

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Shasta-Patrice Brown	:	
	:	
v.	:	C-2024-3050761
	:	
Philadelphia Gas Works	:	

**ORDER**  
**GRANTING PRELIMINARY OBJECTION AND**  
**DIRECTING COMPLAINANT TO FILE AN AMENDED COMPLAINT**

**HISTORY OF THE PROCEEDING**

On July 30, 2024, Shasta-Patrice Brown (“Ms. Brown”) filed a Formal Complaint against Philadelphia Gas Works (“PGW”) with the Pennsylvania Public Utility Commission (“Commission”). As reason for the Complaint, Ms. Brown stated the following:

“There are errors and admissions contained in the application for service pertaining to the address and the endorsement. We were approached harshly and signed in blank. We have a disability and need the provisions provided under the American Disabilities Act as our disabilities pertain to law and payments. We are unable to pay according to Public Law 73-10 and HJR 192.”

Complaint ¶ 4.

For relief, Ms. Brown stated the following:

“The resolution require is that the address be updated to the assignee of PECO. Our delegation needs to be updated as creditors. We desire access to the custodial account and want to surrender the account for performance and have all dividends, proceeds, and interest returned. We have NOT abandoned our interest in the account and operate under the maxims of equity as

we are all created equal by Elohim God. We wish to receive a return on our interest in the contract. We know the application has declared value upon signing and wish to have that value returned. We request a setoff, and settlement, and monthly allowance for the open account and setoff, settlement, and closure of the “closed” account ending in 8000.”

Complaint ¶ 5.

The Complaint was served on PGW on August 16, 2024.

On September 9, 2024, PGW filed Preliminary Objections to the Complaint, properly endorsed with a Notice to Plead. In its Preliminary Objections, PGW asserted that the Complaint is insufficiently specific, pursuant to 52 Pa. Code § 5.101(a)(3), arguing that the Complaint does not contain information specific enough to allow PGW to understand the allegations against it to conduct a meaningful investigation of the allegations and to prepare a coherent response or defense. PGW additionally asserted that the Complaint is legally insufficient, pursuant to 52 Pa. Code § 5.101(a)(4), arguing that the Complaint fails to set forth any facts that could be construed as a violation of a Commission regulation, statute, or order by PGW. PGW concluded its Preliminary Objections by requesting dismissal of the Complaint.

PGW did not file an Answer to the Complaint. As PGW raised a Preliminary Objection regarding insufficient specificity, it was not required to file an Answer. *See* 52 Pa. Code § 5.101(e)(1).

On September 26, 2024, Ms. Brown filed an Answer to the Preliminary Objections. Ms. Brown’s Answer raises issues such as fraud in factum, deceptive business practices, deprivation of rights, theft by deception, and unjust enrichment.

On October 18, 2024, the Commission issued a Motion Judge Assignment Notice, assigning me as Presiding Officer over this proceeding.

PGW's Preliminary Objections are procedurally ready to be ruled upon. For the reasons discussed below, the Preliminary Objection regarding insufficient specificity, 52 Pa. Code § 5.101(a)(3), will be granted, and Ms. Brown will be directed to file an Amended Complaint.

### DISCUSSION

PGW in this matter filed Preliminary Objections to the Formal Complaint. The Commission's regulations provide that preliminary objections are available to parties and may be filed in response to a pleading. 52 Pa. Code § 5.101(a). The grounds for preliminary objections are limited to those set forth as follows:

- (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).

Here, PGW's Preliminary Objections assert insufficient specificity of a pleading pursuant to 52 Pa. Code § 5.101(a)(3) and legal insufficiency of a pleading pursuant to 52 Pa. Code § 5.101(a)(4).

Commission procedure regarding the disposition of preliminary objections is similar to the procedure utilized in Pennsylvania civil practice. A preliminary objection in civil practice seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt. *Pennsylvania State Lodge, Fraternal Order of Police v. Dept. of Conservation & Natural Resources*, 909 A.2d 413 (Pa. Cmwlth. 2006), *aff'd*, 592 Pa. 304, 924 A.2d 1203 (2007).

The Commission may not rely upon the factual assertions of the moving party but must accept as true for purposes of disposing of the motion all well pleaded, material facts of the nonmoving party, as well as every inference from those facts. *County of Allegheny v. Commonwealth of Pennsylvania*, 490 A. 2d 402 (Pa. 1985); *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602 (Pa. Cmwlth. 1988). The Commission must view the complaint in this case in the light most favorable to the Complainant and should dismiss the complaint only if it appears that the Complainant would not be entitled to relief under any circumstances as a matter of law. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

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 General, et al. v. State Employees' Retirement System, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003) (citing *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002)).

