

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Stephen W. Sabol	:	
	:	
v.	:	C-2024-3051273
	:	
Peoples Natural Gas Company LLC	:	

**INTERIM ORDER
DISMISSING PRELIMINARY OBJECTIONS**

On September 10, 2024, Stephen W. Sabol (Complainant) filed a formal complaint against Peoples Natural Gas Company LLC (Peoples). Checking the “other” box on the complaint form, Complainant alleges that Peoples damaged his sewer line while installing a new main on the sidewalk. He also alleges that he can not reach the Claims Department by telephone and that no gas official has contacted him or come to the property to view the damages.

Peoples filed an answer on October 9, 2024. Peoples denies that it is responsible for the alleged damage to the sewer line and denies that it refused to visit the property.

Peoples also filed preliminary objections. According to Peoples, the Complainant wants the Commission to award compensatory damages. The legal basis for Peoples’ preliminary objection is that the Commission does not have jurisdiction to award compensatory damages. Peoples has mischaracterized the Complainant’s request for relief and the preliminary objections will be dismissed.

Preliminary objections are permitted under Commission regulations.¹ Preliminary objection practice before the Commission is similar to Pennsylvania civil practice

¹ 52 Pa.Code § 5.101.

respecting preliminary objections.² In deciding the preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the petitioners, recovery or relief is possible.³ 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.⁴ Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections.⁵

Peoples correctly stated in its Preliminary Objections that the Commission has no authority to award compensatory damages.⁶ However, the Complainant is not requesting compensatory or monetary damages. The Commission has held that a claim that a public utility damaged a person's property and failed to repair the damage in a satisfactory manner fall squarely within the issue of whether the utility has rendered reasonable service:

The Public Utility Code imposes a duty on every public utility to furnish and maintain adequate, efficient and reasonable service to the public. 66 Pa.C.S. § 1501. The statutory definition of "service" is to be broadly construed. *County Place Waste Treatment Company, Inc. v. Pennsylvania Public Utility Commission*, 654 A.2d 72 (Pa. Cmwlth. 1995).

Furthermore, service is confined not only to the distribution of the primary service but includes any and all acts related to that function, including the maintenance practices the public utility undertakes with its facilities in a right-of-way. *West Penn Power Company v. Pennsylvania Public Utility Commission*, 578 A.2d 75 (Pa. Cmwlth. 1990).

² *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

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

⁴ *Ridge v. State Employees' Retirement Board*, 690 A.2d 1312 (Pa. Cmwlth. 1997).

⁵ *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002).

⁶ *Feingold v. Bell of Pennsylvania*, 383 A.2d 791 (Pa. 1977).

We find that the controversy before us concerns the reasonableness of a public utility's service to the public and lies within the authority delegated to the Commission by the Legislature in the Public Utility Code. Whether Columbia damaged the Complainant's driveway and sidewalk when it repaired or replaced a gas line in front of his residence, and whether Columbia repaired the alleged damage in a timely and satisfactory manner are issues properly before this Commission.^[7]

Peoples has not thoroughly read the Complaint. The Complainant alleges that Peoples damaged his sewer line. The Complaint does not mention money damages at all. The relief the Complainant requested clearly falls within the Commission's jurisdiction pursuant to Section 1501 of the Public Utility Code.⁸ The Preliminary Objections are dismissed.

It is the policy of the Commission to encourage settlements. 52 Pa.Code § 5.231. Also, it is Commission policy to encourage mediation during which the parties may attempt to resolve the case with the aid of a mediator. 52 Pa.Code §§ 69.391– 69.397. The mediator, a neutral staff member within the Mediation Unit of the Commission's Office of Administrative Law Judge, does not give advice, represent any party, evaluate or make a decision. Instead, the mediator assists the parties in their efforts to come to an agreement thereby avoiding the time, expense and uncertainty of litigation. Mediation is an informal process where the parties can discuss a full range of settlement options beyond those which can be ordered by the Commission in the formal adjudication process.

⁷ *Prosser v. Columbia Gas of Pennsylvania, Inc.*, Docket C-20066376 (Opinion and Order entered October 30, 2006), pp 3-4; see also *Reffner v. The Peoples Natural Gas Company d/b/a Dominion Peoples*, Docket C-20077841 (Opinion and Order entered June 10, 2008).

⁸ See *Grant v. Peoples Natural Gas Company*, Docket C-2021-3026011 (Interim Order on Preliminary Objections issued July 8, 2021).

This case may be appropriate for mediation. Accordingly, the case will be referred to the Commission's Mediation Unit for mediation review.

THEREFORE,

IT IS ORDERED:

1. That the preliminary objections of Peoples Natural Gas Company LLC in the above-captioned matter are dismissed.

2. That the case be and is hereby referred to the Commission's Mediation Unit for the Commission's mediation review process.

Date: 11/12/2024

/s/
Mary D. Long
Administrative Law Judge

C-2024-3051273 - STEPHEN SABOL v. PEOPLES NATURAL GAS COMPANY LLC

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