachments; Answer and New Matter ¶ 4.
6. All five of the metered accounts at the service property are in the name of the actual customer, Lynnville Holdings LLC. Complaint Attachments; Answer and New Matter ¶¶ 1, 4, 12.

7. Lynnville Holdings LLC is a limited liability company. Answer and New Matter ¶¶ 4, 12.

8. Complainant does not assert that he is an attorney or otherwise assert his role with the Customer. Complaint ¶¶ 11.

9. On March 31, 2025, Complainant filed the complaint at issue in this matter.

10. In the complaint, Complainant selected the “eFiling” option whereby chose to receive service of all documents for this matter electronically at the email address he registered with the Commission. Complaint ¶ 9.

11. On April 21, 2025, Respondent filed its Answer and New Matter to the complaint.

12. The Answer and New Matter included a Notice to Plead that advised Complainant that he had 20 days to reply to the New Matter.

13. Complainant did not reply or otherwise plead to the New Matter.

14. An initial telephonic hearing notice was issued on May 23, 2025, scheduling a hearing for June 30, 2025, at 10:00 a.m.

15. The June 30, 2025 hearing notice informed Complainant of the following requirement:

REPRESENTATION. If you are an individual, you may represent yourself or you may have an attorney represent you.

All others, including a partnership, corporation, limited liability company, 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.

16. A prehearing order was also issued on June 30, 2025.

17. By prehearing order dated June 30, 2025, the Complainant was informed of the following requirement:

REPRESENTATION. If you are an individual, you may represent yourself or you may have an attorney represent you. All others, including a partnership, corporation, limited liability company, trust, association, or governmental agency or subdivision, must be represented by an attorney licensed to practice law in Pennsylvania, or admitted *pro hac vice*. Unless you are an attorney, you may not represent someone else.

18. Both the hearing notice and prehearing order were electronically served on Complainant at the email address he provided to the Commission.

19. On May 28, 2025, Respondent filed a Motion to Dismiss the complaint.

20. The Motion included a Notice to Plead that advised Complainant that he had 20 days to answer or otherwise object to the Motion.

21. Complainant did not answer or otherwise object to the Motion.

22. On June 18, 2025, I issued an interim order directing Complainant to have counsel enter an appearance in this proceeding on or before July 18, 2025.

23. On July 23, 2025, I issued a corrected interim order extending the time for Complainant to have counsel enter an appearance in this proceeding on or before July 30, 2025.

24. To date, no attorney has entered an appearance on behalf of Complainant or the Customer.

DISCUSSION

Motion to Dismiss

The Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.103 allow parties to file motions requesting desired relief in Commission proceedings.

Section 5.103 states, in relevant part:

(a) *Scope and content.* A request may be made by motion for relief desired, except as may be otherwise expressly provided in this chapter and Chapters 1 and 3 (relating to rules of administrative practice and procedure; and special provisions). A motion must set forth the ruling or relief sought, and state the grounds therefor and the statutory or other authority upon which it relies.

(b) *Presentation of motions.* A motion may be made in writing at any time, and a motion made during a hearing may be stated orally upon the record, or the presiding officer may require that an oral motion be reduced to writing and filed separately. Written motions must contain a notice which states that a responsive pleading shall be filed within 20 days of the date of service of the motion.

(c) *Response to motions.* A party has 20 days from the date of service within which to answer or object to a motion,

unless the period of time is otherwise fixed by the Commission or the presiding officer.

(d) *Rulings on motions.*

(1) The presiding officer is authorized to rule and will rule upon motions:

(i) Not formerly acted upon by the Commission prior to the commencement of the hearing where an immediate ruling is essential in order to proceed with the hearing.

(ii) Filed or made after the commencement of the hearing and prior to the submission of a decision in the proceeding.

(2) A motion made during the course of hearing, which if granted would otherwise dispose of parties' rights, should be acted upon by the presiding officer prior to taking further testimony if, in the opinion of the presiding officer, the action is warranted.

(3) If a motion involves a question of jurisdiction, the establishment of a prima facie case or standing, the presiding officer may render a final determination with regard to a motion prior to the termination of hearings by issuing an initial or recommended decision.

52 Pa. Code § 5.103.

In this case, Respondent filed a Motion to Dismiss because Complainant is not represented by counsel in an adversarial proceeding in accordance with Commission regulations at 52 Pa. Code §§ 1.21-1.23.

Requirement to be Represented by Counsel

Section 1.21 of the Commission’s regulations provides in pertinent part:

(a) Individuals^[4] 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^[5], persons^[6] 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.

52 Pa. Code § 1.21.

⁴ An “individual” is defined as “a natural person.” 52 Pa. Code § 1.8.

⁵ A “nonadversarial proceeding” is defined as, “[a] proceeding initiated by a person which is not contested or a proceeding initiated by the Commission or at the request of a person to develop regulations, policies, procedures, technical rules or interpretations of law.” 52 Pa. Code § 1.8.

⁶ A “person” is defined as “[e]xcept as otherwise provided in this subpart or in the act, the term includes individuals, corporations, partnerships, associations, joint ventures, other business organizations, trusts, trustees, legal representatives, receivers, agencies, governmental entities, municipalities, municipal corporations or other political subdivisions.” 52 Pa. Code § 1.8.

Section 1.23 of the Commission's regulations provides, "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)." 52 Pa. Code § 1.23.

