

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Dominic Raneri

v.

UGI Utilities, Inc.

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C-2021-3030082

**INITIAL DECISION**

Before  
Arlene Ashton  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision grants the Respondent’s Preliminary Objections and orders dismissal of the Complaint because the Complainant has not alleged that the Respondent violated the Public Utility Code, Commission regulations, or an order of the Commission and also because the claims and relief sought by the Complainant are not within the jurisdiction of the Commission.

**HISTORY OF THE PROCEEDING**

On December 9, 2021, Dominic C. Raneri (Complainant) filed a Formal Complaint (Complaint) against UGI Utilities, Inc. (UGI or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant stated that UGI was engaged in a practice of “malicious, abuse of ‘No Parking Restrictions’ in the City of Reading, PA.”

The Complaint specifically referenced an incident relating to the 1900 block of Fairview Street that occurred December 7 – 8, 2021. The Complainant alleged that parking

restrictions imposed to allow UGI maintenance activity at that location and on those dates caused “unwarranted restrictions” on the residents of the 1900 block of Fairview Street in Reading, PA as well as adjacent and surrounding residential blocks. Complaint ¶ 4. The Complainant indicated that the restrictions resulted in “a parking nightmare, denied access to homes and an unwarranted safety and health issue for the many elderly and handicapped residents of the area, [including the Complainant].”

As relief, the Complainant requested that a third-party act as an oversight entity with the express purpose of overseeing UGI’s future requests for restrictive parking practices.<sup>1</sup> The Complainant also requested that UGI pay damages to him and all the affected residents to compensate them for physical and emotional health issues caused by UGI’s actions.

On January 6, 2022, UGI filed an Answer (Answer) denying the material allegations in the Complaint. In the Answer, the Respondent also raised New Matter seeking dismissal of the Complaint in its entirety averring that the Complaint lacks legal sufficiency, the Complainant has neither the standing nor the authority to file the Complaint, and the Commission lacks the jurisdiction and authority to the relief sought by the Complainant.<sup>2</sup>

Also on January 6, 2022, UGI filed Preliminary Objections (Preliminary Objections) to the Complaint. The Preliminary Objections seek dismissal of the Complaint in its entirety because: (1) the Complaint fails to allege a violation of the Code, Commission regulations or the Commission approved UGI tariff; (2) the Complainant is not an attorney authorized to represent other persons; (3) Complainant does not have standing to file the Complaint; and (4) the Commission lacks the legal authority and jurisdiction to provide relief in the form of monetary damages.

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<sup>1</sup> Although the Complainant did not specify which entity should perform such oversight, his filing of the Complaint with the Commission indicates that he intended the Commission to perform that function.

<sup>2</sup> The Answer did not include a Notice to Plead informing the Complainant of the need to respond to the Answer and New Matter by filing a written response with the Commission within 10 days from the date of service of the Answer and New Matter.

The Respondent's Preliminary Objections were endorsed with a Notice to Plead, advising the Complainant he had ten days to file a written answer to the objections or a judgment may be entered against him.

The Complainant filed a letter with the Commission on January 10, 2022, which appears to be a response by the Complainant to the Answer, the New Matter and the Preliminary Objections filed by the Respondent. The Complainant's January 10, 2022, letter (Complainant's Response) will be treated as the Complainant's response to the Preliminary Objections filed by the Respondent.

By Motion Judge Assignment Notice dated February 7, 2022, the matter, including the outstanding Preliminary Objections, was assigned to me. The matter is now ready for a decision.

#### FINDINGS OF FACT

1. The Complainant in this proceeding is Dominic C. Raneri, who resides at 555 South 18<sup>th</sup> Street in Reading, PA.
2. The Respondent in this proceeding is UGI Utilities, Inc.
3. On December 9, 2021, the Complainant filed a Formal Complaint against UGI relating to parking restrictions imposed on December 7 – 8, 2021, for the 1900 block of Fairview Street.
4. On January 6, 2022, UGI filed an Answer and New Matter.
5. On January 6, 2022, UGI filed Preliminary Objections.
6. On January 10, 2022, the Complainant filed a letter responding to UGI's Answer, New Matter and Preliminary Objections.

