



PEOPLES

MAKING YOUR LIFE BETTER.

HOME | COMMUNITY | BUSINESS | ENVIRONMENT

Jennifer L. Petrisek, Senior Counsel
375 North Shore Drive, Pittsburgh, PA 15212
(412) 208-6834; Jennifer.petrisek@peoples-gas.com

VIA E-FILING

December 6, 2018

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

Re: Wallace B. McGaughey Jr. v. Peoples Natural Gas Company LLC
Docket Number: C-2018 - 3005956

Dear Secretary Chiavetta:

On behalf of Peoples Natural Gas Company LLC, enclosed please find the Notice to Plead and Preliminary Objections, to be filed in the above-referenced case.

If you have any questions or concerns regarding this matter, please do not hesitate to contact me at (412) 208-6834.

Very truly yours,

Enclosures

cc: **Complainant**
Wallace B. McGaughey, Jr.
29001 Gaylord Road
Walker, LA 70785

HOME | COMMUNITY | BUSINESS | ENVIRONMENT

**COMMONWEALTH OF PENNSYLVANIA
BEFORE
THE PUBLIC UTILITY COMMISSION**

Wallace B. McGaughey Jr.

v.

Peoples Natural Gas Company LLC

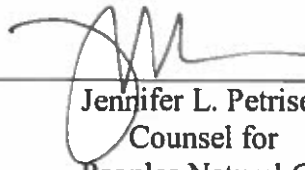
) Complaint Docket

) No. C-2018-3005956

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing NOTICE TO PLEAD and PRELIMINARY OBJECTIONS TO THE FORMAL COMPLAINT upon each party to this proceeding.

Done at Pittsburgh, Pennsylvania, this 6th day of December, 2018.



Jennifer L. Petrisek
Counsel for
Peoples Natural Gas Company LLC

**COMMONWEALTH OF PENNSYLVANIA
BEFORE
THE PUBLIC UTILITY COMMISSION**

Wallace B. McGaughey Jr.

v.

Peoples Natural Gas Company LLC

) **Complaint Docket**

) **No. C-2018-3005956**

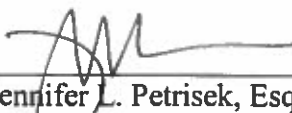
)

NOTICE TO PLEAD

TO: Wallace B. McGaughey Jr.

You are hereby notified that, if you do not file a written response to the enclosed Preliminary Objections within (10) days from service of this notice, the facts set forth in the following Preliminary Objections may be deemed to be true, thereby requiring no other proof. All pleadings, such as a Response to the enclosed Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on all other parties to this proceeding. Failure to respond to the Preliminary Objections could result in the dismissal of your case.

Dated: December 6, 2018



Jennifer L. Petrisek, Esq.
Counsel for Peoples Natural Gas Company LLC
375 North Shore Drive
Pittsburgh, PA 15212
(412) 208-6834

**COMMONWEALTH OF PENNSYLVANIA
BEFORE
THE PUBLIC UTILITY COMMISSION**

Wallace B. McGaughey Jr.

v.

Peoples Natural Gas Company LLC

) Complaint Docket

) No. C-2018-3005956

**PRELIMINARY OBJECTIONS
TO THE FORMAL COMPLAINT OF
WALLACE B. MCGAUGHEY JR.**

Pursuant to 52 Pa. Code §5.101, Peoples Natural Gas Company LLC, hereinafter referred to as “Peoples” or “Company” hereby files its preliminary objections to the Formal Complaint filed in the above-captioned matter on the grounds that some of the subject matter of the complaint is beyond the jurisdiction of the Public Utility Commission. The Commission is without authorization to grant the Complainants’ request for damages, and the Formal Complaint includes impertinent matter in its requested relief. Therefore, Peoples moves to strike the Complainants’ request for compensation.

