

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Carol Mitchell	:	
	:	
v.	:	C-2025-3053646
	:	
Peoples Natural Gas Company LLC	:	

**INTERIM ORDER ON PRELIMINARY OBJECTIONS
AND REFERRING COMPLAINT TO MEDIATION**

On February 27, 2025, Carol Mitchell (Complainant) filed a Formal Complaint against Peoples Natural Gas Company LLC (Peoples). The Complainant alleged that Peoples damaged the Complainant’s natural stone wall and garage door during a construction project. As relief, the Complainant “would like Peoples to reimburse me to hire a contractor of my choosing to rebuild the wall and replace the garage door that was damaged.”

Peoples filed an answer on March 27, 2025, denying that it was responsible for the Complainant’s property damage.

Peoples also filed preliminary objections seeking dismissal of the Complainant’s request for “compensatory damages.” The Complainant filed a response on April 3, 2025. The Complainant states that he is not seeking “damages” but wants compensated “for monies needed to repair property.”

By Notice dated April 10, 2025, the preliminary objections were assigned to me for decision.

The legal basis for Peoples’ preliminary objection is that the Commission does not have jurisdiction to award monetary damages. Preliminary objections are permitted under

Commission regulations.¹ Preliminary objection practice before the Commission is similar to Pennsylvania civil practice 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 monetary damages.⁶ The Commission lacks authority to award monetary damages.⁷ In *Feingold*, our Pennsylvania Supreme Court explained the Commission's lack of authority to award monetary damages:

The Public Utility Law placed a broad range of subject matters under the control of the Public Utility Commission (PUC), making that agency responsible for ensuring the adequacy, efficiency, safety, and reasonableness of public utility services. Act of May 28, 1937, P.L. 1053, art. IV, *as amended*, Act of October 7, 1976, P.L. 1057, No. 215, 66 P.S. § 1171 (Supp.1977-78). The enforcement and remedial powers of the PUC, although formidable, are not those of a court. The PUC is empowered to correct, by regulation or order, abuses in the provision of service. Act of May 28, 1937, P.L. 1053, § 413, 66 P.S. § 1183 (1959). The PUC has the power to impose fines upon a public utility for violation of the Public Utility Law. Act of

¹ 52 Pa.Code § 5.101.

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).

⁷ See *In Re: Melograne*, 812 A. 2d 1164 (Pa. 2002); *Feingold v. Bell of Pennsylvania*, 383 A.2d 791 (Pa. 1977).

May 28, 1937, P.L. 1053, art. XIII, § 1301, *as amended*, Act of October 7, 1976, P.L. 1057, No. 215, § 25, 66 P.S. § 1491 (Supp.1977-78). Since the PUC is a creature of statute, it has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication. *Allegheny County Port Authority v. Pa. P. U. C.*, 427 Pa. 562, 237 A.2d 602 (1967); *Delaware River Port Authority v. Pa. P. U. C.*, 393 Pa. 639, 145 A.2d 172 (1958).

It is relevant to the case now before us that the statutory array of PUC remedial and enforcement powers does not include the power to award damages to a private litigant for breach of contract by a public utility. Nor can we find an express grant of power from which the power to award such damages can be fairly implied. Thus, it can be concluded that the Legislature did not intend for the PUC to have such power.^[8]

To the extent the Complainant is requesting monetary damages, those claims should be made before a court of common pleas or a district magistrate.

However, taking the complaint and the response to Peoples' preliminary objections as a whole, the Complainant is essentially requesting the restoration of his property. 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 falls 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).

⁸ *Feingold* at 794.

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.^[9]

The Complainant's allegation that Peoples' construction activity damaged his property and his desire to have his damaged wall rebuilt and garage door repaired clearly falls within the Commission's jurisdiction pursuant to Section 1501 of the Public Utility Code.¹⁰

In sum, to the extent that the complaint can be read as a request for monetary damages, the preliminary objection are granted, because the Commission does not have the authority to award monetary damages. The preliminary objections are denied in all other respects.

It is the policy of the Commission to encourage settlements.¹¹ This case appears to be appropriate for mediation. It may be in the best interests of both the Complainant and Peoples to attempt to resolve their dispute without resorting to a trial-like hearing before an administrative law judge. These discussions may benefit from the facilitation of a mediator. 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

⁹ *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).

¹⁰ See *Grant v. Peoples Natural Gas Company*, Docket C-2021-3026011 (Interim Order on Preliminary Objections issued July 8, 2021).

¹¹ 52 Pa.Code § 5.231.

of settlement options beyond those which can be ordered by the Commission in the formal adjudication process.¹²

THEREFORE,

IT IS ORDERED:

1. That the preliminary objections of Peoples Natural Gas Company LLC in the above-captioned matter are granted in part and denied in part.
2. That the case is referred to the Commission's Mediation Unit for the Commission's mediation review process.

Date: April 23, 2025

_____/s/
Mary D. Long
Administrative Law Judge

¹² See 52 Pa.Code §§ 69.391– 69.397.

**C-2025-3053646 - CAROL MITCHELL v. PEOPLES NATURAL GAS COMPANY
LLC**

CAROL MITCHELL
60 MONTRAVER DR
MONESSEN PA 15062
724.331.6657
carol062955@gmail.com
Served via eService – **Served 4/23/2025**

JENNIFER PETRISEK ESQUIRE
PEOPLES NATURAL GAS COMPANY LLC
375 NORTH SHORE DRIVE
PITTSBURGH PA 15212
412.208.6834
412.208.6577
jennifer.petrisek@peoples-gas.com
Served via eService – **Served 4/23/2025**
(Counsel for Peoples Natural Gas Company LLC)