



Eckert Seamans Cherin & Mellott, LLC
213 Market Street
8th Floor
Harrisburg, PA 17101

TEL: 717 237 6000
FAX: 717 237 6019

Lauren M. Burge
412.566.2146
lburge@eckertseamans.com

January 29, 2021

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Proventus Holdings, LLC v. The Pittsburgh Water and Sewer Authority
Docket Nos. C-2020-3022592, C-2020-3023420, C-2020-3023421, C-2020-3023422,
C-2020-3023423, C-2020-3023424, C-2020-3023425, C-2020-3023426,
C-2020-3023427, C-2020-3023429, C-2020-3023430, C-2020-3023431, C-2020-
3023433, C-2020-3023434, C-2020-3023435, C-2020-3023438, C-2020-3023439,
C-2020-3023440, C-2020-3023442, C-2020-3023443, C-2020-3023444, and
C-2020-3023445

Dear Secretary Chiavetta:

Enclosed for electronic filing please find The Pittsburgh Water and Sewer Authority's ("PWSA") Preliminary Objection with regard to the above-referenced matters. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

/s/ Lauren M. Burge

Lauren M. Burge

cc: Cert. of Service

CERTIFICATE OF SERVICE

I hereby certify that this date I served a copy of PWSA's Preliminary Objection upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

John D. Eddy, Esq.
Eddy Townsend Gravina & Bendik
Attorneys at Law
Manor Building Penthouse
564 Forbes Avenue
Pittsburgh, PA 15219
eddy@pghlaw.com

Hon. Charles E. Rainey, Jr.,
Chief Administrative Law Judge
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
bobbwillia@pa.gov

Dated: January 29, 2021

Lauren M. Burge

Lauren M. Burge, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3022592
v. : (631 Evergreen Avenue)

The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023420
v. : (402 Kirkpatrick Street)

The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023421
v. : (404 Kirkpatrick Street)

The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023422
v. : (406 Kirkpatrick Street)

The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023423
v. : (408 Kirkpatrick Street)

The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023424
v. : (410 Kirkpatrick Street)

The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023425
v. : (412 Kirkpatrick Street)

The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant
v.
The Pittsburgh Water and Sewer Authority,
Respondent

Docket No. C-2020-3023426
(414 Kirkpatrick Street)

Proventus Holdings, LLC, Complainant
v.
The Pittsburgh Water and Sewer Authority,
Respondent

Docket No. C-2020-3023427
(2202 LaPlace Street)

Proventus Holdings, LLC, Complainant
v.
The Pittsburgh Water and Sewer Authority,
Respondent

Docket No. C-2020-3023429
(2204 LaPlace Street)

Proventus Holdings, LLC, Complainant
v.
The Pittsburgh Water and Sewer Authority,
Respondent

Docket No. C-2020-3023430
(2206 LaPlace Street)

Proventus Holdings, LLC, Complainant
v.
The Pittsburgh Water and Sewer Authority,
Respondent

Docket No. C-2020-3023431
(2332 LaPlace Street)

Proventus Holdings, LLC, Complainant
v.
The Pittsburgh Water and Sewer Authority,
Respondent

Docket No. C-2020-3023433
(2340 LaPlace Street)

Proventus Holdings, LLC, Complainant	:	Docket No. C-2020-3023443
v.	:	(2343 Reed Street)
The Pittsburgh Water and Sewer Authority,	:	
Respondent	:	
	:	
	:	
	:	Docket No. C-2020-3023444
Proventus Holdings, LLC, Complainant	:	(2347 Reed Street)
v.	:	
The Pittsburgh Water and Sewer Authority,	:	
Respondent	:	
	:	
	:	
	:	Docket No. C-2020-3023445
Proventus Holdings, LLC, Complainant	:	(2345 Reed Street)
v.	:	
The Pittsburgh Water and Sewer Authority,	:	
Respondent	:	

NOTICE TO PLEAD

TO:

Proventus Holdings, LLC
 PO Box 58174
 Pittsburgh, PA 15209

You are hereby notified that an Answer to the enclosed **Preliminary Objections** of The Pittsburgh Water and Sewer Authority (“Authority”) must be filed within 10 days of the date of service. 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 the Authority and the Office of Administrative Law Judge.