In support of its preliminary objections, Peoples states as follows:

1. The Complainants is the owner of a property located at 2460 Home Street, Indiana, PA 15701 (the “Property”).
2. The Complainant filed a formal complaint with the Commission at the above-referenced docket, averring that Peoples has failed to maintain a piece of natural gas piping alleged to be regulated pipeline (the “Formal Complaint”). In the Formal Complaint, the Complainant seeks compensatory damages for the costs associated with Complainant’s repair and/ or replacement of the natural gas piping. This work would amount to monetary compensation being paid to Complainant.
3. Peoples has filed its Answer to Complaint contemporaneously with this Motion, in which it denies liability to Complainant and denies that it mishandled the transfer of service, and denies that its violated multiple CFR code sections.
4. It is well settled that the Commission has only the powers, and can only consider such matters, as are expressly, or by necessary implication, given to it by the legislature. Behrend v. Bell Telephone Co., 363 A.2d 1152 (Pa. Super 1976); Brockway Glass Company, Inc. v. West Penn Power Co., 54 Pa. P.U.C. 509 (1980); Bones v. Bates Taxi, Inc., 51 Pa. P.U.C. 346 (1977). The Public Utility Code, 66 Pa. C.S. §101, et seq. (the “Code”), gives the Commission supervisory and regulatory power over the rates, service and facilities of public utilities. Brockway Glass Company, Inc. at 514.

5. Pursuant to 52 Pa. Code §5.101, Peoples objects to the relief requested in the Formal Complaint on the grounds that the Pennsylvania Public Utility Commission (the "Commission") lacks jurisdiction to award monetary damages. The Complainant seeks to have the Company compensate them for the alleged damages to property they own due to the frozen water pipes that have since been repaired.
6. Pennsylvania courts have long held that the enforcement powers of the Commission do not include the power to award monetary damages. Elkin v. Bell, 491 Pa. 123, 420 A.2d 371 (1980); Feingold v. Bell of Pennsylvania, 477 Pa. 1, 383 a.2d 791 (1978); see Nagy v. Bell Tel. Co., 436 A.2d 701 (Pa. Super. 1981). Thus, the Code does not give the Commission jurisdiction over a claim for monetary damages. Behrend v. Bell Telephone Co., 363 A.2d 1152 (Pa. Super 1976); Brockway Glass Company, Inc. v. West Penn Power Co., 54 Pa. P.U.C. 509 (1980); Bones v. Bates Taxi, Inc., 51 Pa. P.U.C. 346 (1977).
7. The Court of Common Pleas retains original jurisdiction over suits for monetary damages. Behrend v. Bell Telephone Co., 363 A.2d 1152 (Pa. Super 1976).
8. Complainants' concerns should be addressed in the Court of Common Pleas.
9. A prayer for relief by the Complainants in the form of monetary compensation for damages is not recoverable in the cause of action before this Commission as the Commission is without authorization to award compensation for damages. The request for relief is irrelevant to the instant cause of action and therefore an "impertinent matter" within the use and meaning of 52 Pa. Code §5.101(a)(2).
10. Thus the Complainants' request for monetary compensation for alleged damages should be stricken from the Formal Complaint pursuant to Pa. Code §5.101(a)(2) and the Complainants should be precluded from introducing any evidence in the Formal Complaint proceeding related to a monetary claim for damages.

WHEREFORE, Peoples respectfully requests that this Commission grant Peoples' preliminary objection to the Formal Complaint and strike the request for monetary damages as an impertinent matter.

Respectfully submitted.



Jennifer L. Petrisek, Esq.

Counsel for Peoples Natural Gas Company LLC

Dated: December 6, 2018

COMMONWEALTH OF PENNSYLVANIA
BEFORE
THE PUBLIC UTILITY COMMISSION

Wallace B. McGaughey Jr.

v.

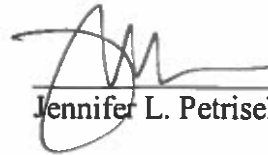
Peoples Natural Gas Company LLC

) Complaint Docket

) No. C-2018-3005956

VERIFICATION

I, Jennifer L. Petrisek, hereby declare that I am an attorney representing Peoples; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Preliminary Objections and Answer are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. §4904 pertaining to false statements to authorities.



Jennifer L. Petrisek

Date: December 6, 2018