

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kitten Scoop	:	
	:	
v.	:	C-2024-3052118
	:	
FirstEnergy Pennsylvania Electric Company	:	

INITIAL DECISION

Before
Mary D. Long
Administrative Law Judge

INTRODUCTION

This decision grants a motion to dismiss the complaint of a non-profit organization because the organization failed to secure representation by an attorney, as required by Commission regulations and an order issued by the presiding officer.

HISTORY OF THE PROCEEDINGS

Kitten Scoop (Complainant) filed a Formal Complaint on November 11, 2024, alleging that FirstEnergy Pennsylvania Electric Company (FirstEnergy) improperly assessed a security deposit and charged sales tax. Kitten Scoop avers that it is a non-profit animal rescue and is therefore eligible for non-profit rates and sales tax exemption. The complaint was signed by Amanda Coats, President.

FirstEnergy filed an answer on December 4, 2024. Among other things, FirstEnergy alleged that Kitten Scoop did not provide a copy of its tax-exempt certificate and that the account had been properly billed. FirstEnergy also noted that Kitten Scoop must be represented by counsel.

By order entered December 17, 2024, the parties were directed to attempt to resolve their dispute with the facilitation of the Office of Administrative Law Judge Mediation Unit. The parties did not resolve their dispute.

By notice dated March 31, 2025, the complaint was assigned to me and scheduled for a telephonic hearing on May 20, 2025. I issued my customary prehearing order which explained the procedures for the conduct of the hearing.

On the morning of May 20, 2025, counsel for FirstEnergy notified me that the Complainant requested a continuance noting that she had been out of town for several weeks and was dealing with a significant personal tragedy. Ms. Coats noted also that she had contacted several attorneys but had not yet secured representation. FirstEnergy did not object to continuing the hearing. By interim order I granted the continuance, cancelled the hearing and directed Kitten Scoop to cause an attorney to enter an appearance on its behalf. I also directed the parties to provide a joint status report which provided alternate hearing dates by June 6, 2025.

By email on June 6, 2025, counsel for FirstEnergy reported that she attempted to contact Ms. Coats several times by email and telephone. FirstEnergy requested that the complaint be dismissed because Kitten Scoop had not secured representation. Ms. Coats responded that she had been out of her office for several weeks, and confirmed that while she had met with attorneys, she had not secured representation for Kitten Scoop.

On June 9, 2025, FirstEnergy filed a formal motion to dismiss the complaint because Kitten Scoop had not secured representation. Kitten Scoop did not cause an attorney to enter an appearance, nor did Kitten Scoop otherwise respond to the motion to dismiss. Therefore, the motion is ripe for decision.

FINDINGS OF FACT

1. The Complainant, Kitten Scoop, is a non-profit animal rescue. (Complaint ¶ 5).
2. The Respondent, FirstEnergy, is a jurisdictional public utility.
3. Kitten Scoop holds a non-residential electric account with FirstEnergy. (Motion to Dismiss ¶ 2).
4. Kitten Scoop was directed to cause an attorney to file an entry of appearance. (Interim Order dated May 20, 2025).
5. To date, no attorney has entered an appearance on behalf of Kitten Scoop.

DISCUSSION

The Commission rules require that all non-individuals be represented by counsel in adversarial proceedings.¹ Once the answer is filed, the proceeding becomes

¹ 52 Pa. Code § 1.21. *See also Cars R Us c/o Holman Copeland v. Phila. Gas Works*, Docket No. C-2008-2033437 (Opinion and Order entered Feb. 4, 2010); *Torino Inc. v. PECO Energy Co.*, Docket No. C-2008-2034595 (Opinion and Order entered Feb. 2, 2010).

adversarial.² This rule is consistent with the Pennsylvania Bar Rules promulgated by the Supreme Court.³

Kitten Scoop admitted in its complaint that it is a non-profit organization, not an individual. Kitten Scoop also did not respond to FirstEnergy's motion to dismiss to dispute the corporate status of the account or the commercial nature of the service location. Kitten Scoop was notified that it would require representation by an attorney in FirstEnergy's Answer, in the March 31, 2025 Prehearing Order⁴ and the May 20, 2025 Interim Order continuing the hearing.

