

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1325 G STREET, N.W., SUITE 800  
WASHINGTON, D.C. 20005

ORDER

June 15, 2018

FORMAL CASE NO. 977, IN THE MATTER OF THE INVESTIGATION INTO THE QUALITY OF SERVICE OF WASHINGTON GAS LIGHT COMPANY, DISTRICT OF COLUMBIA DIVISION, IN THE DISTRICT OF COLUMBIA;

FORMAL CASE NO. 1089, IN THE MATTER OF THE DEVELOPMENT OF NATURAL GAS PIPELINE SAFETY RULES;

FORMAL CASE NO. 1130, IN THE MATTER OF THE INVESTIGATION INTO MODERNIZING THE ENERGY DELIVERY SYSTEM FOR INCREASED SUSTAINABILITY;

FORMAL CASE NO. 1138, IN THE MATTER OF THE INVESTIGATION INTO WASHINGTON GAS LIGHT COMPANY'S NEW BILLING SYSTEM AND PROCESS AND THE POTENTIAL IMPACT ON CUSTOMERS AND COMPETITIVE NATURAL GAS SUPPLIERS IN THE DISTRICT OF COLUMBIA;

FORMAL CASE NO. 1129, IN THE MATTER OF THE PUBLIC SERVICE COMMISSION'S INVESTIGATION INTO DEFAULT GAS SERVICE PROVIDED BY WASHINGTON GAS LIGHT COMPANY THROUGH THE PURCHASE GAS CHARGE IN THE DISTRICT OF COLUMBIA;

WGRORETR2018-01, WASHINGTON GAS LIGHT COMPANY RATE OF RETURN REPORT;

ARDIR2018-01, ARREARAGE AND DISCONNECTION REPORT;

WGPRPR2018-01, WASHINGTON GAS LIGHT COMPANY'S PIPELINE REPLACEMENT PROJECT REPORTS;

and

VIO2018-01, NOTICES OF PROBABLE UTILITY VIOLATIONS, Order No. 19375

**I. INTRODUCTION**

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") grants the Motion for Special Appearance filed by Washington Gas Light

Company (“WGL” or “Company”).<sup>1</sup> Accordingly, Robert C. Cain, II, may participate as WGL counsel in *Formal Case Nos. 977, 1089, 1130, 1138, 1129, WGTRETR2018-01, ARDIR2018-01, WGTRETR2018-01, and VIO2018-01*.

## **II. BACKGROUND**

2. On May 17, 2018, WGL filed in several Commission proceedings a Motion for Special Appearance of Robert C. Cain, II and Request for Waiver of Requirement Under Rule 110.3.<sup>2</sup> WGL requests that the Commission allow Robert C. Cain, II, a newly-hired WGL attorney, to practice before the Commission in the above-captioned proceedings and to waive the limitation under Rule 110.3 that an attorney not admitted to practice in the District of Columbia may be eligible for special appearance before the Commission, provided the attorney does not maintain an office in the District of Columbia for the practice of law.<sup>3</sup> In support of its Motion, WGL makes the following arguments:

(1) Rule 49(a) of the Rules of the District of Columbia Court of Appeals provides that a person may not practice law in the District of Columbia, unless that person is an active member of the District of Columbia Bar (“D.C. Bar”), unless otherwise permitted by these rules;

(2) An exception to this requirement is provided under Rule 49(c)(8), which states that an attorney not admitted to the D.C. Bar may practice law in the District of Columbia, provided the attorney is,

[p]racticing law from a principal office located in the District of Columbia, while an active member in good standing of the highest court of a state or territory, and while not disbarred or suspended for disciplinary reasons or after resignation with charges pending in any jurisdiction or court, under the direct supervision of an enrolled, active member of the District of Columbia Bar, for one period not to exceed 360 days from the commencement of such practice, during

