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March 18, 2019

**VIA ELECTRONIC FILING**  
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: James Martell v. Peoples Natural Gas Company LLC  
at Docket No. C-2019-3008087

Dear Secretary Chiavetta:

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

If you have any questions or concerns regarding this matter, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to be the initials "JM" followed by a flourish.

Enclosures

cc: James Martell, 234 N 5<sup>th</sup> Street, Clairton, PA 15025

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

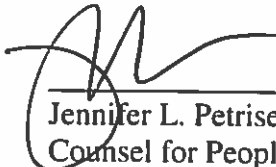
<b>James Martell</b>	)	<b>Complaint Docket</b>
<b>v.</b>	)	<b>No. C-2019-3008087</b>
<b>Peoples Natural Gas Company LLC</b>	)	

**NOTICE TO PLEAD**

TO: James Martell

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: March 18, 2019

  
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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**

<b>James Martell</b>	)	<b>Complaint Docket</b>
<b>v.</b>	)	<b>No. C-2019-3008087</b>
<b>Peoples Natural Gas Company LLC</b>	)	

**PRELIMINARY OBJECTIONS  
TO THE FORMAL COMPLAINT OF  
JAMES MARTELL**

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 Complainant’s request for damages, and the Formal Complaint includes impertinent matter in its requested relief. Therefore, Peoples moves to strike the Complainant’s request for compensation.

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

1. Complainant is the owner of a residential property located at 234 North 5<sup>th</sup> Street, Clairton, PA 15025 (“the Property”). To the best of Peoples’ information and belief, the property is Complainant’s personal residence.
2. The Complainant filed a formal complaint with the Commission at the above-referenced docket, averring that he suffered damages to the carpeting at the Property due to walking on asphalt that melted and stuck to his shoes, which he then carried into his house. It is not stated in the Complaint what the source of the melted asphalt was, but it is implied that it was due to construction in the area near the Property by Peoples.
3. Relief sought by complainant consists of payment by Peoples to him of \$2,611.96; the cost to replace the carpeting at the Property.
4. Peoples has filed its Answer to Complaint contemporaneously with this Motion, in which it denies liability to Complainant.

5. 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.
6. 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, such as the \$2,611.96 requested by Complainant.
7. 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).
8. 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).
9. Complainant's concerns should be addressed in the Court of Common Pleas.
10. A prayer for relief by the Complainant 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).
11. Thus the Complainant's request for monetary compensation for alleged damages should be stricken from the Formal Complaint pursuant to Pa. Code §5.101(a)(2) and Complainant 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.



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Jennifer L. Petrisek, Esq.  
Counsel for Peoples Natural Gas Company LLC

Dated: March 18, 2019

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BEFORE  
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<b>James Martell</b>	)	<b>Complaint Docket</b>
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<b>Peoples Natural Gas Company LLC</b>	)	

**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 Motion 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.

  
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Jennifer L. Petrisek

Date: March 18, 2019


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<b>James Martell</b>	)	<b>Complaint Docket</b>
<b>v.</b>	)	<b>No. C-2019-3008087</b>
<b>Peoples Natural Gas Company LLC</b>	)	

**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 18<sup>th</sup> day of March, 2019.

  
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Jennifer L. Petrisek  
Counsel for  
Peoples Natural Gas Company LLC