

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held March 12, 2026

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Erien Frazier, Trustee of the
Erien Lois Frazier Revocable Living Trust

C-2025-3056017

v.

FirstEnergy Pennsylvania Electric Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of Erien Frazier, Trustee of the Erien Lois Frazier Revocable Living Trust (Ms. Frazier or Complainant) received by the

Commission on February 5, 2026,¹ to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) Chad L. Allensworth, which was issued on January 16, 2026, in the above-captioned proceeding. FirstEnergy filed Replies to Exceptions on February 19, 2026. For the reasons discussed below, we shall deny Ms. Frazier's Exceptions and adopt ALJ Allensworth's Initial Decision, consistent with the discussion in this Opinion and Order.

I. History of Proceeding

On June 30, 2025, Ms. Frazier filed a Formal Complaint (Complaint) with the Commission against FirstEnergy, alleging that the Company was: (1) threatening to shut off service; (2) billing her on a disputed account; (3) ignoring lawful tender; and (4) refusing to provide accounting or contract documentation. Complaint at 4. Ms. Frazier requested equitable and regulatory relief to prevent disconnection, recognition of settlement, and a proper and full accounting to be provided to her as the trustee. *Id.* at 5.

On July 21, 2025, FirstEnergy filed an Answer and New Matter denying all material allegations in the Complaint. In its New Matter, FirstEnergy asserted that the Commission does not have jurisdiction to determine what is, or is not, legal tender acceptable for payment of a utility bill and that the Complainant must be represented by counsel in this proceeding. New Matter ¶¶ 12-14. Ms. Frazier filed a Response to the New Matter on August 5, 2025.

¹ We note that the Exceptions do not contain a Certificate of Service. Accordingly, by Secretarial Letter dated February 9, 2026 (*February 2026 Secretarial Letter*), the Commission served a copy of the Exceptions on FirstEnergy Pennsylvania Electric Company (FirstEnergy or Company) to constitute service for purposes of 52 Pa. Code § 5.533. The *February 2026 Secretarial Letter* provided that FirstEnergy had until February 19, 2026 to file Replies to Exceptions.

On August 8, 2025, the Commission issued an Initial Telephonic Hearing Notice (Hearing Notice) setting a telephonic hearing for October 29, 2025. On the same date, the Commission issued a Prehearing Order that, *inter alia*, advised the Parties that all legal entities, including a trust, must be represented by an attorney licensed to practice law in Pennsylvania.

On August 14, 2025, FirstEnergy filed a Motion to Dismiss the Complaint, averring that the Complainant must be represented by counsel in this proceeding. On August 19, 2025, Ms. Frazier filed an Answer in Opposition to FirstEnergy's Motion to Dismiss, stating that the trustee is the real party in interest.

On August 21, 2025, ALJ Allensworth issued an Interim Order (*August 2025 Interim Order*) directing the Complainant to retain counsel on the basis that the Complainant was proceeding in the role of either a trust or trustee.

On August 22, 2025, the Complainant filed a "Response to Interim Order and Petition for Reconsideration with Leave to Amend Caption" seeking: (1) reconsideration of the *August 2025 Interim Order*; (2) leave to amend the caption of the Complaint to substitute Erien Frazier, Trustee, as the Complainant; and (3) an extension of time to comply with the *August 2025 Interim Order*.

On September 8, 2025, the Complainant filed an Amended Formal Complaint (Amended Complaint). On September 29, 2025, FirstEnergy filed its Answer to the Amended Complaint asserting that the Amended Complaint was defective because a trustee cannot represent the Complainant in an adversarial proceeding.

On October 17, 2025, the ALJ issued a second Interim Order (*October 2025 Interim Order*) that: (1) granted the Complainant's petition/request for leave to amend the caption to substitute Erien Frazier, Trustee, as the Complainant in the

matter; (2) denied the Complainant's request to reconsider/vacate the *August 2025 Interim Order*; (3) held the Company's Motion to Dismiss in abeyance; and (4) directed the Complainant to have counsel enter an appearance on the Complainant's behalf on or before November 17, 2025. The Complainant failed to have counsel enter a timely appearance on the Complainant's behalf.

On November 21, 2025, the Complainant filed a Motion to Amend the Complaint, along with exhibits, to show that the trustee, Erien Frazier, was the real party in interest. On November 25, 2025, ALJ Allensworth issued an Interim Order Denying the Motion to Amend Complaint and Closing the Record.

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

On January 16, 2026, the Commission issued the Initial Decision of ALJ Allensworth, granting FirstEnergy's Motion to Dismiss and dismissing the Complaint, without prejudice. I.D. at 14-15.

As noted, *supra*, the Complainant filed Exceptions on February 5, 2026, as well as Exhibits. FirstEnergy filed Replies to Exceptions on February 19, 2026.