A long line of Commission decisions have held that the failure of a party to secure representation deprives the Commission of jurisdiction to adjudicate the claim.⁵ The Pennsylvania Supreme Court recently considered this issue in *Bisher v. Lehigh Valley Health Network, Inc.*⁶ That case involved the efforts of unrepresented parents to navigate a complex medical malpractice action against medical personnel and corporate entities arising from the death of their son. In addition to representing themselves, the parents also attempted to raise claims on behalf of the estate of their son. The lower courts dismissed the complaints by taking the position that the estate was required to be

² *New Fizon Catering, Inc. v. PECO Energy Co.*, Docket No. C-2008-2065498 (Opinion and Order entered June 24, 2009) (*New Fizon Catering*); see also 52 Pa. Code § 1.8.

³ See *New Fizon Catering*, at 7-8.

⁴ Specifically, Paragraph 7 of the March 31, 2025 Prehearing Order stated that individuals may represent themselves, but all other entities must be represented by counsel.

⁵ See, e.g., *Angle v. Met-Ed Co.*, Docket No. F-2018-3006055 (Opinion and Order entered Dec. 19, 2019) at 10, wherein the Commission stated: "It is important to note that the absence of an attorney, where one is required, actually deprives the forum of jurisdiction to adjudicate the matter." (citing *McCain v. Curione*, 527 A.2d 591 (Pa. Cmwlth. 1987)).

⁶ 265 A.3d 383 (Pa. 2021).

represented by counsel; therefore, the tribunals lacked subject-matter jurisdiction. The Supreme Court disagreed:

Because the participation of a non-attorney has no connection to the classes of cases that a court may hear, we hold that the unauthorized practice of law is not a subject-matter jurisdiction issue. Accordingly, we disapprove of [*David R. Nicholson, Builder, LLC. v. Jablonski*, 163 A.3d 1048 (Pa. Super. 2017)] and other cases to the extent they suggest the unauthorized practice of law implicates subject-matter jurisdiction.^[7]

However, the Court went on to explain that where the procedural rules require a party to be represented by counsel, the party can not be permitted to continue in the action. That is, a tribunal can not permit the unauthorized practice of law. The failure to secure representation is a “technical defect” that an unrepresented party should have an opportunity to cure.⁸

The Commission can not allow the unauthorized practice of law.⁹ Kitten Scoop, as a non-individual, must be represented by an attorney.¹⁰ Kitten Scoop was provided with notice that Commission rules required representation and ample opportunity to secure representation. Specifically, the March 31, 2025 Prehearing Order notified Kitten Scoop that a non-individual must be represented by counsel. The May 20, 2025 Interim Order Granting Request for Continuance and Requiring Representation directly ordered Kitten Scoop to secure representation. Kitten Scoop’s due process rights have been adequately protected.

⁷ 265 A.3d at 406.

⁸ 265 A.3d at 407.

⁹ *Bisher*.

¹⁰ 52 Pa. Code § 1.21.

CONCLUSIONS OF LAW

1. An organization or business must have counsel to proceed in any legal action because such an entity may not represent itself. *New Fizon Catering, Inc. v. PECO Energy Co.*, Docket No. C-2008-2065498 (Opinion and Order entered June 24, 2009); *Cars R Us c/o Holman Copeland v. Phila. Gas Works*, Docket No. C-2008-2033437 (Opinion and Order entered Feb. 4, 2010); *Torino Inc. v. PECO Energy Co.*, Docket No. C-2008-2034595 (Opinion and Order entered Feb. 2, 2010).

2. The failure to secure representation is a technical error. *Bisher v. Lehigh Valley Health Network, Inc.* 265 A.3d 303 (Pa. 2021).

3. After providing an organization or a business an opportunity to secure representation where representation is required, the Commission can not permit the unauthorized practice of law and has the discretion to dismiss the case. *Bisher*.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion to Dismiss the Formal Complaint of Kitten Scoop v. FirstEnergy Pennsylvania Electric Company at Docket C-2024-3052118, is granted.
2. That the Formal Complaint of Kitten Scoop v. FirstEnergy Pennsylvania Electric Company at Docket C-2024-3052118, is dismissed.
3. That the Secretary shall mark the docket closed.

Date: August 19, 2025

/s/
Mary D. Long
Administrative Law Judge