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February 3, 2025

VIA ELECTRONIC FILING
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Harry Borbonus v. Peoples Natural Gas Company LLC
at Docket No. **C-2025-3052901**

Dear Secretary Chiavetta:

On behalf of Peoples Natural Gas Company LLC, enclosed please find Preliminary Objections, to be electronically filed in the above-referenced case.

If you have any questions or concerns regarding this matter, please do not hesitate to contact me.

Very truly yours,

Michael C. Turzai

Enclosures
cc: Harry Borbonus

**COMMONWEALTH OF PENNSYLVANIA
BEFORE
THE PUBLIC UTILITY COMMISSION**


Harry Borbonus)	Complaint Docket
v.)	No. C-2025-3052901
Peoples Natural Gas Company LLC)	

NOTICE TO PLEAD

TO: Harry Borbonus

You are hereby notified that, if you do not file a written response to the enclosed Preliminary Objections within (10) days from service of this notice, the facts set forth in the following Preliminary Objections may be deemed to be true, thereby requiring no other proof. All pleadings, such as a Response to the enclosed Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on all other parties to this proceeding. Failure to respond to the Preliminary Objections could result in the dismissal of your case.

Dated: February 3, 2025



Michael C. Turzai, Esq.
Counsel for Peoples Natural Gas Company LLC
375 North Shore Drive
Pittsburgh, PA 15212
(412) 258-4473

**COMMONWEALTH OF PENNSYLVANIA
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**PRELIMINARY OBJECTIONS
TO THE FORMAL COMPLAINT OF
HARRY BORBONUS**

Pursuant to 52 Pa. Code §5.101, Peoples Natural Gas Company LLC, hereinafter referred to as “Peoples” or “Company”, hereby files its preliminary objections to the Formal Complaint filed in the above-captioned matter on the grounds that the subject matter of the complaint is beyond the jurisdiction of the Public Utility Commission. The Commission is without authorization to grant the Complainant’s request for damages, and the Formal Complaint includes impertinent matter in its requested relief. Therefore, Peoples moves to strike the Complainant’s request for compensation.

In support of its preliminary objections, Peoples states as follows:

1. The Complainant is the owner of a property located at 51 West Burrell Street, Blairsville, PA 15717 (“the Property”).
2. The Complainant filed a formal complaint with the Commission at Docket Number C-2025-3052901, averring that Peoples or its contractor is responsible for alleged damages done to a stormwater drain while replacing natural gas pipelines near the Property (the “Formal Complaint”). In the Formal Complaint, the Complainant seeks what amounts to compensatory damages for the alleged losses, including requiring Peoples to perform or pay for work done to fix the alleged damaged drain or to install a sump pump in the basement of the Property. The requested relief is essentially a request for monetary compensation or other consideration being paid to Complainant.
3. Peoples has filed its Answer to Complaint contemporaneously with this Motion, in which it denies liability to Complainant.

4. It is well settled that the Commission has only the powers, and can only consider such matters, as are expressly, or by necessary implication, given to it by the legislature. Behrend v. Bell Telephone Co., 363 A.2d 1152 (Pa. Super 1976); Brockway Glass Company, Inc. v. West Penn Power Co., 54 Pa. P.U.C. 509 (1980); Bones v. Bates Taxi, Inc., 51 Pa. P.U.C. 346 (1977). The Public Utility Code, 66 Pa. C.S. §101, et seq. (the "Code"), gives the Commission supervisory and regulatory power over the rates, service and facilities of public utilities. Brockway Glass Company, Inc. at 514.
5. Pursuant to 52 Pa. Code §5.101, Peoples objects to the relief requested in the Formal Complaint on the grounds that the Pennsylvania Public Utility Commission (the "Commission") lacks jurisdiction to award monetary damages/compensation.
6. Pennsylvania courts have long held that the enforcement powers of the Commission do not include the power to award monetary damages. Elkin v. Bell, 491 Pa. 123, 420 A.2d 371 (1980); Feingold v. Bell of Pennsylvania, 477 Pa. 1, 383 a.2d 791 (1978); see Nagy v. Bell Tel. Co., 436 A.2d 701 (Pa. Super. 1981). Thus, the Code does not give the Commission jurisdiction over a claim for monetary damages. Behrend v. Bell Telephone Co., 363 A.2d 1152 (Pa. Super 1976); Brockway Glass Company, Inc. v. West Penn Power Co., 54 Pa. P.U.C. 509 (1980); Bones v. Bates Taxi, Inc., 51 Pa. P.U.C. 346 (1977).
7. 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).
8. Complainant's concerns should be addressed in the Court of Common Pleas.
9. A prayer for relief by the Complainant in the form of monetary or other compensation for damages is not recoverable in the cause of action before this Commission as the Commission is without authorization to award compensation for damages. The request for relief is irrelevant to the instant cause of action and therefore an "impertinent matter" within the use and meaning of 52 Pa. Code §5.101(a)(2).
10. Thus, the Complainant's request for compensation for alleged damages should be stricken from the Formal Complaint pursuant to Pa. Code §5.101(a)(2) and the Complainants should be precluded from introducing any evidence in the Formal Complaint proceeding related to a monetary or compensatory claim for damages.

WHEREFORE, Peoples respectfully requests that this Commission grant Peoples' preliminary objection to the Formal Complaint and strike the request for payment of monetary damages as an impertinent matter.

Respectfully submitted.

A handwritten signature in black ink that reads "Michael C. Turzai". The signature is written in a cursive style and is positioned above a horizontal line.

Michael C. Turzai, Esq.
Counsel for Peoples Natural Gas Company LLC

Dated: February 3, 2025

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VERIFICATION

I, Michael C. Turzai, hereby declare that I am an attorney representing Peoples; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Motion are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. §4904 pertaining to false statements to authorities.



Michael C. Turzai

Date: February 3, 2025

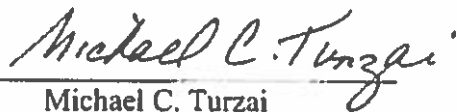
COMMONWEALTH OF PENNSYLVANIA
BEFORE
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Harry Borbonus)
v.) Complaint Docket
Peoples Natural Gas Company LLC) No. C-2025-3052901

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing NOTICE TO PLEAD and PRELIMINARY OBJECTIONS TO THE FORMAL COMPLAINT upon each party to this proceeding.

Done at Pittsburgh, Pennsylvania, this 3rd day of February, 2025.



Michael C. Turzai
Counsel for
Peoples Natural Gas Company LLC