

Stevens & Lee

17 N. Second Street, 16th Floor
Harrisburg, PA 17101
(717) 234-1090
www.stevenslee.com

Direct Dial: (717) 255-7365
Email: michael.gruin@stevenslee.com
Direct Fax: (610) 988-0852

February 10, 2025

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

**RE: Vera Scroggins v. Pennsylvania-American Water Company
Docket No. C-2023-3039609**

Dear Secretary Chiavetta:

Enclosed for filing on behalf of Pennsylvania-American Water Company is its Motion to Strike the “Additional Amended Formal Complaint” filed by the Complainant in this matter. A copy has been served on the Complainant in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Very truly yours,

STEVENS & LEE



Michael A. Gruin

Enc.

cc: Certificate of Service
Administrative Law Judge Marta Guhl (via electronic mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

VERA SCROGGINS
Complainant

v.

PENNSYLVANIA-AMERICAN
WATER COMPANY
Respondent

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:
:
:
:

Docket No. C-2023-3039609

NOTICE TO PLEAD

To: *Vera Scroggins*

You are hereby notified to file a written response to the attached Motion of Pennsylvania-American Water Company within twenty (20) days from the date of service of this notice. If you do not file a written response denying or correcting the enclosed Motion within twenty (20) days of service, the facts set forth by Pennsylvania-American Water Company may be deemed to be true, thereby requiring no other proof. All pleadings, such as Answers to Motions, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

You must also serve a copy of your response on the undersigned counsel for Pennsylvania-American Water Company.

STEVENS & LEE



Michael A. Gruin, (I.D. No. 78625)
17 N. 2nd St., 16th Fl
Harrisburg, PA 17101
Tel. (717) 255-7365
Fax (610) 988-0852
COUNSEL FOR PENNSYLVANIA
AMERICAN WATER COMPANY

DATE: February 10, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

VERA SCROGGINS	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3039609
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

**MOTION OF
PENNSYLVANIA-AMERICAN WATER COMPANY
TO STRIKE ADDITIONAL AMENDED FORMAL COMPLAINT**

AND NOW, Pennsylvania-American Water Company (“PAWC” or “Company”), by and through its attorneys Stevens & Lee, P.C., hereby files this Motion to request that the Additional Amended Formal Complaint of Vera Scroggins (hereinafter “Complainant”) be stricken because it seeks to improperly add an entirely new individual as a co-complainant following argument on Preliminary Objections to the Complainant’s prior Amended Complaint.

I. INTRODUCTION

1. On April 6, 2023, the Company was served with a notice of the Formal Complaint (“Original Complaint”) filed by the Complainant against the Company.

2. On April 26, 2023, the Company filed an Answer and New Matter to the Original Complaint, as well as Preliminary Objections to the Complaint.

3. On December 1, 2023, Administrative Law Judge Marta Guhl issued an Interim Order on Preliminary Objections (“Interim Order”).

4. The Interim Order held that:

“Complainant did not specify any actions by the Company that violate the Commission’s statute, regulations or orders in this particular matter. The

Complainant failed to indicate any specific relief that the Commission can grant in this case. The Respondent is left to speculate as to the reason for the Complaint and the relief that the Complainant is seeking.”

5. The Interim Order directed the Complainant to file an amendment to the Original Complaint which includes more details regarding the nature of her dispute with the Company and which states with specificity what she would like the Commission to do to resolve her dispute.

6. The Complainant filed her “Amended Formal Complaint” on December 12, 2023.

7. On January 2, 2024, PAWC filed Preliminary Objections to the Amended Formal Complaint, because the Amended Formal Complaint does not allege any dispute with the Company or actions by the Company which violated the Public Utility Code or the regulations or orders of the Commission, as required by the Interim Order.

8. PAWC’s Preliminary Objections also argued that Ms. Scroggins lacks standing pursuant to 52 Pa. Code § 5.101(a)(7) because she is not a customer of the Company’s, does not assert that the Company provides any utility service to the Complainant, does not assert that the Complainant is applying for utility service from the Company, or that the Company refused a request to provide utility service to the Complainant.

9. PAWC’s Preliminary Objections also noted that the Amended Formal Complaint requests the testing of water supplied to “constituents” other than the Complainant in a different municipality than the one in which she resides, namely, Montrose, PA.

10. On January 22, 2025, a telephonic conference was held to allow for argument on PAWC’s Preliminary Objections.

11. During the argument on PAWC's Preliminary Objections, the Complainant confirmed that she was not a customer of PAWC's but stated that she was listed as a point of contact on an account that is in the name of Craig Stevens, and that the account in question is solely for an outside pump hydrant, rather than for domestic water service.