File with:

Rosemary Chiavetta, Secretary
 Pennsylvania Public Utility Commission
 PO Box 3265
 Harrisburg, PA 17105-3265

With a copy to:

Shannon F. Barkley, Esquire
 The Pittsburgh Water and Sewer Authority
 1200 Penn Avenue
 Pittsburgh, PA 15222
 SBarkley@pgh2o.com

Lauren M. Burge, Esquire
 Eckert Seamans Cherin & Mellott, LLC
 600 Grant Street, 44th Floor
 Pittsburgh, PA 15219
 lburge@eckertseamans.com

Dated: January 29, 2021

/s/ Lauren M. Burge

Lauren M. Burge
 Attorneys for The Pittsburgh Water and Sewer Authority

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023425
v. : (412 Kirkpatrick Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023426
v. : (414 Kirkpatrick Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023427
v. : (2202 LaPlace Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023429
v. : (2204 LaPlace Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023430
v. : (2206 LaPlace Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023431
v. : (2332 LaPlace Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023433
v. : (2340 LaPlace Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023434
v. : (2331 Reed Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023435
v. : (2333 Reed Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023438
v. : (2335 Reed Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023439
v. : (2337 Reed Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023440
v. : (2339 Reed Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023442
v. : (2341 Reed Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant : Docket No. C-2020-3023443
v. : (2343 Reed Street)
The Pittsburgh Water and Sewer Authority, :
Respondent :

Proventus Holdings, LLC, Complainant	:	Docket No. C-2020-3023444
v.	:	(2347 Reed Street)
The Pittsburgh Water and Sewer Authority,	:	
Respondent	:	
	:	
	:	
	:	
	:	
Proventus Holdings, LLC, Complainant	:	Docket No. C-2020-3023445
v.	:	(2345 Reed Street)
The Pittsburgh Water and Sewer Authority,	:	
Respondent	:	

**THE PITTSBURGH WATER AND SEWER AUTHORITY’S
PRELIMINARY OBJECTION**

Pursuant to 52 Pa. Code § 5.101, The Pittsburgh Water and Sewer Authority (“PWSA,” “Authority”) submits the following Preliminary Objection to the Formal Complaint of Proventus Holdings, LLC (“Complainant”), seeking dismissal of the Complaint. In support of these Preliminary Objections, PWSA states as follows:

I. INTRODUCTION

1. Proventus Holdings, LLC filed twenty-one (21) nearly identical Formal Complaints against PWSA, including the instant Complaint, with the Pennsylvania Public Utility Commission (“Commission”).¹ These twenty-one complaints were served on PWSA on December 24, 2020. Each of the Complaints alleges that there are “incorrect charges” on the bill. The Complaints do not specify what charges the Complainant believes to be incorrect for each specific property, and only generically state that the bills are “extremely high.” The

¹ See Docket Nos. C-2020-3023420; C-2020-3023421; C-2020-3023422; C-2020-3023423; C-2020-3023424; C-2020-3023425; C-2020-3023426; C-2020-3023427; C-2020-3023429; C-2020-3023430; C-2020-3023431; C-2020-3023433; C-2020-3023434; C-2020-3023435; C-2020-3023438; C-2020-3023439; C-2020-3023440; C-2020-3023442; C-2020-3023443; C-2020-3023444; and C-2020-3023445.

Complainant seeks to “pay the least amount possible.” Each of the Complaints make the same vague statements about each of the twenty-one different commercial properties.

2. Additionally, Proventus Holdings, LLC previously filed a Formal Complaint which was served on PWSA on October 27, 2020 at Docket No. C-2020-3022592.

3. On January 27, 2021, PWSA filed a Motion to Consolidate all twenty-two (22) of the Complaints filed by Proventus Holdings, LLC.

4. PWSA now files these Preliminary Objections in an effort to secure the just, speedy and inexpensive dismissal of the Complaints. For the reasons stated herein and in PWSA’s Answer and New Matter to the Complaints, which is incorporated herein by reference, the Complaints should be dismissed because they lack sufficient specificity.

II. PRELIMINARY OBJECTIONS

A. Applicable Legal Standards

5. The Commission’s Rules of Administrative Practice and Procedure permit the filing of preliminary objections. 52 Pa. Code § 5.101(a).