#### *Insufficient specificity of a pleading*

The Commission's regulations require that formal complaints set forth a clear and concise statement of the act or omission being complained of including the result of any informal complaint or informal investigation. 52 Pa. Code § 5.22(a)(5). The Commission's regulations also require that formal complaints set forth a clear and concise statement of the relief sought. 52 Pa. Code § 5.22(a)(6).

A complaint must contain sufficient specificity and information to enable a respondent to understand the charges or allegations against it and conduct a meaningful investigation of the allegations, and to offer an appropriate response thereto. *Orlando Antonio Acosta v. PECO Energy Co.*, Docket No. F-2020-3015309 (Order entered Sep. 10, 2020). The Commission has held that a complaint filed with the Commission is adequate if it gives the respondent notice and an opportunity to defend; it need not be drawn with technical accuracy. *Green Cab Co. v. Hajducho*, 50 Pa. P.U.C. 745 (1977)

Viewing the Complaint in the light most favorable to Ms. Brown and accepting all of the factual assertions in the Complaint as true for the purposes of disposing of the Preliminary Objections, I agree with PGW that it has not been provided with the opportunity to provide an Answer or prepare a defense to the Complaint because the Complaint is unclear and verbose. It is not clear based on a reading of the Complaint what action or omission PGW has committed that led to the filing of the Complaint. The relief requested in the Complaint is also unclear.<sup>1</sup> In summary, based on a reading of the Complaint, I am unable to understand the material facts of the Complaint or the allegations against PGW.

Given the unclear nature of the Complaint, Ms. Brown will be directed to file an Amended Complaint in this proceeding.

#### *Legal insufficiency of a pleading*

A formal complaint must set forth “the act or thing done or omitted to be done” by a public utility “in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.” 66 Pa.C.S. § 701.

Complainant makes no specific claim as to what law that the Commission has jurisdiction to administer that PGW is alleged to have violated. The Complaint makes references to the Americans with Disabilities Act and Public Law 73-10 and HJR 192, Federal statutes that

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<sup>1</sup> Ms. Brown also requests that “the address be updated to the assignee of PECO.” PECO Energy Company is not a respondent to this proceeding.

the Commission does not have jurisdiction to administer. For relief, Ms. Brown seems to seek monetary damages of which the Commission lacks jurisdiction to award.

In her Answer to the Preliminary Objections, Ms. Brown raises issues such as fraud in factum, deceptive business practices, deprivation of rights, theft by deception, and unjust enrichment, laws of which the Commission has no jurisdiction over.

However, as I am granting the Preliminary Objection relating to insufficient specificity and directing Ms. Brown to file an Amended Complaint, I will not rule on the Preliminary Objection regarding legal insufficiency at this time. This Preliminary Objection will be held in abeyance pending the filing of an Amended Complaint by Ms. Brown.

### *Conclusion*

In conclusion, I find that the information contained in the Complaint is insufficient to enable PGW to provide an Answer to the Complaint. Therefore, PGW's Preliminary Objection concerning insufficient specificity is granted and Ms. Brown will be directed to file an Amended Complaint within ten days of service of this Order. If an Amended Complaint is not filed within ten days of service of this Order, the Complaint will be dismissed.

### ORDER

THEREFORE,

IT IS ORDERED:

1. That Philadelphia Gas Works' Preliminary Objection filed pursuant to 52 Pa. Code § 5.101(a)(3), in the matter of Shasta-Patrice Brown v. Philadelphia Gas Works, Docket No. C-2024-3050761, is granted.

2. That Philadelphia Gas Works' Preliminary Objection filed pursuant to 52 Pa. Code § 5.101(a)(4), in the matter of Shasta-Patrice Brown v. Philadelphia Gas Works, Docket No. C-2024-3050761, is held in abeyance.

3. That Shasta-Patrice Brown is directed to file an Amended Complaint at Docket No. C-2024-3050761 within ten days of service of this Order.

Date: October 31, 2024

/s/  
Alphonso Arnold III  
Administrative Law Judge

**C-2024-3050761 - SHASTA-PATRICE BROWN v. PHILADELPHIA GAS WORKS**

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