12. Shortly after the argument concluded, and perhaps recognizing that as a non-customer, she had no standing to bring a formal complaint against PAWC, the Complainant filed an "Additional Amended Formal Complaint" for the sole purpose of "adding Craig Stevens" to the complaint because he has similar concerns as she does about the impacts of gas drilling on water extracted from Lake Montrose in Montrose PA. A copy of the Complainant's "Additional Amended Formal Complaint" is attached hereto as Exhibit 1.

13. It is obvious that Ms. Scroggins is attempting to leverage Mr. Stevens' status as a PAWC customer to cure her lack of standing, by asking for him to be joined as an additional Complainant.

14. Ms. Scroggins' attempt to circumvent the well-established principles for legal standing should be rejected, because her Additional Amended Formal Complaint is defective and improper for a number of reasons, and should be stricken.

15. First, to the extent that Mr. Stevens seeks to intervene in this proceeding as a party, the Commission's regulations require him to file a petition to intervene to establish the eligibility to intervene, and serve such petition on the other parties to the proceeding to allow for a response to the Petition, in accordance with 52 Pa. Code §§ 5.71-5.75. Therefore, to the extent the Additional Amended Formal Complaint seeks to

allow Mr. Stevens to intervene in the proceeding, it should be stricken for failing to comply with the Commission's regulations for intervention.

16. Secondly, to the extent that the Additional Amended Formal Complaint was intended to be filed in order to rebut arguments from PAWC's Preliminary Objections, the Additional Amended Formal Complaint is untimely.

17. 52 Pa. Code § 5.91 states that "a party may file an amended pleading as of course within 20 days after service of a copy of a preliminary objection filed under § 5.101 (referring to preliminary objections). If a party has filed an amended pleading as of course, the preliminary objections to the original pleading shall be deemed moot."

18. PAWC's Preliminary Objections to the Complainant's first Amended Complaint were filed and served on January 2, 2024, over a year before the Complainant filed her "Additional Amended Formal Complaint".

19. It is obvious that the Complainant filed her Additional Amended Formal Complaint for the sole purpose of trying to render PAWC's Preliminary Objections moot, however, because the Additional Amended Formal Complaint was filed well over a year after PAWC filed its Preliminary Objections, it is untimely under the express provisions of 52 Pa. Code § 5.91 and cannot be considered in ruling on PAWC's Preliminary Objections.

20. Furthermore, 52 Pa. Code § 5.91(c) states that no amendment to a pleading may be filed within 5 days preceding the commencement of or during a hearing unless directed or permitted by the Commission or the presiding officer after opportunity for all parties to be heard thereon. In this case, the Additional Amended Formal Complaint was filed after argument on the Preliminary Objections was held, in violation of 52 Pa. Code § 5.91(c).

21. In filing her Additional Amended Formal Complaint, the Complainant appears to be attempting to add Mr. Stevens as additional party to the case, by completely skipping over the required processes of either (i) having Mr. Stevens file a verified complaint asserting the basis for his complaint as a customer of PAWC, and then seeking consolidation of the complaints pursuant to 52 Pa. Code § 5.91(c), or (ii) having Mr. Stevens file a Petition to Intervene.

22. In addition, even if the Additional Amended Formal Complaint were to qualify as a new complaint by Mr. Stevens, it suffers from the same defects as the original Formal Complaint and the first Amended Complaint, in that it does not “specify any actions by the Company that violate the Commission’s statute, regulations or orders in this particular matter” and does not “indicate any specific relief that the Commission can grant in this case”, as directed by the Interim Order on PAWC’s original Preliminary Objections.

23. The Complainant’s pleadings in this case (including the Additional Amended Formal Complaint) as well as her argument during the hearing on Preliminary Objections, have repeatedly made it clear that the sole purpose of her complaint is to gather information about potential contaminants from gas drilling in the lake water in Montrose Lake, PA, not about PAWC’s utility rates or services to customers.

24. As explained in PAWC’s Preliminary Objections, a complaint against a public utility must allege a violation of the Public Utility Code or a regulation or Order of the Commission in order to be legally sufficient. 66 Pa. C.S. §701.

25. Neither the Original Complaint nor the Amended Complaint nor the Additional Amended Formal Complaint included any allegations that the Company violated the Public Utility Code or a regulation or Order of the Commission.

