

**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

| | | |
|----------------|---|----------------|
| Jael Hernandez | : | |
| | : | |
| v. | : | C-2025-3053091 |
| | : | |
| Raiser-PA LLC | : | |

INTERIM ORDER REGARDING PRELIMINARY OBJECTIONS

On January 24, 2025, Jael Hernandez (Complainant or Mr. Hernandez) filed a formal Complaint against Raiser-PA LLC (Respondent or Raiser or Company) alleging that there were issues in determining his rate as a driver with the Respondent and that the Respondent was unable to assist him in calculating his earnings with the Company.

The Commission's Secretary served the Complaint electronically on February 12, 2025.

On February 27, 2025, Raiser filed its Answer and New Matter, which denied the material allegations of the Complaint.

On the same date, Raiser also filed Preliminary Objections. Raiser alleges that the Commission lacks jurisdiction to grant the relief that was requested in the Complaint.

The Complainant did not file any response to the New Matter or Preliminary Objections in this case.

Via Motion Judge Assignment dated April 7, 2025, the matter was assigned to me as the presiding officer. 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 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 Complainant indicates that there are issues with the rate that he is provided by Raiser and he has trouble calculating his earnings. Raiser notes that the calculations for driver rates are part of a private contract between Raiser and the driver and the Commission does not have jurisdiction in such matters.

In deciding the preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the petitioners, recovery or relief is possible. *Dept. of Auditor General v. SERS*, 836 A.2d 1053, 1064 (Pa.Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 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). All 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 Commission does not have jurisdiction over complaints where the allegations raised arise from duties owed under a private contract between utilities and other parties. *Robert Ely v. Raiser-PA LLC*, Docket No. C-2016-2571984 (Final Order entered Mar. 1, 2018).

However, it is clear that the Complainant is also disputing the service provided to him by Raiser in this matter. The Complainant was clearly dissatisfied with the information that the Respondent did provide the Complainant.

The Pennsylvania Public Utility Code requires each public utility to comply with the following:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, . . . Such service and facilities shall be in conformity with the regulations and orders of the commission.

66 Pa.C.S. § 1501.

The statutory definition of “service” is to be broadly construed. *Kim Betchy v. West Penn Power Co.*, Docket No. C-2018-3000257 (Opinion and Order entered Oct. 8, 2020) (citing *Country Place Waste Treatment Co., Inc. v. Pa. Pub. Util. Comm’n*, 654 A.2d 72 (Pa. Cmwlth. 1995)). As defined in the Code:

“Service.” Used in its broadest and most inclusive sense, includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities, or contract carriers by motor vehicle, in the performance of their duties under this part to their patrons, employees, other public utilities, and the public, as well as the interchange of facilities between two or more of them . . .

66 Pa.C.S. § 102.

Further, the Commission has expressed the concern that, in general, complainants may find it difficult to navigate through pre-hearing motions and should be given the chance to orally describe their basic issue and supporting facts. On this vein, it would be inappropriate to grant the Company’s Preliminary Objections at this point.

On the other hand, the Respondent must have an opportunity to understand and respond in a meaningful way to a formal complaint. The Commission’s rules of procedure permit the Commission to direct a more specific pleading.¹ Therefore, the Complainant is directed to file an amendment to the Complaint which includes more details regarding the nature of the dispute with the Respondent and states with specificity what they would like the

¹ 52 Pa. Code § 5.93. *See also* 52 Pa. Code § 5.101(e).

Commission to do to resolve the dispute. The Complainant must specify the violation of the Public Utility Code, Commission's regulations or a Commission order that the Respondent has committed in this matter. In the event that the Complainant fails to comply with this order, the Respondent may file an appropriate motion to seek dismissal of the Complaint.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objections filed by Raiser-PA LLC are denied at this time.
2. That Jael Hernandez shall file and serve an Amended Complaint which sets forth additional facts, consistent with the instructions provided on the Commission's formal complaint form, in support of the Complainant's allegations against Raiser-PA LLC **on or before June 5, 2025**. A copy of the Amended Complaint shall be served on counsel for Raiser-PA LLC as well as the undersigned Administrative Law Judge.
3. That upon timely filing and service of an Amended Complaint by Jael Hernandez, Raiser-PA LLC shall timely file and serve a responsive pleading.

Dated; May 14, 2025

/s/
Marta Guhl
Administrative Law Judge

C-2025-3053091 - JAEL HERNANDEZ v. RASIER-PA LLC

JAEL HERNANDEZ
6214 CHARLES STREET
PHILADELPHIA PA 19135
914.514.7891

5jaelhernandez5@gmail.com

Served via USPS First Class Mail May 14, 2025

CT CORPORATION SYSTEM
RASIER-PA LLC
600 NORTH 2ND STREET SUITE 401
HARRISBURG PA 17101

Served via USPS First Class Mail May 14, 2025

ALAN MICHAEL SELTZER ESQUIRE
BUCHANAN INGERSOLL & ROONEY
409 NORTH SECOND STREET
SUITE 500

HARRISBURG PA 17101-1357

610.372.4761

717.237.4800

alan.seltzer@bipc.com

Served via eService May 14, 2025

(Counsel for Rasier-PA LLC)

JOHN F POVILAITIS ESQUIRE
BUCHANAN INGERSOLL & ROONEY PC
409 N SECOND STREET SUITE 500
HARRISBURG PA 17101-1357

717.237.4825

john.povilaitis@bipc.com

Served via eService May 14, 2025

(Counsel for Rasier-PA LLC)