



**Via Electronic Filing**

February 20, 2018

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

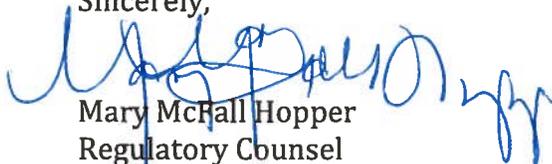
RE: ***William Freed v. Aqua Pennsylvania, Inc.***  
**PUC Docket No. C-2018-2645244**

Dear Secretary Chiavetta:

Enclosed for filing, please find Aqua Pennsylvania, Inc.'s Preliminary Objections to the Complaint in the above captioned complaint.

A copy of the Preliminary Objections and the Notice to Plead has been served on Complainant as evidenced by the enclosed Certificate of Service.

Sincerely,



Mary McFall Hopper  
Regulatory Counsel  
(610) 645-1170

Enclosure

cc: William Freed

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

WILLIAM FREED	:	
	:	
Complainant	:	
v	:	
	:	Docket No. C-2018-2645244
	:	
AQUA PENNSYLVANIA, INC.	:	
	:	
Respondent	:	

**TO: William Freed**

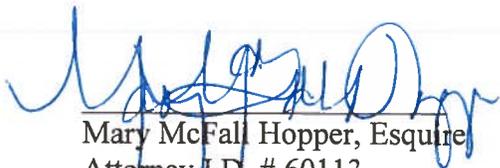
**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code §§ 5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Preliminary Objections of Aqua Pennsylvania, Inc. within twenty (10) days from service of this notice, the facts set forth by Aqua Pennsylvania, Inc. in the Preliminary Objections may be deemed to be true, whereby requiring no other proof. All pleadings, such as a Reply to Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Aqua Pennsylvania, Inc., Mary McFall Hopper, and where applicable the Administrative Law Judge presiding over the issue.

**File with:**  
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building – 2 North  
P.O. Box 3265  
Harrisburg, PA 17105

**With a copy to:**  
Mary McFall Hopper, Esquire  
Aqua Pennsylvania, Inc.  
762 W. Lancaster Avenue  
Bryn Mawr, PA 19010

Dated: February 20, 2018



Mary McFall Hopper, Esquire  
Attorney I.D. # 60113  
Counsel for Aqua Pennsylvania, Inc.  
762 W. Lancaster Avenue  
Bryn Mawr, PA 19010  
(610) 645-1170  
mmhopper@aquaamerica.com



Complaint is insufficient as to substance because it fails to state a claim upon which the Commission can grant relief.

B. Procedural History

3. On January 31, 2018, the Company was served with the Formal Complaint filed by Complainant with the Commission under Docket C-2018-26452444, a copy of which is attached hereto as Exhibit “A”.

4. The Complainant seeks a hearing before the Commission to order the Company to pay Complainant the “full cost to make necessary repairs to correct problem including homeowners insurance deductible” he alleges was the result of the Company’s water main replacement projected done in 2014.

C. The Complaint should be dismissed since the Commission does not possess the requisite authority to award monetary damages to Complainant.

5. Since the Commission is a creature of statute, it has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication. *Allegheny County Port Authority v. PA P.U.C.* 427 Pa. 562, 237 A.2d 602 (1967).

6. The enforcement and remedial powers of the Commission, although formidable, are not those of a court. The Commission is empowered to correct, by regulation or order abuses in the provision of service. *Feingold v. Bell of Pennsylvania*, 447 Pa. 1, 383 A2d 791, 794 (1972).

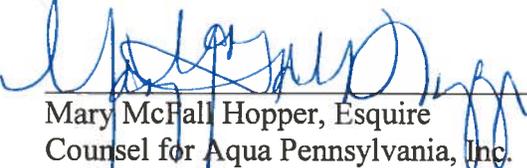
7. The remedial and enforcement powers vested in the Commission by the Public Utility Law were designed to allow the Commission to enforce its orders and regulations, but not to empower the PUC to award monetary damages or to litigate a private action for monetary damages on behalf of a Complainant. *Id* at 495.

8. In the instant matter, the Complainant has improperly sought an award of monetary damages since the Commission lacks the statutory power to confer such an award.

9. Because the Complaint seeks relief that is outside the Commission's authority to grant, the Complaint should be dismissed.

**WHEREFORE**, Aqua Pennsylvania, Inc. respectfully requests that the Commission grant its Preliminary Objections and dismiss the Formal Complaint of William Freed at Docket No. C-2018-2645244 in its entirety.

Respectfully submitted,



Mary McFall Hopper, Esquire  
Counsel for Aqua Pennsylvania, Inc.  
762 W. Lancaster Avenue  
Bryn Mawr, PA 19010  
(610) 645-1170

DATED: February 20, 2018

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

WILLIAM FREED

v.