7. The Complainant is seeking Commission oversight of UGI'S future requests for restrictive parking practices and financial damages for himself and others who suffered physical and emotional health issues arising out of restrictive parking imposed at UGI's request. Complaint ¶¶ 4-5.

8. The Complainant is not a resident of the 1900 block of Fairview Street. Complaint ¶ 1.

9. The Complainant failed to provide a customer account number indicating he was a customer of UGI. Complaint ¶ 1.

10. The Complainant is not an attorney licensed to practice law in Pennsylvania.

11. The City of Reading regulates parking restrictions and street postings in the City of Reading through the Reading Parking Authority (RPA). Preliminary Objections ¶ A.1.

## DISCUSSION

The filing of preliminary objections is permitted under Commission regulations. 52 Pa. Code §§ 5.101(a)(1)-(6). Preliminary objection practice before the Commission is similar to Pennsylvania civil practice respecting preliminary objections. *Equitable Small Transp. Intervenor v. Equitable Gas Co.*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

### **Legal Standard for Granting Preliminary Objections**

The grounds for granting Preliminary Objections are found in Section 52 Pa. Code § 5.101(a). It states in pertinent part:

§ 5.101. Preliminary objections.

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically 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.
- (7) Standing of a party to participate in the proceeding.

52 Pa. Code § 5.101(a).

A preliminary objection will be granted only where relief is clearly warranted and free from doubt. *Interstate Traveller Servs., Inc. v. Pa. Dep't of Env't Res.*, 406 A.2d 1020 (Pa. 1979). 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. *County of Allegheny v. Commonwealth*, 490 A.2d 402 (Pa. 1985). The preliminary objection may be granted only if the moving party prevails as a matter of law. *Rok v. Flaherty*, 527 A.2d 211 (Pa. Cmwlth. 1987). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Dep't of Auditor Gen. v. State Emps.' Ret. Sys.*, 836 A.2d 1053 (Pa. Cmwlth. 2003) (citing *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002)).

The Commission must view the Complaint in this case in the light most favorable to Complainant and should dismiss the Complaint only if it appears that Complainant would not be entitled to relief under any circumstances as a matter of law. *Equitable Small Transp. Intervenors v. Equitable Gas Co.*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18,

1994); *see also, Interstate Traveler Servs., Inc. v. Commonwealth, Dep't of Env't Res.*, 406 A.2d 1020 (Pa. 1979). All of the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the preliminary objections, and only those facts specifically admitted may be considered against the non-moving party. *Ridge v. State Emps.' Ret. Bd.*, 690 A.2d 1312 (Pa.Cmwlth. 1997). Therefore, a preliminary objection can be granted only if recovery or relief is not possible after all of the Complainant's averments in the complaint are viewed as true for purposes of deciding the preliminary objection, using only those facts specifically admitted.

UGI avers that the Complaint should be dismissed under 52 Pa. Code § 5.101(a), specifically, subsections: (1) relating to lack of Commission jurisdiction, (4) relating to legal insufficiency of the pleading and (7) relating to standing of a party to participate in the proceeding.

UGI presented four arguments for dismissal: (1) the legal insufficiency of the Complaint, (2) the Complainant is not an attorney authorized to represent the residents of Fairview Street, (3) the Complainant does not have standing to file the Complaint; and (4) the Commission lacks the legal authority and jurisdiction to provide relief in the form of monetary damages.

Although the Complainant's Response indicates that he has taken steps to ascertain if certain facts set out in the Answer are correct, it does not directly and specifically dispute the facts referenced in the Respondent's Answer and in New Matter. Under 52 Pa. Code § 5.63(b), failure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted. In light of the absence of a clear dispute of specific facts in the Answer by the Complainant, they will be deemed admitted and the Motion for Judgment on the Pleadings can be considered.

Case law provides extensive guidance in the matters raised by the Preliminary Objections. In reviewing the grounds for dismissal presented by the Respondent, it is appropriate to focus first on the Commission's jurisdiction and authority over the matters at issue in this case.