It is axiomatic that the current matter is contested based on the fact that Respondent has filed an Answer and New Matter along with a Motion to Dismiss.

Facts Admitted

Based on the facts alleged in the complaint and its attachments, it is clear that the complaint concerns electric service to five separate meters at the service property. The five meters at the service property include two non-residential accounts and three residential accounts. The two non-residential accounts are in the name of Lynnville Holdings LLC. The complaint names John Brooks as the Complainant and is signed by John Brooks, who does not identify his role with Lynnville Holdings LLC in the complaint.

Section 5.63(b) of the Commission's regulations states, "[f]ailure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted." As above mentioned, Complainant failed to respond to the New Matter. See *supra* at 4, FOF No. 13.

The sole fact asserted by the Respondent in the New Matter is that the actual Complainant in this case is a limited liability company and it must be represented by a licensed attorney in this adversarial proceeding. Pursuant to 52 Pa. Code § 5.63(b), the allegation in the New Matter of the Respondent is deemed admitted.

Considering the factual averments in the complaint with its attachments and the fact deemed admitted from the Complainant's failure to respond to Respondent's New Matter, Complainant must be represented by an attorney in this proceeding.

Once the Answer and New Matter were filed, this became an adversarial proceeding. 52 Pa. Code § 1.8. Accordingly, Lynnville Holdings LLC, as the account holder for the metered accounts, which is a limited liability company, is required to be represented by counsel. *Pa. Pub. Util. Comm'n v. Harrisburg City Cab, Inc.*, Docket No. C-2019-3015167 (Opinion and Order entered July 6, 2020); *Cars R Us v. Phila. Gas Works*, 2010 Pa.P.U.C. LEXIS 602 (2010); *Torino Inc. v. PECO Energy Co.*, 2009 WL 6691160 (Pa.P.U.C. 2010). No attorney is listed on the complaint, nor has one entered an appearance to represent Lynnville Holding, LLC. Likewise, there is no basis to find that Mr. Brooks satisfies Commission requirements to represent a limited liability company. Therefore, Complainant cannot proceed with the complaint unless it is represented by counsel pursuant to Commission regulations.

Complainant was informed of the requirement that a limited liability company must be represented by counsel by the initial telephonic hearing notice, prehearing order, and by the order holding the Motion in abeyance. The aforementioned hearing notice, prehearing order, and order holding the Motion in abeyance were electronically served on Complainant at the email address provided by Complainant in the complaint. Notification of filings via electronic mail constitutes valid service of e-filed documents. *See, e.g., Messick v. PPL Elec. Utils. Corp.*, Docket No. C-2018-3004260 (Opinion and Order entered June 18, 2020); *Potora v. Pa. Am. Water Co.*, Docket No. C-2017-2627873 (Opinion and Order entered Aug. 8, 2019). Accordingly, Complainant was adequately notified that it must obtain counsel to proceed with the complaint.

Additionally, Complainant failed to comply with my June 18, 2025 order directing it to have counsel enter a notice of appearance in this proceeding on or before July 18, 2025. By order dated July 23, 2025, the deadline was extended to July 30, 2025. No attorney has filed a notice of appearance in this proceeding.

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); *Treffinger v. PPL Elec. Utils. Corp.*, 2003 Pa.P.U.C. LEXIS 3 (March 3, 2003). Consequently, because Complainant failed to comply with my order to have an attorney enter its appearance on behalf of Lynnville Holdings LLC, no further hearing will be scheduled, and the complaint will be dismissed.

CONCLUSIONS OF LAW

1. The Commission requires corporations, limited liability companies, partnerships, associations, joint ventures, other business organizations, trusts, trustees, legal representatives, receivers, agencies, governmental entities, municipalities, municipal corporations or other political subdivisions to be represented in adversarial proceedings before the Commission by an attorney or law student meeting certain requirements. 52 Pa. Code §§ 1.8, 1.21-1.23; *Pa. Pub. Util. Comm'n v. Harrisburg City Cab, Inc.*, Docket No. C-2019-3015167 (Opinion and Order entered July 6, 2020); *Cars R Us v. Phila. Gas Works*, 2010 Pa.P.U.C. LEXIS 602 (2010); *Torino Inc. v. PECO Energy Co.*, 2009 WL 6691160 (Pa.P.U.C. 2010).

2. This proceeding became an “adversarial proceeding” when the Answer and New Matter was filed. 52 Pa. Code § 1.8.

3. Notification of filings via electronic mail constitutes valid service. *See, e.g., Messick v. PPL Elec. Utils. Corp.*, Docket No. C-2018-3004260 (Opinion and Order entered June 18, 2020); *Potora v. Pa. Am. Water Co.*, Docket No. C-2017-2627873 (Opinion and Order entered Aug. 8, 2019).

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); *Treffinger v. PPL Elec. Utils. Corp.*, 2003 Pa.P.U.C. LEXIS 3 (March 3, 2003).

5. The customer and ratepayer, a limited liability company, failed to obtain counsel to represent it in accordance with my order and Commission regulations. 52 Pa. Code §§ 1.8, 1.21-1.23.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion to Dismiss filed by FirstEnergy Pennsylvania Electric Company in the matter at John Brooks v. FirstEnergy Pennsylvania Electric Company at Docket No. C-2025-3054296 is granted.

