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March 1, 2022

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Via Electronic Filing

Rosemary Chiavetta, Secretary
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120

RE: Thelmika Griffin v. The Pittsburgh Water and Sewer Authority
Docket No. C-2022-3030841

Dear Secretary Chiavetta:

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

Sincerely,

/s/ *Karen O. Moury*

Karen O. Moury

Enclosure

cc: Certificate of Service (with Enclosures)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the foregoing Preliminary Objections upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

Thelmika Griffin
7306 Idlewild Street
Pittsburgh, PA 15208
thelmikag@yahoo.com

Hon. Charles E. Rainey, Jr.
Chief Administrative Law Judge
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120
bobbwillia@pa.gov

Date: March 1, 2022

/s/ Karen O. Moury

Karen O. Moury, Esquire
Counsel for
The Pittsburgh Water and Sewer Authority

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Thelmika Griffin,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2022-3030841
	:	
	:	
The Pittsburgh Water and Sewer Authority,	:	
Respondent.	:	

NOTICE TO PLEAD

To: Thelmika Griffin
7306 Idlewild Street
Pittsburgh, PA 15208
thelmikag@yahoo.com
(Electronic mail only)

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 an Answer to Preliminary Objection, 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
400 North Street
Harrisburg, PA 17120
<https://efiling.puc.pa.gov/>

With an electronic copy to:

Karen O. Moury, Esquire
Kristine E. Marsilio, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
kmoury@eckertseamans.com
kmarsilio@eckertseamans.com

/s/ Karen O. Moury

Karen O. Moury, Esquire

Date: March 1, 2022

Counsel for
The Pittsburgh Water and Sewer Authority

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Complainant,	:	
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	:	
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Respondent.	:	

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

Pursuant to 52 Pa. Code § 5.101(a) of the regulations of the Pennsylvania Public Utility Commission (“Commission” or “PUC”), The Pittsburgh Water and Sewer Authority (“PWSA” or “Authority”) submits the following Preliminary Objections to the Formal Complaint of Thelmika Griffin (“Ms. Griffin” or “Complainant”), which was served on PWSA on February 10, 2022. Pursuant to 52 Pa. Code § 5.101(e) of the Commission’s regulations, PWSA is not filing an Answer to the Formal Complaint on this same date. In support of these Preliminary Objections, PWSA states as follows:

I. INTRODUCTION

1. Complainant filed a Formal Complaint against PWSA with the Commission. This Complaint was served on PWSA on February 10, 2022. Ms. Griffin checked the “incorrect charges” box on the Formal Complaint form. By way of requested relief, the Complainant asks that the PUC direct PWSA to determine the source of a leak at her property and fix it. The Complainant also requests that PWSA install a new water meter because a plumber allegedly advised Ms. Griffin that her current meter is very old.

2. Although Ms. Griffin checked the “incorrect charges” box in Paragraph 4 of the Formal Complaint form, she provided no further explanation about the charges she is disputing,

such as dates of bills and an explanation as to any amounts of charges that she believes are not correct. Further, the Complainant did not specify details about the alleged leak. Ms. Griffin stated in her Informal Complaint filed with the Commission's Bureau of Consumer Services at case number 3813583 that there was no leak at that time. PWSA is unable to respond to Ms. Griffin's claim regarding the leak without additional information. PWSA is also unable to decipher what is meant by Ms. Griffin's request for a new meter since a new meter was already installed on October 15, 2021.

3. PWSA files these Preliminary Objections in an effort to secure the just, speedy and inexpensive dismissal of the Complaints. For the reasons stated herein the Complaint should be dismissed because the Complaint lacks sufficient specificity.

II. PRELIMINARY OBJECTIONS

A. Applicable Legal Standards

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

5. 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.

6. 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.¹ However, the Commission need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations or expressions of opinion.²

7. 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.³

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

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

9. Commission regulations provide that the content of a formal complaint must include a clear and concise statement of the act or omission being complained of and a clear and concise statement of the relief sought. 52 Pa. Code §§ 5.22(1), (5), (6). The pleading must be sufficiently specific so that the defending party will know how to prepare its defense.⁴

¹ *County of Allegheny v. Cmwlth. of Pa.*, 490 A.2d 402 (Pa. 1985).

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

³ *Department of Auditor General, et al. v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Commission*, 669 A.2d 1105 (Pa. Cmwlth. 1996).

⁴ *Jackson v. Duquesne Light Company*, Docket No. C-2018-2644080 (Order entered July 12, 2018, adopting Initial Decision dated May 8, 2018).

10. As described above, Ms. Griffin checked the box on the Formal Complaint form indicating that there are “incorrect charges” on the bill. However, the Complaint does not specify what charges the Complainant believes to be incorrect or identify a particular bill or bills that it is disputing. Other than the checked box the Complaint provides no further information or explanation about the alleged incorrect charges in question. Absent details about specific bills or charges in dispute, PWSA is unable to prepare a response that admits or denies the allegations or otherwise defend the Complaint.

11. Ms. Griffin alleges that there is a leak at her property and wants PWSA to fix it. Ms. Griffin stated in her Informal Complaint that no leak was detected at the property. If a leak has transpired since the filing of Ms. Griffin’s Informal Complaint, PWSA has not been made aware of it. Therefore, PWSA lacks sufficient knowledge and information to respond to Ms. Griffin’s claim about a leak at the property. Further, under PWSA’s Commission-approved Water Tariff, the Complainant is responsible for repairing any leaks on her service line, or any pipes or fixtures in or upon her property.⁵

12. The Complainant claims that a plumber told her that her water meter is old and requests a new one. According to PWSA records, on October 15, 2021, a PWSA Plumber visited the property for the scheduled service visit and removed the water meter with serial number B87582992, installed meter number 0021088937, and activated the MXU, meter reading device. Accordingly, PWSA lacks sufficient knowledge and information to respond to Ms. Griffin’s request for the installation of a new water meter because one has already been installed.

13. Pursuant to 52 Pa. Code § 5.101(a)(3), PWSA submits that the Complaint is insufficiently specific as to the “incorrect charges”, leak or old meter that the Complainant seeks

⁵ Tariff Water – Pa. P.U.C. No. 1, Original Page No. 31, Section B.3.

to address through the Complaint. As such, the Complainant should be directed to file an amended Complaint providing adequate specificity as to the charges it believes are incorrect and further information about the leak and meter at the property, and in the absence of the filing of an amended Complaint, the Complaint should be dismissed.⁶

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/ *Karen O. Moury*

Karen O. Moury, Esquire (I.D. No. 36879)
Kristine E. Marsilio, Esquire (I.D. No. 316479)
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Date: March 1, 2022

Counsel for
The Pittsburgh Water and Sewer Authority

⁶ See *Zack Weston c/o Riva Ridge v. Pittsburgh Water and Sewer Authority*, Docket Nos. F-2021-3027112 and F-2021-3027112 (Order entered February 14, 2022, adopting Initial Decision dated January 10, 2022, at 6-9) (A checkmark in the “incorrect charges” box and an allegation of negligence, without further details or explanation, were insufficient to permit the utility to provide a meaningful answer, warranting dismissal of the complaint).

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).

Date: March 1, 2022

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