

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Erin Brenner	:	
	:	
v.	:	C-2025-3054534
	:	
Philadelphia Gas Works	:	

INTERIM ORDER

This interim order directs an evidentiary hearing to be scheduled on July 10, 2025, at 10:00 a.m. at which time parties shall be prepared to present oral argument on Philadelphia Gas Works’ preliminary objections and Ms. Brenner’s response thereto at the commencement of the hearing.

HISTORY OF PROCEEDING

On April 10, 2025, Erin Brenner (Complainant or Ms. Brenner) filed a Formal Complaint (Complaint) with the Public Utility Commission (Commission), alleging Philadelphia Gas Works (Respondent, Company, or PGW) incorrectly charged her and that the Respondent threatened to shut off her service.

On April 30, 2025, Respondent filed an Answer with New Matter to the Complaint, admitting in part and denying in part Complainant’s allegations. Respondent raised a statute of limitations issue, specifically Section 3314 of the Public Utility Code. 66 Pa.C.S. § 3314.

Also on April 30, 2025, Respondent filed Preliminary Objections, further fleshing out the Company’s statute of limitations argument, alleging the Complainant raised issues

pertaining to charges and bills issued prior to April 10, 2022. Preliminary Objections, ¶¶ 12-16. For relief, Respondent requests dismissal of the Complaint.

On May 8, 2025, Complainant filed a response to Preliminary Objections.

DISCUSSION

Legal Standards

Commission procedure regarding the disposition of preliminary objections is similar to the procedure used in Pennsylvania civil practice. A preliminary objection in civil practice seeking dismissal of a pleading will only be granted where relief is clearly warranted and free from doubt. *Pa. State Lodge, Fraternal Order of Police v. Dept. of Conservation & Nat. Res.*, 909 A.2d 413 (Pa. Cmwlth. 2006), *aff'd*, 924 A.2d 1203 (Pa. 2007).

The Commission may not rely upon the factual assertions of the moving party but must accept as true for purposes of disposing of the motion all well pleaded, material facts of the nonmoving party, as well as every inference from those facts. *Cnty. of Allegheny v. Commonwealth of Pa.*, 551 A.2d 402 (Pa. 1985); *Commonwealth of Pa. v. Bell Tel. Co. of Pa.*, 490 A.2d 402 (Pa. Cmwlth. 1988). The Commission must view the Complainant in this case in the light most favorable to the Complainant and should dismiss the Complaint only if it appears that the Complainant would not be entitled to relief under any circumstances as a matter of law. *Equitable Small Transp. Intervenor v. Equitable Gas Co.*, 1994 Pa.P.U.C. LEXIS 69, Docket No. C-00935435 (July 18, 1994).

In this matter, the Respondent filed Preliminary Objections seeking dismissal of the Complaint. Section 5.101(a)(4) of the Commission's regulations serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. *Lehigh Valley Power Committee v. Pa. Pub. Util. Comm'n*, 563 A.2d 557 (Pa. Cmwlth. 1989); *S.M.E. Bessemer Cement, Inc. v. Pa. Pub. Util.*

Comm'n, 540 A.2d 1006 (Pa. Cmwlth. 1988); *White Oak Borough Auth. v. Pa. Pub. Util. Comm'n*, 103 A.2d 502 (Pa. Super. 1954).

A complaint must set forth “an act or thing done or omitted to be done or about to be done or omitted to be done by the respondent in violation, or claimed violation, of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission.” 66 Pa.C.S. § 701. However, the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. 66 Pa.C.S. § 703(b).

Analysis

PGW filed a Preliminary Objection alleging that Complainant’s claims are beyond the statute of limitations at Section 3314 of the Public Utility Code, 66 Pa.C.S. § 3314.

Section 3314 states:

No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefore arose, except as otherwise provided in this part.

66 Pa.C.S. § 3314.

The date of liability is brought up only in PGW’s Answer, New Matter and Preliminary Objections; therefore, a ruling on the Preliminary Objections will be held in abeyance until after the evidentiary hearing.

Accordingly, this matter shall proceed to an evidentiary hearing, as scheduled on Thursday, July 10, 2025, at 10:00 AM.

ORDER

THEREFORE,

IT IS ORDERED:

1. That this matter shall proceed to an evidentiary hearing, as scheduled on Thursday, July 10, 2025, at 10:00 AM.

Date: May 19, 2025

/s/
Emily A. Farren
Administrative Law Judge

C-2025-3054534 - ERIN BRENNER v. PHILADELPHIA GAS WORKS

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Served via eService May 19, 2025

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