

**BEFORE THE PENNSYLVANIA  
PUBLIC UTILITY COMMISSION**

Emmett Patterson	:	
	:	
v.	:	F-2024-3051418
	:	
Philadelphia Gas Works	:	

**ORDER REGARDING MOTION FOR CONTINUANCE  
AND MOTION FOR CLARIFICATION**

On September 19, 2024, Emmett Patterson (Complainant or Mr. Patterson) filed a formal Complaint against Philadelphia Gas Works (Respondent or PGW or Company) alleging that there were issues with work done at his residence and requested that the Company pay damages to him.

The Commission's Secretary served the Complaint electronically on September 27, 2024.

On October 17, 2024, PGW filed its Answer and New Matter, which denied the material allegations of the Complaint.

On the same date, PGW filed Preliminary Objections. PGW indicates that the Commission lacks the jurisdiction to award damages to the Complainant.

On October 26, 2024, the Complainant filed a response to the New Matter and the Preliminary Objections and also filed an Amended Complaint. The Amended Complaint removed the request for damages from the Respondent.

On November 4, 2024, an Initial Telephonic Hearing Notice was issued and an initial hearing was scheduled for January 15, 2025 and the matter was assigned to me.

On December 10, 2024, Community Legal Services entered its appearance on behalf of the Complainant in this matter.

On December 16, 2024, the parties filed a Motion for Continuance and Motion for Clarification in this matter. Specifically, the parties requested a continuance of the hearing scheduled on January 15, 2025. The parties also requested that there be clarification to the issues addressed in the Complaint. The parties indicate that the Complainant has dropped his request for damages and that the Respondent's Preliminary Objections are now moot. This matter is now ripe for a determination.

### DISCUSSION

Commission preliminary objection practice is similar to Pennsylvania civil practice. *Equitable Small Transportation Interveners v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, PUC Docket No. C-000935435 (July 18, 1994). When considering the preliminary objection, the Commission must determine “whether the law says with certainty, based on well-pleaded factual averments . . . that no recovery or relief is possible. *P. J. S. v. Pa. State Ethics Commission*, 669 A.2d 1105 (Pa. Cmwlth. 1996). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002).” *Dept. of Auditor General, et al. v. State Employees’ Retirement System, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003). 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 Employees’ Retirement Board*, 690 A.2d 1312 (Pa. Cmwlth. 1997).

The regulation reads as follows:

**§ 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).

The courts of Pennsylvania have long recognized that the reasonableness, adequacy, and sufficiency of public utility service are within the exclusive original jurisdiction of the Commission.<sup>1</sup> However, Pennsylvania courts have also held that the enforcement powers of the Commission do not include the power to award monetary

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<sup>1</sup> See, *Duquesne Light Company v. Monroeville Borough*, 449 Pa. 573, 298 A.2d 252 (1972); *Behrend v. Bell Telephone Company*, 431 Pa. 63, 243 A.2d 346 (1968); *Elkin v. Bell Telephone Company*, *supra*.

damages. *Elkin v. Bell*, 420 A.2d 371 (1980); *Feingold v. Bell of Pennsylvania*, 383 A.2d 791 (1978); *see Nagy v. Bell Tel. Co.*, 436 a.2d 701 (Pa.Super. 1981). The Court of Common Pleas retains original jurisdiction over suits for monetary damages. *Behrend v. Bell Telephone Co.*, 363 A.2d 1152 (Pa.Super 1976).

The Complainant has indicated that he wishes to drop the portion of the Complaint which requests damages. The Complainant acknowledges that he understands that damages are outside of the scope of the Commission's authority. Therefore, the parties have requested clarification on this matter. I agree that damages are not within the scope of the Commission's jurisdiction, and I will grant the request for clarification and strike the portion of the Complaint related to the request for damages. As a result, the Preliminary Objections filed by PGW is now moot.

The parties also requested a continuance of the January 15, 2025 hearing, as they have been having settlement discussions and are still working on a possible settlement.

The Commission's Rule of Administrative Practice and Procedure at 52 Pa. Code § 1.15(b) states that, "Only for good cause shown will requests for continuance be considered." The fact that the parties are working on settlement discussions is good cause for a continuance. As such, the request will be granted.

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion for Clarification is granted;

2. That the Complainant's request for damages is withdrawn;

3. That the Preliminary Objections of Philadelphia Gas Works filed in the case captioned *Emmett Patterson v. Philadelphia Gas Works*, Docket No. F-2024-3051418, are deemed moot;

4. That the hearing scheduled on January 15, 2025 is hereby continued, in the matter of *Emmett Patterson v. Philadelphia Gas Works*, Docket No. F-2024-3051418, and shall be rescheduled.

Dated: January 13, 2025

\_\_\_\_\_/s/  
Marta Guhl  
Administrative Law Judge

**F-2024-3051418 - EMMETT PATTERSON v. PHILADELPHIA GAS WORKS**

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