II. Discussion

A. Legal Standards

1. Burden of Proof

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Code, 66 Pa.C.S. § 332(a). To

establish a sufficient case and satisfy the burden of proof, the Complainant must show that the Company is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990) (*Patterson*). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992) (*Lansberry*). That is, the Complainant's evidence must be more convincing, by even the smallest amount, than that presented by the Company. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 70 A.2d 854 (Pa. 1950). Additionally, this Commission's decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the Complainant shifts to the Company. If the evidence presented by the Company is of co-equal weight, the Complainant has not satisfied the burden of proof. The Complainant now has to provide some additional evidence to rebut the evidence of the Company. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983). While the burden of going forward with the evidence may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

2. Legal Representation

In addition to the burden of proof, also relevant to our disposition here is the requirement in Pennsylvania law with respect to legal representation in proceedings before the Commission. In non-adversarial proceedings, a bona fide officer of a non-individual complainant such as a corporation, trust, association, governmental or other

entity may represent that non-individual entity. 52 Pa. Code §§ 1.8, 1.21(c)(2). Pleadings, including complaints, submittals, or other documentary filings may be signed by an officer of a corporation, trust, association or other organized group. 52 Pa. Code § 1.35(b)(ii). In adversarial proceedings, however, except for individuals representing themselves, a corporation, trust, or association shall be represented by an attorney admitted to practice in the Commonwealth of Pennsylvania. 52 Pa. Code §§ 1.21(b), 1.22.² An adversarial proceeding is one that is contested and will be decided on the basis of a formal record. 52 Pa. Code § 1.8.

Once a respondent to a complaint files an answer, a non-individual complainant, including a trust, must be represented by an attorney because the answer contesting the complaint renders the matter before the Commission an adversarial proceeding. *New Fizon Catering, Inc. v. PECO Energy Co.*, Docket No. C-2008-2065498 (Opinion and Order entered June 24, 2009) (*New Fizon*). Attorney representation of non-individual complainants in adversarial proceedings controls. Absent exigent circumstances, individuals may not offer testimony on a non-individual's behalf if that entity, including a trust, is not represented by counsel. *Cars R Us v. Philadelphia Gas Works*, Docket No. C-2008-2033437 (Opinion and Order entered February 4, 2010) (*Cars R Us*); *Torino Inc. v. PECO Energy Co.*, Docket No. C-2008-2034595 (Opinion and Order entered February 2, 2010) (*Torino*).

This requirement is consistent with Pennsylvania law holding that a business entity such as a trust or corporation must have counsel in order to proceed in any legal action because such an entity may not represent itself, and may appear only through

² Section 1.21(b) provides in part: “[e]xcept as provided in subsection (a) [pertaining to individuals], persons in adversarial proceedings shall be represented in accordance with § 1.22 (relating to appearance by attorneys and legal intern).” The definition of a “person” includes a trust. 52 Pa. Code § 1.8.

an attorney admitted to practice law. *See Smaha v. Landy*, 638 A.2d 392 (Pa. Cmwlth. 1994); *Walcavage v. Excell 2000, Inc.*, 480 A.2d 281 (Pa. Super. 1984).

B. ALJ's Initial Decision

ALJ Allensworth made twenty-six Findings of Fact and reached six Conclusions of Law. I.D. at 5-8; 13-14. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted, without comment, unless they are either expressly or by necessary implication rejected or modified by the Opinion and Order.

The ALJ dismissed the Complaint due to the Complainant's failure to have an attorney enter an appearance in this case as the ALJ had directed in his Interim Orders. The ALJ stated that based on the uncontested fact that the complaint was signed by Erien Frazier in the role of trustee, with no indication that Erien Frazier is a licensed attorney, the Complainant must be represented by an attorney in this proceeding. The ALJ reasoned that once the Answer and New Matter were filed, this became an adversarial proceeding, and Erien Lois Frazier, Trustee of the Erien Lois Frazier Revocable Living Trust, as either the trust itself or Erien Lois Frazier as trustee, is a "person" required to be represented by counsel. I.D. at 11 (citing 52 Pa. Code § 1.8; *Famille S. Trust v. Duquesne Light Co.*, Docket No. C-2024-2440650 (Opinion and Order entered March 17, 2016)).

The ALJ stated that the Complainant was informed of the requirement that a trust or a trustee must be represented by counsel by the initial telephonic hearing notice, prehearing order, and multiple orders directing the Complainant to obtain counsel for this matter. The ALJ concluded that in addition to failing to procure legal representation, the Complainant's failure to comply with the ALJ's two Interim Orders directing the

Complainant to have counsel enter a notice of appearance on behalf of the Complainant also warranted dismissal of the Complaint. I.D. at 13.