## Legal Insufficiency of the Complaint

As a creature of legislation, the Commission possesses only the powers and authority the State Legislature has specifically granted to it in the Public Utility Code (the “Code”), 66 Pa. C.S. §§ 101, *et seq.* Its jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. *Shedlosky v. Pa. Elec. Co.*, Docket No. C-20066937 (Opinion and Order entered May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977); *Allegheny County Port Auth. v. Pa. Pub. Util. Comm’n*, 237 A.2d 602 (Pa. 1967). *Behrend v. Bell Tel. Co. of Pa.*, 390 A.2d 233 (Pa. Super. 1978); *Pa. Dep’t of Highways v. Pa. Pub. Util. Comm’n*, 182 A.2d 267 (Pa. Super. 1962); *City of Erie v. Pa. Elec. Co.*, 383 A.2d 575 (Pa.Cmwlth. 1978).

The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. Pub. Util. Comm’n*, 43 A.2d 348 (Pa. Super. 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa.Cmwlth. 1992) *alloc. denied* 637 A.2d 293 (Pa. 1993).

The specific issue cited by the Complainant in the Complaint is “abuse of ‘No Parking Restrictions’ in the City of Reading, PA.” Complaint ¶4. The Complaint goes on to state that UGI “effected and caused” the issuance of such parking restrictions to facilitate UGI business activities. *Id.* The Complainant’s Response also acknowledges, albeit indirectly, that the parking restrictions referenced in the Complaint were not issued by UGI but rather by the RPA. *Id.*

UGI argues that the Complaint fails to allege a violation of the Public Utility Code, Commission regulations or UGI’s Commission approved tariff. Furthermore, UGI asserts that scheduling of work in the 1900 block of Fairview Street was required to maintain its gas distribution facilities for the City of Reading to provide service to the public. UGI also contends that street parking regulations and street postings in the City of Reading are governed by the

RPA City Ordinance 576-419 relating to daily parking permits and only the RPA can oversee UI requests to close streets. Preliminary Objections ¶A.1.

As the Respondent correctly observed, neither the Complaint nor the Complainant's Response allege any violation of the Public Utility Code or a regulation or order of the Commission. In addition, as indicated in paragraph A.1 of the Preliminary Objections, the Complainant "is in effect asking the Commission to regulate the scheduling of street closures related to restoration work performed by UGI in the City of Reading." *Id.*

The Code grants the Commission broad authority to regulate utilities; however, it also circumscribes and delineates the Commission's authority to do so. The Respondent is correct in stating that the Commission does not have the authority to determine the procedure for the imposition of parking restrictions in the city of Reading (or any other jurisdiction), nor does it have the authority to order any other entity to do so. Likewise, the appointment of a third party to oversee UGI's future parking restriction requests is far beyond the scope of the Commission's authority and jurisdiction. 66 Pa.C.S. § 1501. Accordingly, the Respondent's objection on this point will be granted under 52 Pa. Code § 5.101(a)(1) and (4).

### **Monetary damages**

The Complainant requested that financial damages be awarded to all the affected residents, including himself and levied against UGI to compensate them for physical and emotional health issues caused by UGI's actions. Complaint ¶5.

Nothing in the Code confers jurisdiction upon the Commission to award monetary damages. *See, DeFrancesco v. W. Pa. Water Co.*, 453 A.2d 595 (Pa. 1982); *Elkin v. Bell Tel. Co. of Pa.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977); *Poorbaugh v. Pa. Pub. Util. Comm'n*, 666 A.2d 744 (Pa. Cmwlth. 1995).

It is well established that the Commission does not have the authority to order a public utility to pay monetary damages. *See Byer v. Peoples Nat. Gas Co.*, 380 A.2d 383

(Pa. Super. 1977) (holding that the Commission does not have the authority to award damages); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977) (holding that the Commission does not have the authority to award damages); *DeFrancesco v. W. Pa. Water Co.*, 453 A.2d 595 (Pa. 1982); *Elkin v. Bell Tel. of Pa.*, 420 A.2d 371 (Pa. 1980).

To the extent that the Complainant seeks monetary damages for alleged injury arising out of UGI's actions, the request must be denied and dismissed because the remedy is outside the purview of the Commission's authority and jurisdiction under the Code. 66 Pa.C.S. § 1501.