6. Under Section 5.101(a) of the Commission’s regulations, 52 Pa. Code § 5.101(a)(1)-(7), preliminary objections must specifically state the legal and factual grounds relied upon and be limited to the following:

(1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding;

(2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter;

(3) Insufficient specificity of a pleading;

(4) Legal insufficiency of a pleading;

(5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action;

(6) Pendency of a prior proceeding or agreement for alternative dispute resolution; and

(7) Standing of a party to participate in the proceeding.

7. The moving party may not rely on its own factual assertions but must accept for the purposes of disposition of the preliminary objection, all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts.² However, the Commission need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations or expressions of opinion.³

8. In deciding the preliminary objections, the Commission must determine whether, based on the well-pleaded factual averments of the party, recovery or relief is possible.⁴

B. The Complaint Lacks Sufficient Specificity Pursuant to 52 Pa. Code § 5.101(a)(3).

9. Section 5.101(a)(3) of the Commission's regulations permits the filing of a preliminary objection based on insufficient specificity of a pleading.

10. As described above, the Complainant has checked the box on the Formal Complaint form indicating that there are "incorrect charges" on the bill for each of the Complaints. However, the Complaints do not specify what charges the Complainant believes to be incorrect. The Complaint only generically states that the bills are "extremely high" and that the Complainant seeks to "pay the least amount possible."

² *County of Allegheny v. Cmwlt. of Pa.*, 490 A.2d 402 (Pa. 1985).

³ *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlt. 2007).

⁴ *Department of Auditor General, et al. v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlt. 2003); *P.J.S. v. Pa. State Ethics Commission*, 669 A.2d 1105 (Pa. Cmwlt. 1996).

11. Pursuant to 52 Pa. Code § 5.101(a)(3), PWSA submits that the Complaints are insufficiently specific as to the “incorrect charges” that the Complainant seeks to address through the Complaints.

12. Additionally, as stated above, the Complainant has simultaneously filed nearly identical formal complaints for twenty-one separate commercial properties. The Complainant alleges that each of the properties have “incorrect charges” and that the bills are “extremely high” without providing any other detail specific to the individual property and the associated PWSA account. It defies credulity that every one of the Complainant’s twenty-one properties have the same alleged incorrect charges and high bills.

13. Therefore, pursuant to 52 Pa. Code § 5.101(a)(3), PWSA submits that the Complaints are insufficiently specific as to “incorrect charges” specific to each account that the Complainant seeks to address through the Complaint. As such, the Complaints must either be dismissed based on insufficient specificity, or the Complainant should be directed to file amended Complaints providing adequate specificity as to the charges it believes are incorrect for each account.

14. PWSA has answered many of the above referenced Formal Complaints that were filed by Proventus Holdings, LLC. Pursuant to 52 Pa. Code § 5.101(e), PWSA will not file additional Answers unless and until further directed by the Administrative Law Judge or the Commission.⁵

⁵ 52 Pa. Code § 5.101(e) states that “If a preliminary objection regarding insufficient specificity in a pleading is filed, an answer is not required until further directed by the presiding officer or the Commission.”

III. CONCLUSION

The Pittsburgh Water and Sewer Authority respectfully requests that the Commission: (a) grant these Preliminary Objections; and (b) grant any other relief in favor of PWSA that is deemed to be reasonable, appropriate and in the public interest.

Respectfully submitted,

/s/ Lauren M. Burge

Lauren M. Burge, Esquire (I.D. No. 311570)
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
(412) 566-2146 (phone)
(412) 566-6099 (fax)
lburge@eckertseamans.com

Shannon F. Barkley, Esquire (ID No. 81501)
Corporate Counsel
The Pittsburgh Water and Sewer Authority
Penn Liberty Plaza I
1200 Penn Avenue
Pittsburgh, PA 15222
(412) 676-6685
SBarkley@pgh2o.com

January 29, 2021

Attorneys for
The Pittsburgh Water and Sewer Authority

Verification

I, Julie A. Quigley, am the Director of Customer Service for The Pittsburgh Water and Sewer Authority (“PWSA” or “Authority”), and I hereby state that the facts set forth in the foregoing **Preliminary Objections** are true and correct to the best of my knowledge, information and belief and that I expect the Authority 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).

/s/ Julie A. Quigley _____

Julie A. Quigley
Director of Customer Service
The Pittsburgh Water and Sewer Authority