26. The Additional Amended Formal Complaint simply asserts that Mr. Stevens and other unnamed individuals have concerns about the impact of gas drilling on the water in Montrose Lake.

27. As PAWC has stated before, it is not attempting to minimize the Complainant's concerns. However, those issues are not within the Commission's jurisdiction.

28. Water purity and quality in Pennsylvania is statutorily regulated by the provisions of the Pennsylvania Safe Drinking Water Act, 35 P.S. §§721.1-721.17 and the Federal Safety Drinking Water Act, 42 U.S.C. §§300j-330j-10. Enforcement of these statutes is specifically vested in the Department of Environmental Protection ("DEP") and the Federal Environmental Protection Agency. See *Rovin v. Pa. PUC*, 502 A.2d 785 (Pa. Commonwealth Ct. 1986).

29. As the Commonwealth Court stated in *Polites v. Pennsylvania Public Utility Commission*, 928 A.2d 388 (Pa. Cmwltth. 2007), "In Pennsylvania, pursuant to Section 5 of the Act, 35 P.S. § 721.5, the task of preserving water quality and monitoring for contaminants is within the authority of the Department [of Environmental Protection]. Any matters affecting water quality, such as the testing of backflow devices, are within its jurisdiction, not the Commission's, whose utilities provide water service."

30. For the reasons set forth above, the Additional Amended Formal Complaint is defective and untimely, and should be stricken and not considered in ruling upon PAWC's pending Preliminary Objections to the first Amended Complaint.

REQUEST FOR RELIEF

WHEREFORE, for all of the reasons stated herein, Respondent Pennsylvania-American Water Company respectfully requests that the Complainant's Additional Amended Formal Complaint be stricken

Respectfully submitted,
STEVENS & LEE



Michael A. Gruin, (I.D. No. 78625)
17 N. 2nd St., 16th Fl.
Harrisburg, PA 17101
Tel. (717) 255-7365
Fax (610) 988-0852
COUNSEL FOR PENNSYLVANIA
AMERICAN WATER COMPANY

DATE: February 10, 2025

Exhibit 1

Vera Scroggins docket no.
C-2023-3039609

1. I am adding Craig Stevens to my Amended Formal Complaint. He is the primary name on the account with PAWC, which also has my name on it. The account number is 1024-210033850897, which is the same one I am on.
- 2 Craig Stevens wants to add to the testimony and concerns about the safety of the PAWC – supplied water in Montrose, Pa., Susquehanna County.

Craig Stevens is also concerned about possible gas drilling impacts to the water which is extracted from Lake Montrose in Montrose, Pa., 18801.

I have written to representatives in PAWC with my questions and concerns and Craig Stevens, my neighbor, has also written to PAWC with concerns and we have not been assured to our satisfaction of the water's safety relating to the proximity of gas wells and gas production near Montrose Lake Treatment Plant. We have at least six well pads with several gas wells surrounding Lake Montrose within two to three miles.

Thank you for your consideration and help,

Sincerely,

Vera Scroggins

Vera Scroggins
71 Gus Park Lane
Brackney, Pa. 18812
607-237-9685
veraduerga@gmail.com
1-22-25

Craig Stevens

Craig Stevens
1527 Silver Creek Rd.
Montrose, Pa. 18801
949-456-6104
570-967-2280
clsCraigstevens@gmail.com
1-22-25

**C-2023-3039609 – VERA SCROGGINS v. PENNSYLVANIA AMERICAN
WATER COMPANY**

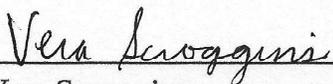
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Additional Amended Formal Complaint from Vera Scroggins, upon the parties listed below, in accordance with the requirements of 52 Pa. Code 1.54 (relating to service by a party)

eService to all

Michael A. Gruin Esquire
Stevens & Lee
17 North Second Street
16th Floor
Harrisburg, Pa. 17101 717-255-
7365 717-234-1090
michael.gruin@stevenslee.com

Theresa K. Harrold Esquire
Pennsylvania American Water Company
852 Wesley Drive
Mechanicsburg, Pa. 17055
717-550-1562 717-303-8381
teresa.harrold@amwater.com



Vera Scroggins
71 Gus Park Lane, Brackney, Pa. 18812
Dated: January 22, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

VERA SCROGGINS	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3039609
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Motion upon the party listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA Electronic Mail

Vera Scroggins
71 Gus Park Lane
Brackney, PA 18812



Michael A. Gruin

DATED: February 10, 2025