### **Complainant Does Not Have Standing to File the Complaint**

A line of case law makes it clear that the Complainant must have suffered an injury in order to bring a complaint:

A[a] party seeking judicial resolution of a controversy in this Commonwealth must, as a prerequisite, establish that he has standing to maintain the action. *Nye v. Erie Insurance Exchange*, 504 Pa. 3, 5, 470 A.2d 98, 100 (1983)) (citation omitted). In *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1974), we noted that 'the core concept, of course, is that a person who is not adversely affected in any way by the matter he seeks to challenge is not 'aggrieved' thereby and has no standing to obtain a judicial resolution of his challenge.' . . . We observed in *William Penn Parking* that what is necessary to render a person aggrieved is that the party has a substantial, direct, and immediate interest in the claim sought to be litigated.

'A 'substantial' interest is an interest in the outcome of the litigation which surpasses the common interest of all citizens in procuring obedience to the law. A 'direct' interest requires a showing that the matter complained of caused harm to the party's interest. An 'immediate' interest involves the nature of the causal connection between the action complained of and the injury to the party challenging it . . . *South Whitehall Township Police Service v. South Whitehall Township*, 521 Pa. 82, 86-87, 555 A.2d 793, 795 (1989)(citations omitted).'

*Bergdoll v. Kane*, 731 A.2d 1261, 1268 (Pa. 1999). The standard set by *William Penn Parking Garage* is applicable to Commission cases. See *Courier Express, Inc. v. F.L. Shaffer Co., Inc.*, PUC Docket No. C-892462 (Opinion and Order entered August 30, 1990).

Applying the standard of a substantial, direct, and immediate interest set forth above to the facts of this case reveals that the Complainant does not have standing in this matter.<sup>3</sup> In the Complainant's Response, he argues that "any and all injustices are a matter for all people to stand up and object to malicious tyranny." Complainant's Response p. 2. In that same document, he also stated that he has "the absolute right to hold this utility to task . . . ." *Id.* These are broad statements of philosophy or principle. Nowhere in the Complaint or Complainant's Response does the Complainant demonstrate that he has any interest in this matter greater than that of any other citizen of Reading, PA.

As to whether the Complainant has a "direct" interest in the matter complained of, it bears noting that at no point does the Complainant indicate if and how he or his property were in any way directly impacted by the parking restrictions that are the basis for the Complaint, nor does he state that he is even a customer of UGI.

In fact, in the Complaint, the Complainant acknowledged that the parking restrictions at issue were two blocks from his home. Furthermore, in describing the reason for filing the Complaint, the Complainant stated, "if the residence [sic] of the 1900 block of Fairview are displaced from their parking, they are going to [be] parking in the adjoining residential blocks." *Id.*

Although temporary parking restrictions in one location may well have had a "spill-over" effect to neighboring streets, the Complainant has failed to articulate how parking restrictions requested by UGI had any negative impact on him or his property. Based on the

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<sup>3</sup> The Complainant previously filed three Formal Complaints involving parking restrictions for UGI work in the City of Reading (Docket Nos. C-2021-3025226, C2021-3027378 and C-2021-3029438), in which he made similar complaints and claims against UGI, individually and on behalf of others. All three cases were resolved by settlement among the parties and a Certificate of Satisfaction was filed by UGI on December 3, 2021; no objections being filed by the Complainant, the cases were marked as satisfied and closed.

Complainant's statements, it appears that to the extent that the parking restrictions on the 1900 block of Fairview Street had any impact on him or his property, it was *indirect*.

As to whether the Complainant has an "immediate" interest in the matter at hand, here again, the Complaint fails to offer anything to support a finding that the Complainant meets the criteria for standing. Moreover, seeking oversight over "future requests" negates any inference that the Complainant's injury existed as of date the Complaint was filed.

In sum, the Complainant's allegations in this matter do not, alone or in the aggregate reflect a substantial, direct, and immediate interest in the claim sought to be litigated. Thus, it cannot be said that he was aggrieved in a manner or to a degree that rises to the level that gives standing for resolution in this matter.