C. Exceptions and Replies

As mentioned above, Ms. Frazier filed Exceptions to the Initial Decision that were received by the Commission on February 5, 2026. In the Exceptions, Ms. Frazier argues that the ALJ improperly dismissed the Complaint based on the requirement that a trust must be represented by legal counsel. Ms. Frazier avers that she was acting in her lawful capacity as Trustee and should have been recognized as the proper real party in interest under Pennsylvania law. Ms. Frazier relies generally on the Pennsylvania Rules of Civil Procedure for her position that a complaint cannot be dismissed solely on a captioning technicality. Exc. at 1.

Ms. Frazier also argues that on January 16, 2026, the Trustee submitted a document titled “Notice of Equitable Beneficial Ownership Interest and Tender of BOE,” along with an Affidavit of Tender and remittance documentation. She contends that the Commission erred by not considering this evidence as it relates to the “Complainant’s demand for a full accounting and offset of the claimed obligation, consistent with equitable principles.” *Id.*

In its Replies to Exceptions, FirstEnergy argues that the Complainant does not have standing to file the Exceptions, because Ms. Frazier is not a licensed attorney and cannot act as an attorney by filing Exceptions in an adversarial proceeding. FirstEnergy states that the filing of the Exceptions constitutes the practice of law and, therefore, the Exceptions should be summarily dismissed. R. Exc. at 5 (citing *Angle v. Met-Ed*, Docket No. F-2018-3006055 (Opinion and Order entered December 19, 2019); *Betty Ricks v. PECO Energy Company*, Docket No. C-2012-2321440 (Opinion and Order entered March 6, 2014)).

III. Disposition

As a preliminary matter, any argument that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. We are not required to consider expressly or at length each contention or argument raised by parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

Upon review, we will deny the Complainant's Exceptions and adopt the Initial Decision because the Complainant failed to comply with the legal requirements for proceeding before this Commission. *See Simon v. Franklin Water Co.*, Docket No. C-00956589 (Opinion and Order entered January 29, 1996); R. Exc. at 5. It is well-settled that non-individual complainants, including the trust or trustee in this case, must be represented by counsel at all stages of Commission proceedings after those proceedings become adversarial. *Torino*. When FirstEnergy filed its Answer to the Complaint, this proceeding became adversarial. That, in turn, triggered the requirement under our Regulations and Pennsylvania law that the Complainant retain counsel to represent it in any phase of this proceeding beyond the initial filing of the Complaint.

As the ALJ noted, the Complainant was advised multiple times of the requirement to obtain counsel in order to proceed further: (1) in the initial telephonic hearing notice; (2) in the ALJ's prehearing order; (3) in the *August 2025 Interim Order*; and (4) in the *October 2025 Interim Order*. In the *October 2025 Interim Order*, the ALJ specifically cautioned the Complainant that failure to secure counsel and file a notice of appearance on behalf of the trust or trustee by November 17, 2025, would warrant dismissal of the Complaint, an advisement to which the ALJ adhered in his Initial Decision.

We have previously held that failure to comply with an order of an ALJ warrants dismissal of the complaint. *See New Fizon; Snyderville Community Development Corp. v. Philadelphia Gas Works*, Docket No. C-20055032 (Order entered July 31, 2006). Moreover, by failing to appear in a manner that, under Pennsylvania law, would allow the Complainant to proceed with an evidentiary hearing, the Complainant effectively failed to prosecute the Complaint and, in turn, failed to carry the burden of proof. *Adams County Realty v. Metropolitan Edison Co.*, Docket No. C-2015-2473562 (Final Order entered December 3, 2015).

The Complainant was afforded due process through the hearing notice and the various ALJ orders. *Schneider v. Pa. PUC*, 479 A.2d 10 (Pa. Cmwlth. 1984). R. Exc. at 9. The ALJ's decision to dismiss the Complaint is appropriate because the Complainant failed, after being advised multiple times, to secure counsel in order for the hearing to proceed. Accordingly, the ALJ's Initial Decision is adopted.

IV. Conclusion

For the reasons discussed herein, we will deny the Exceptions of Ms. Frazier and adopt the Initial Decision of ALJ Allensworth, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:


1. That the Exceptions of Erien Frazier, Trustee of the Erien Lois Frazier Revocable Living Trust, received by the Commission on February 5, 2026, at Docket No. C-2025-3056017, are denied, consistent with this Opinion and Order.

2. That the Initial Decision of Administrative Law Judge Chad L. Allensworth, issued on February 5, 2026, at Docket No. C-2025-3056017, is adopted, consistent with this Opinion and Order.

3. That the Formal Complaint of Erien Frazier, Trustee of the Erien Lois Frazier Revocable Living Trust, filed on June 30, 2025, against FirstEnergy Pennsylvania Electric Company at Docket No. C-2025-3056017, is dismissed, consistent with this Opinion and Order.

4. That the proceeding at this docket be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Matthew L. Homsher". The signature is written in a cursive style with a large, stylized initial "M".

Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: March 12, 2026

ORDER ENTERED: March 12, 2026