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<sup>1</sup> *Formal Case No. 977, In the Matter of the Investigation into the Quality of Service of Washington Gas Light Company, District of Columbia Division, in the District of Columbia; Formal Case No. 1089, In the Matter of the Development of Natural Gas Pipeline Safety Rules; Formal Case No. 1130, In the Matter of the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability; Formal Case No. 1138, In the Matter of the Investigation into Washington Gas Light Company’s New Billing System and Process and the Potential Impact on Customers and Competitive Natural Gas Suppliers in the District of Columbia; Formal Case No. 1129, In the Matter of the Public Service Commission’s Investigation into Default Gas Service Provided by Washington Gas Light Company through the Purchase Gas Charge in the District of Columbia; WGTRETR, Washington Gas Light Company Rate of Return Report; ARDIR, Arrearage and Disconnection Report; WGTRETR, Washington Gas Light Company’s Pipeline Replacement Projects Reports; VIO, Notices of Probable Utility Violations (“Formal Case Nos. 977, 1089, 1130, 1138, 1129, WGTRETR2018-01, ARDIR2018-01, WGTRETR2018-01 and VIO2018-01”), Washington Gas Light Company’s Motion for Special Appearance and Request for Waiver of Requirement Under Rule 110.3 (“Motion for Special Appearance”), filed May 17, 2018.*

<sup>2</sup> Motion for Special Appearance at 2.

<sup>3</sup> Motion for Special Appearance at 2.

the pendency of a person's first application for admission to the District of Columbia Bar; *provided* that the practitioner has submitted the application for admission within ninety (90) days of commencing practice in the District of Columbia, that the District of Columbia Bar member takes responsibility for the quality of the work and complaints concerning the services, that the practitioner or the District of Columbia Bar member gives notice to the public of the member's supervision and the practitioner's bar status, and that the practitioner is admitted *pro hac vice* to the extent he or she provides legal service in the courts of the District of Columbia.

(3) Under 15 DCMR § 110.3, "A person may be represented in any proceedings before the Commission by an attorney at law admitted to practice before the District of Columbia Court of Appeals; or by an attorney admitted to practice before the highest court of any state upon the granting by the Commission of a motion for special appearance; Provided, that the attorney does not maintain an office within the District of Columbia for the practice of law."

(4) Rule 146 of the Commission's regulations provides, "The Commission may, in its discretion, waive any of the provisions of Chapters 1 and 2 of this title in any proceeding after duly advising the parties of its intention to do so."

(5) Robert C. Cain, II recently joined WGL's Office of General Counsel and maintains an office in the District of Columbia for the practice of law. He is an attorney in good standing, licensed to practice law in the state of Maryland, and is in the process of completing an application for admission to the D.C. Bar.

(6) Because Mr. Cain maintains an office in the District of Columbia, under 15 DCMR § 110.3, he would not be eligible to obtain approval for special appearance before the Commission. The Company seeks waiver of this requirement, as Mr. Cain's work before the Commission would be supervised by Donald R. Hayes, Assistant General Counsel, Director, Regulatory Matters, at WGL. WGL states that Mr. Hayes is a member in good standing of the D.C. Bar and has more than 39 years of experience practicing law. Mr. Hayes is also Mr. Cain's direct supervisor at WGL. Furthermore, Mr. Cain is currently taking steps to obtain admission to the D.C. Bar.

(7) If the Commission grants this Motion, Mr. Cain would be authorized to receive service on behalf of the Company in the above-captioned proceedings at the following address:

Robert C. Cain, II, Esquire  
Washington Gas Light Company  
101 Constitution Avenue, NW, Suite 300  
Washington, DC 20080  
(202) 624- 6066

[rcain@washgas.com](mailto:rcain@washgas.com)

3. On June 8, 2018, WGL filed a supplemental statement clarifying that Mr. Cain began his employment with WGL on May 7, 2018, and expects to submit his application for District of Columbia Bar membership by no later August 5, 2018, which would be within 90 days after the former date.<sup>4</sup> On June 13, 2018, WGL filed a statement clarifying that Mr. Cain filed his application for admission to the District of Columbia Bar on June 11, 2018.<sup>5</sup>

### III. DISUSSION

4. The Commission's rule on special appearances is clear, requiring the person requesting the special appearance to be admitted to practice before the highest court of any state and not to maintain an office within the District of Columbia for the practice of law.<sup>6</sup> The averments in WGL's Motion show that Mr. Cain is a member of the Maryland bar, maintains an office in the District of Columbia, but he has not yet become a member of the Bar of the District of Columbia. Thus, he does not meet the qualifications set out in our Rule 110.3 unless we grant the waiver that has been requested.

