

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Gloria Holloway	:	
	:	
v.	:	C-2025-3053873
	:	
Community Utilities of Pennsylvania Inc.	:	
- Wastewater	:	

Gloria Holloway	:	
	:	
v.	:	C-2025-3053874
	:	
Community Utilities of Pennsylvania Inc.	:	
-Water	:	

**ORDER DENYING PRELIMINARY OBJECTIONS**

**HISTORY OF PROCEEDINGS**

On February 24, 2025, Gloria Holloway (“Ms. Holloway”) filed Formal Complaints against Community Utilities of Pennsylvania Inc. (“CUPA”) – wastewater and water divisions with the Pennsylvania Public Utility Commission (“Commission”). In the Formal Complaints, Ms. Holloway alleged that since CUPA’s most recent rate increases, CUPA has been price gouging and overcharging her for her wastewater and water service. Ms. Holloway further alleged that a meeting was held between CUPA and its Penn Estates service territory customers and that the customers were blamed for a water leak that occurred in Penn Estates. For relief, Ms. Holloway requested that the Commission look into this alleged price gouging by CUPA. Both Complaints were served on CUPA on March 11, 2025.

On March 31, 2025, CUPA filed Answers with New Matters to the Complaints. In its Answers, CUPA denied that it was price gouging or overcharging. CUPA admitted that it

held meetings with customers regarding customer leaks and system leaks so as to address unaccounted for water in the Penn Estates System but denied that it blamed customers.

In its New Matters, CUPA asserted that its rates were approved by the Commission and that the law requires CUPA to adhere to its Commission-approved tariff. CUPA also asserted that holding a meeting with its customers to educate customers on leaks and low water levels is not a violation of a Commission order or regulation or the Public Utility Code. CUPA concluded its Answer with New Matter by requesting dismissal of the Complaint with prejudice.

The Answers with New Matters contained Notice to Plead for Ms. Holloway to file Replies to CUPA's New Matters within 20 days of service. Ms. Holloway did not file Replies to CUPA's New Matters.

Also on March 31, 2025, CUPA filed Preliminary Objections to the Complaints. CUPA argued that the Complaints are legally insufficient pursuant to 52 Pa. Code § 5.101(a)(4) and should be dismissed because the Complaints failed to state a claim upon which relief could be granted. More specifically, CUPA argued that the Complaints fail to allege a violation of Commission regulation or Order or the Public Utility Code. CUPA concluded its Preliminary Objections by requesting dismissal of the Complaints with prejudice.

The Preliminary Objections contained Notice to Plead for Ms. Holloway to file Answers to CUPA's Preliminary Objections within 10 days of service. Ms. Holloway did not file Answers to CUPA's Preliminary Objections.

On May 5, 2025, the Commission issued Motion Judge Assignment Notices, assigning these matters to me as Administrative Law Judge ("ALJ").

On May 27, 2025, the Commission issued my Interim Orders Consolidating Formal Complaints. The Orders consolidated the wastewater and water matters.

CUPA's Preliminary Objections are ready to be ruled upon and will be denied in the Ordering paragraphs below.

## DISCUSSION

### *Legal Standards*

CUPA in this matter filed Preliminary Objections to the Formal Complaints. The Commission's regulations provide that preliminary objections are available to parties and may be filed in response to a pleading. 52 Pa. Code § 5.101(a). The grounds for preliminary objections are limited to those set forth as follows:

- (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).

Commission procedure regarding the disposition of preliminary objections is similar to the procedure utilized in Pennsylvania civil practice. A preliminary objection in civil practice seeking dismissal of a pleading will be granted only 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.*, 490 A. 2d 402 (Pa. 1985); *Commonwealth of Pa. v. Bell Tel. Co. of Pa.*, 551 A.2d 602 (Pa. Cmwlth. 1988). The Commission must view the complaint 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. Intervenors v. Equitable Gas Co.*, 1994 Pa.P.U.C. LEXIS 69, Docket No. C-00935435 (July 18, 1994).

In this matter, CUPA filed Preliminary Objections seeking dismissal of the Complaint pursuant to 52 Pa. Code § 5.101(a)(4). The provision at 52 Pa. Code § 5.101(a)(4) 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); *Lehigh Valley Power Comm. v. Pa. Pub. Util. Comm'n.*, 563 A.2d 548 (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).

### *Analysis*

In this case, Ms. Holloway alleges that CUPA has been price gouging/overcharging her for her wastewater and water service since CUPA has been permitted to increase its rates following its last base rate proceedings. Ms. Holloway also alleged that she has been blamed for CUPA system water leaks.

Accepting the facts in the Complaint as true for the purpose of disposing of the Preliminary Objections, CUPA has failed to show that Ms. Holloway would not be entitled to relief under any circumstance as a matter of law. To the extent that Ms. Holloway challenges CUPA's most recent rate increase, it is well established that a Commission-approved tariff is prima facie reasonable, has the full force of law, and is binding on the utility and the customer. 66 Pa.C.S. § 316; *Zucker v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981). A complainant seeking to evade the effect of an existing tariff provision carries a very heavy burden of proving that the facts and circumstances leading to the creation of the tariff provision have changed so drastically as to render the application of the tariff provision unreasonable. *Shenano Twp. Bd. of Supervisors v. Pa. Pub. Util. Comm'n*, 686 A.2d 910 (Pa. Cmwlth. 1996). With respect to Ms. Holloway's allegations concerning water leaks, CUPA must provide its customers with reasonable service consistent with Section 1501 of the Public Utility Code, 66 Pa.C.S. § 1501. It is within the Commission's power and jurisdiction to review and investigate the reasonableness of the tariff provisions of CUPA and CUPA's compliance with Section 1501 of the Public Utility Code.

For the above reasons, the Preliminary Objections will be denied in the Ordering paragraphs below.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the March 31, 2025, Preliminary Objections filed by Community Utilities of Pennsylvania, Inc., at Docket No. C-2025-3053873, are denied.

2. That the March 31, 2025, Preliminary Objections filed by Community Utilities of Pennsylvania, Inc., at Docket No. C-2025-3053874, are denied.

Date: May 30, 2025

\_\_\_\_\_/s/  
Alphonso Arnold III  
Administrative Law Judge

**C-2025-3053873 - GLORIA HOLLOWAY v. COMMUNITY UTILITIES OF PENNSYLVANIA INC- WASTEWATER**

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Served via eService May 30, 2025

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