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April 5, 2010

**VIA HAND DELIVERY**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
Harrisburg, PA 17120

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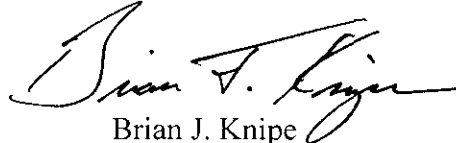
Re: *Darlene Anne Notte v. Pennsylvania-American Water Company*,  
Docket No. C-2010-2163913

Dear Secretary McNulty:

I have enclosed for filing the original and three (3) copies of the *Preliminary Objections of Pennsylvania-American Water Company to the Complaint of Darlene Anne Notte* and the original and three (3) copies of the *Answer and New Matter of Pennsylvania-American Water Company to the Complaint of Darlene Anne Notte*. A copy of each document has been provided to the Complainant in the manner indicated on the attached Certificates of Service.

Please contact me if you have any questions.

Very truly yours,



Brian J. Knipe

For BUCHANAN INGERSOLL & ROONEY PC

BJK/paf

Enclosures

cc: Certificate of Service (w/encls.)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

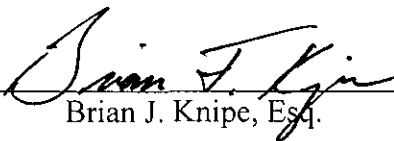
|                             |   |                           |
|-----------------------------|---|---------------------------|
| DARLENE ANNE NOTTE          | : |                           |
| Complainant                 | : |                           |
|                             | : |                           |
| v.                          | : | Docket No. C-2010-2163913 |
|                             | : |                           |
| PENNSYLVANIA-AMERICAN WATER | : |                           |
| COMPANY                     | : |                           |
| Respondent                  | : |                           |

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.101(b), you are hereby notified that you are required to file an Answer to the enclosed Preliminary Objections of Pennsylvania-American Water Company within **ten (10) days** from the date of service of the Preliminary Objections. All pleadings must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Pennsylvania-American Water Company, and where applicable, the Administrative Law Judge presiding over the case.

**File with:**  
James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor  
Harrisburg, PA 17120

**With a copy to:**  
Brian J. Knipe, Esq.  
Michael T. Killion, Esq.  
Buchanan Ingersoll & Rooney PC  
17 North Second Street, 15th Floor  
Harrisburg, PA 17101-1503

  
\_\_\_\_\_  
Brian J. Knipe, Esq.

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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UTILITY COMMISSION  
SECRETARY'S BUREAU

DARLENE ANNE NOTTE :  
Complainant :  
 :  
v. :  
 :  
PENNSYLVANIA-AMERICAN WATER :  
COMPANY :  
Respondent :

Docket No. C-2010-2163913

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**PRELIMINARY OBJECTIONS OF PENNSYLVANIA-AMERICAN WATER  
COMPANY TO THE COMPLAINT OF BASIL RICCITELLI**

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Pennsylvania-American Water Company (Respondent or the Company), by and through its attorneys, Buchanan Ingersoll & Rooney, PC, files these preliminary objections pursuant to 52 Pa. Code § 5.101, and moves to strike the request for monetary damages in the Formal Complaint filed by Darlene Anne Notte (Complainant). In support thereof, Respondent states as follows:

1. Complainant alleges that in February 2009, the Company was aware of a water leak on her property but failed to take meaningful and timely action to shut off Complainant's water or advise Complainant of the leak, resulting in increased water charges and damage to Complainant's property. Compl. ¶ 5 and May 15, 2009 letter attached to Compl.<sup>1</sup>

2. Complainant requests that the Commission award her money damages for water damage to her property. Compl. ¶ 5 and May 15, 2009 letter attached to Compl.

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<sup>1</sup> Attachments to the Formal Complaint, which are incorporated by reference in Complainants' allegations in Paragraph 5 of the Formal Complaint, include a letter written by Complainant and dated May 15, 2009, a plumbing and heating invoice dated February 13, 2009, and handwritten notes by an author that may or may not be Complainant.

**FIRST PRELIMINARY OBJECTION —  
MOTION TO STRIKE REQUEST FOR MONEY DAMAGES FOR  
LACK OF COMMISSION JURISDICTION/POWER  
(52 Pa. Code § 5.101(a)(1))**

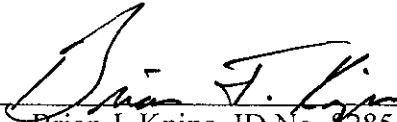
3. It is well-settled that the Commission's array of remedial and enforcement powers does not include the power to award money damages. This power resides with the Courts of Common Pleas. *E.g., Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 10, 383 A.2d 791, 795 (1977).

4. Because the Commission lacks the authority to award money damages, Complainant's request for money damages should be stricken.

WHEREFORE, Respondent, Pennsylvania-American Water Company, respectfully requests that this Honorable Commission grant its preliminary objections to the Formal Complaint of Darlene Anne Notte at Docket No. C-2010-2163913, and further strike Complainant's request for money damages.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY, P.C.

By:   
\_\_\_\_\_  
Brian J. Knipe, ID No. 82854  
Michael T. Killion, ID No. 201923

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[michael.killion@bipc.com](mailto:michael.killion@bipc.com)

Dated: April 5, 2010

Attorneys for Pennsylvania-American  
Water Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DARLENE ANNE NOTTE  
Complainant

v.

PENNSYLVANIA-AMERICAN WATER  
COMPANY

Respondent

Docket No. C-2010-2163913

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons on the attached service list, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

**Via First Class U.S. Mail**

Darlene Anne Notte  
2780 Bingham Drive  
Pittsburgh, PA 15241

Dated: April 5, 2010

  
\_\_\_\_\_  
Brian J. Knipe, Esq.

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