#### **Complainant is not authorized to represent other persons**

Commission regulations provide that individuals may represent themselves in Commission proceedings. However, all others, including corporations must be represented by an attorney licensed to practice law in Pennsylvania or be admitted *pro hac vice*. Only an attorney may represent someone else. Furthermore, any attorney representing a party must file a written notice of appearance with the Secretary of the Commission. 52 Pa. Code §§ 1.21-1.23.

In the Complaint, the Complainant indicates that he is seeking relief for "all of the affected residents, including [himself]" who were impacted by the parking restrictions imposed by RPA at UGI's request. Complaint ¶ 5. Clearly, the Complainant filed the Complaint for himself and on behalf other individuals. However, there is no evidence that the Complainant is an attorney licensed to practice law in Pennsylvania nor is there any evidence that he is authorized to act on behalf of any other person in this matter. Commission regulations explicitly prohibit an individual who is not an attorney from representing another in an adversarial proceeding such as the one initiated by the Complaint. As a result, the Respondent's preliminary objection on the Complainant's inability to represent others will be sustained.

As noted above, subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992) *alloc. denied* 637 A.2d 293 (Pa. 1993).

The Complainant expressed complaints about UGI's maintenance activities; however, he has failed to present an issue that falls within the scope of the Commission's jurisdiction. 66 Pa.C.S. §1501. Furthermore, he does not have standing to pursue those complaints for himself or the right to do so on behalf of others in this proceeding. *William Penn Parking Garage, supra*, 52 Pa. Code §§ 1.21-1.23. Finally, the remedies requested by the Complainant exceed the scope of the Commission's authority under the Code. 66 Pa.C.S. §1501.

Section 703 of the Public Utility Code, 66 Pa.C.S. § 703(b), provides that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. *See also* 52 Pa. Code § 5.21(d). A hearing in this case would be a fruitless exercise and, therefore, is not necessary or in the public interest.

#### CONCLUSIONS OF LAW

1. A party may file preliminary objections alleging that there is lack of Commission jurisdiction, legal insufficiency of a pleading or a lack of standing 52 Pa. Code § 5.101(a)(1), (4) and (7).

2. Commission regulations provide for the filing of Motions for Judgment on the Pleadings. 52 Pa. Code § 5.102.

3. The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa. Super. 1945).

4. The Commission does not have the jurisdiction or authority to regulate the scheduling of street closures related to utility maintenance activities, nor does it have the authority to order any other entity to do so. 66 Pa.C.S. §1501.

5. The Commission lacks jurisdiction to award damages sought by the Complainant. *Poorbaugh v. Pa. Pub. Util. Comm'n*, 666 A. 2d 744 (Pa. Cmwlth. 1995).

6. A party seeking judicial resolution of a controversy in this Commonwealth must, as a prerequisite, establish that he has standing to maintain the action. *Nye v. Erie Ins. Exch.*, 470 A.2d 98, 100 (Pa. 1983); *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269 (Pa. 1974).

7. What is necessary to render a person aggrieved is that the party has a substantial, direct, and immediate interest in the claim sought to be litigated. *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269 (Pa. 1974).

8. A “substantial” interest is an interest in the outcome of the litigation which surpasses the common interest of all citizens in procuring obedience to the law. A “direct” interest requires a showing that the matter complained of caused harm to the party’s interest. An “immediate” interest involves the nature of the causal connection between the action complained of and the injury to the party challenging it. *Bergdoll v. Kane*, 731 A.2d 1261 (Pa. 1999).

9. The Complainant is not licensed to practice law in Pennsylvania and is not authorized to represent any other person in this matter. 52 Pa. Code §§ 1.21-1.23.

10. The Commission may dismiss a complaint without a hearing if a hearing is not necessary in the public interest. 66 Pa.C.S.A. § 703(b).

ORDER

THEREFORE,

IT IS ORDERED

1. The Preliminary Objections filed by UGI Utilities, Inc. in the matter of Dominic Raneri v. UGI Utilities, Inc. at Docket Number C-2021-3030082 are granted.

2. That the Complaint in the matter of Dominic Raneri v. UGI Utilities, Inc. at Docket Number C-2021-3030082 is dismissed.

3. That this matter be marked closed.

Date: March 4, 2022

\_\_\_\_\_/s/  
Arlene Ashton  
Administrative Law Judge