5. The Commission has the discretion to waive its rules if good cause exists and there are circumstances which support a waiver of either a portion of, or the entire rule. WGL has asked us to consider Mr. Cain's District of Columbia Bar status in light of the D.C. Court of Appeals' rules for admission to the District of Columbia Bar and to find that his circumstances merit a waiver of Commission Rule 110.3. Specifically, WGL referenced for our consideration the exception to the unauthorized practice of law rule in D.C. App. R. 49(a). Rule 49(c)(8), *Limited Duration Supervision by D.C. Bar Member*, provides:

Practicing law from a principal office located in the District of Columbia, while an active member in good standing of the highest court of a state or territory ... under the direct supervision of an enrolled, active member of the District of Columbia Bar, for one period not to exceed 360 days from the commencement of such practice, during pendency of a person's first application for admission to the District of Columbia Bar; *provided* that the practitioner has submitted the application for admission within ninety (90) days of commencing practice in the District of Columbia, that the

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<sup>4</sup> Formal Case Nos. 977, 1089, 1130, 1138, 1129, WGR0RETR2018-01, ARDIR2018-01, WGPRPR2018-01 and VIO2018-01, Washington Gas Light Company's Motion for Special Appearance and Request for Waiver of Requirement Under Rule 110.3, filed June 8, 2018.

<sup>5</sup> Formal Case Nos. 977, 1089, 1130, 1138, 1129, WGR0RETR2018-01, ARDIR2018-01, WGPRPR2018-01 and VIO2018-01., Washington Gas Light Company's Statement on Motion for Special Appearance, filed June 13, 2018.

<sup>6</sup> 15 DCMR § 110.3 (2011).

District of Columbia Bar member takes responsibility for the quality of the work and complaints concerning the services, that the practitioner or the District of Columbia Bar member gives notice to the public of the member's supervision and the practitioner's bar status, and that the practitioner is admitted pro hac vice to the extent he or she provides legal services in the courts of the District of Columbia.<sup>7</sup>

6. Based on the arguments in its Motion, WGL asks us to conclude that Mr. Cain is authorized to practice law in the District of Columbia under D.C. App. R. 49(c)(8) that allows an attorney not yet barred in the District of Columbia to practice for a limited duration under the supervision of a District of Columbia Bar member. WGL's Motion indicates that Mr. Cain has a principal office located in the District of Columbia; is an active member in good standing of the highest court of a state or territory, Maryland; and would be supervised by a District of Columbia Bar member, Donald R. Hayes, who will directly supervise Mr. Cain. The final issue is whether Mr. Cain meets the requirement to apply for admission to the District of Columbia Bar within 90 days. WGL states that Mr. Cain is a newly-hired attorney for WGL who filed his application for admission to the District of Columbia Bar on June 11, 2018. Consequently, the 90-day requirement to submit his application to become a member of the District of Columbia Bar has not yet expired. Thus, because we conclude that Mr. Cain's practice of law in the District of Columbia is authorized under the Court of Appeals rules referenced above, we will waive Commission Rule 110.3 for Mr. Cain under the facts and circumstances here and grant WGL's Motion.

**THEREFORE, IT IS ORDERED THAT:**

7. Washington Gas Light Company's Motion for Special Appearance of Robert C. Cain, II and Request for Waiver of Requirement Under Rule 110.3 is **GRANTED**; and

8. Robert C. Cain, II is granted special admission to appear as Counsel before the Commission under the supervision of Donald R. Hayes in the following proceedings: *Formal Case Nos. 977, 1089, 1130, 1138, 1129, WGRORETR2018-01, ARDIR2018-01, WGPRPR2018-01, and VIO2018-01.*

**A TRUE COPY:**

**BY DIRECTION OF THE COMMISSION:**



**CHIEF CLERK:**

**BRINDA WESTBROOK-SEDGWICK  
COMMISSION SECRETARY**

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<sup>7</sup> D.C. App. R. 49(c)(8) (2016).