AQUA PENNSYLVANIA, INC.

:  
:  
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COMPLAINT DOCKET

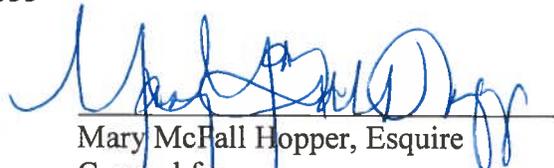
No. C-2018-2645244

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document, Preliminary Objections of Aqua Pennsylvania, Inc. upon the Complainant and in the manner set forth below:

FIRST CLASS MAIL:

Mr. William Freed  
319 Sutton Avenue  
Folsom, PA 19033

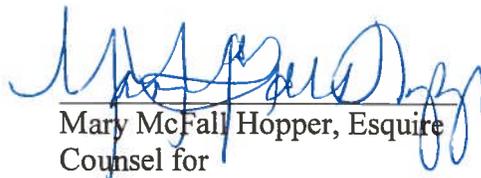


Mary McFall Hopper, Esquire  
Counsel for  
Aqua Pennsylvania, Inc.  
762 Lancaster Avenue  
Bryn Mawr, PA 19010  
(610) 645-1170

Dated: February 20, 2018

VERIFICATION

I, Mary McFall Hopper, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect the Company to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).



Mary McFall Hopper, Esquire  
Counsel for  
Aqua Pennsylvania, Inc.  
762 W. Lancaster Avenue  
Bryn Mawr, PA 19010  
(610) 645-1170

Dated: February 20, 2018

**William Freed v. Aqua Pennsylvania, Inc.  
PUC Docket No. C-2018-2645244**

**EXHIBIT A**

**PUC Formal Complaint**

**Harrison (Doyle), Heather**

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**From:** eServe@pa.gov  
**Sent:** Wednesday, January 31, 2018 2:01 PM  
**To:** Harrison (Doyle), Heather  
**Cc:** Hopper, Mary M.  
**Subject:** PA PUC eServe Notice

**Importance:** High

Dear Nicholas DeBenedictis,

A(n) **Formal Complaint** has been served in this proceeding. This document is docketed as **C-2018-2645244**. You may view this document at

**Formal Complaint**

You are receiving this email because you are a(n) **Respondent** for this case and have agreed to be served electronically. By selecting electronic service (eService), you have agreed that this notification constitutes valid service. Electronic service of any and all documents will be in place of paper service.

Thank You,  
Public Utility Commission  
Commonwealth of Pennsylvania

*\* Please do not respond to this automatically generated email.*

# 3582179

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

Filing this form begins a legal proceeding and you will be a party to the case. If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name William Freed

Street/P.O. Box 319 Sutton Ave Apt #

City Folsom State PA Zip 19033

County Delaware

Telephone Number(s) Where We Can Contact You During the Day:

(610) 583-0869 (home) (610) 416-6450 (mobile)

E-mail Address (optional): wgfreed@rcn.com

Utility Account Number (from your bill) Aqua Claim # G2015316

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name

Street/P.O. Box

City State Zip

RECEIVED

JAN 26 2018

PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

Aqua PA - AEL

#3582179

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- |                                           |                                                                               |
|-------------------------------------------|-------------------------------------------------------------------------------|
| <input type="checkbox"/> ELECTRIC         | <input type="checkbox"/> WASTEWATER/SEWER                                     |
| <input type="checkbox"/> GAS              | <input type="checkbox"/> TELEPHONE/TELECOMMUNICATIONS (local, long distance)  |
| <input checked="" type="checkbox"/> WATER | <input type="checkbox"/> MOTOR CARRIER (e.g. taxi, moving company, limousine) |
| <input type="checkbox"/> STEAM HEAT       |                                                                               |

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. **Your complaint may be dismissed without a hearing if you do not provide specific information.**

- The utility is threatening to shut off my service or has already shut off my service.
  
- I would like a payment agreement.
  
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
  
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important. *Sewer line blocked by Agua construction. See attached for additional information.*
  
- Other (explain).

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Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

**5. Requested Relief**

**How do you want your complaint to be resolved?** Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

Pay full cost to make necessary repairs to  
Correct problem including Home Owners Insurance  
deductible.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

# 3582179

6. Protection From Abuse (PFA)

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order for your personal safety or welfare?

YES

NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES  - AEL Not Appealable Decision

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

# 3582179

- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

**Note:** Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

**8. Legal Representation**

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer **in this matter**, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name \_\_\_\_\_

Street/P.O. Box \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Area Code/Phone Number \_\_\_\_\_

E-mail Address (if known) \_\_\_\_\_

**Note:** Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

#3582179

9. **Verification and Signature**

**You must sign your complaint.** Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. If you do not sign the Formal Complaint, the PUC **will not accept it**.

**Verification:**

I William Freed, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

William Freed 1/25/2018  
(Signature of Complainant) (Date)

\_\_\_\_\_  
Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

**Note:** If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept it**.

10. **Two Ways to File Your Formal Complaint**

**Electronically.** You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

**Note:** If you are appealing your Bureau of Consumer Services (BCS) decision, you must file your formal complaint by mail.

**Mail.** Mail the completed form with your original signature and any attachments, by certified mail, first class mail, or overnight delivery to this address:

Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, Pennsylvania 17120

**Note:** Formal Complaints sent by fax or e-mail will **not** be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.

Thursday, January 25, 2018

Sir or Madam,

Our problem began, and is continuing, when Aqua Water Co. dug up our street and upgraded their water supply line to my house during the winter of 2014-2015. Since that work was preformed, my basement has flooded on three occasions, the last instance being in the spring of 2017. Prior to the street work we have had a dry basement since moving here 28 years ago. Our Rec Room is finished with a tiled floor

At the first flooding I contacted Aqua Homeserve, an Aqua insurance I pay for. A private plumber was assigned, but said he could not come to our location from his area in Southern Delaware until two days later. I had 4" of raw sewage in my downstairs and being somewhat mechanically inclined, attempted to clear the blockage myself with a lightweight drain snake. No luck. When the plumber did arrive, he attempted to clear the line from the street vent. Again no luck. The Aqua Homeserve plumber announced he would have to dig up my front lawn, to which I disagreed, since I had already "snaked" that section of sewer line and found nothing. The sewage in the basement had finally started to recede, so I informed him of my intent to get a second opinion while he returned to Delaware for his heavy equipment.

I called the plumbing service I normally use and trust, Murphys Plumbing on MacDade Blvd. The mechanic arrived within the hour when I told him my basement was wet. He looked down my street vent with a light, got a long pole with a grabbing device, and proceeded to remove a series of clean new field stones, 1" to 2" in length, from the street sewer trap. The rest of water drained from my basement. I contacted Aqua Water Company and informed them of what had occurred and they offered to reimburse me the \$285.00 Murphy Plumbing fee if I would sign a release relieving them of any future liability, which I did not do.

My basement flooded twice more to the depth of three inches. I contacted Mr. Craig Nelson at Aqua Water on numerous occasions, hoping for some relief from my dilemma. I believed that our problem was caused by the construction in the street in front of my house. He responded with numerous excuses and untruths over the next year and a half. I called three different plumbers and drain clearing companies but they would not guarantee any work they would perform in clearing my sewer since, in their words, it was an Aqua issue.

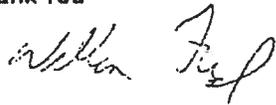
Finally a Ms. Fran Worth, (610-645-1126) who identified herself as an Aqua Water Company representative called and said the water company was sending a camera crew to check the sewer. On September 19, 2017 two large Aqua Waste Management work trucks, a van and two SUVs arrived. They ran a camera from the street main access and found that the street sewer main was clear to my house. The crew then ran the camera line down my vertical street vent, and there, plain as the noses on their faces, was a pile of stones in my horizontal sewer, identical to the stones that the Murphys plumber had removed from my vertical sewer vent, just on the street side of the trap. The Aqua Waste Management truck ran a hose down the vent and attempted to blow the blockage out through the sewer to the street main with high pressure water, but failed. The stones were only moved about

#3582179

six feet towards the street main, with another 4 or 5 more feet of sewer line to go, to clear the line completely. At that point the man running the camera told me that we had to get the rest of the stones out that were partially blocking my sewer because in his opinion, he could guarantee another total blockage sometime in the future.

I finally talked a plumber I know from the gym I go to, to come over our house, just for an estimate of how much it would cost for the problem to be solved. His answer is \$4200.00 and I forwarded that estimate to Mr. Nelson. I offered to absorb the cost of the concrete sidewalk, but I still do not feel I should pay half (\$2000.00) for Aqua Water Company's bad workmanship. Of course, with a "no liability" clause attached. At present we cannot use our dishwasher and wash our clothes at the same time, and slow drains. I believe that when the Aqua Water Company replaced their water main with new pipe, the stones they used to back fill the void got into my sewer line due to the close proximity (6 inches) of the same. There is a white mold coming up between loose floor tiles in our rec room and our homeowners insurance requires a \$1000.00 deductible to correct the issue and make it healthy to use our basement.

Thank You





Mr. William Freed  
319 Sutton Ave  
Folsom, PA 19033

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, TO DAT DOTTED LINE

**CERTIFIED MAIL**



7017 3040 0000 7074 1627



17120



POSTAL SERVICE

1000

U.S. POSTAGE  
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FOLSOM, PA  
19033  
JAN 26, 18  
AMOUNT

**\$4.66**

R2305P151512-14

Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Re # 3582179

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