

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Sheila Tameka Berry	:	
	:	
v.	:	F-2025-3055778
	:	
Philadelphia Gas Works	:	

ORDER
GRANTING PRELIMINARY OBJECTION AND
DIRECTING COMPLAINANT TO FILE AN AMENDED COMPLAINT

On June 16, 2025, Sheila-Tameka Berry Agent (“Ms. Berry”) filed a Formal Complaint against Philadelphia Gas Works (“PGW”) with the Pennsylvania Public Utility Commission (“Commission”). As reason for the Complaint, Ms. Berry stated the following:

“This is a billing error due to the United States. The said name on the account in all caps is not me, I’m not a corporation.”

Complaint ¶ 4.

For relief, Ms. Berry stated the following:

“I would like PUC to order utility company to use my extended credit of the authorized user of the SSN on file and pay with the credits.”

Complaint ¶ 5.

The Complaint was served on PGW on June 17, 2025.

This Complaint is a timely appeal of the informal decision issued but the Commission's Bureau of Consumer Services at BCS Case No. 4061575. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

On July 7, 2025, PGW filed Preliminary Objections to the Complaint, properly endorsed with a Notice to Plead. In its Preliminary Objections, PGW asserted that the Complaint is insufficiently specific, pursuant to 52 Pa. Code § 5.101(a)(3), arguing that the Complaint does not contain information specific enough to allow PGW to understand the allegations against it, to conduct a meaningful investigation of the allegations, and to prepare a coherent response or defense. PGW additionally asserted that the Complaint is legally insufficient, pursuant to 52 Pa. Code § 5.101(a)(4), arguing that the Complaint fails to set forth any facts that could be construed as a violation of a Commission regulation, statute, or order by PGW. PGW concluded its Preliminary Objections by requesting dismissal of the Complaint.

PGW did not file an Answer to the Complaint. As PGW raised a Preliminary Objection regarding insufficient specificity, it was not required to file an Answer. *See* 52 Pa. Code § 5.101(e)(1).

Pursuant to 52 Pa. Code § 5.101(f)(1), Ms. Berry had ten (10) days from the date of service to file an answer to the Preliminary Objections. As of the date of this Order, Ms. Berry has not filed an answer.

On August 13, 2025, the Commission issued a Motion Judge Assignment Notice, assigning me as Presiding Officer over this proceeding.

PGW's Preliminary Objections are procedurally ready to be ruled upon. For the reasons discussed below, the Preliminary Objection regarding insufficient specificity, 52 Pa. Code § 5.101(a)(3), will be granted, and Ms. Berry will be directed to file an Amended Complaint.

DISCUSSION

PGW in this matter filed Preliminary Objections to the Formal Complaint. 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).

Here, PGW's Preliminary Objections assert insufficient specificity of a pleading pursuant to 52 Pa. Code § 5.101(a)(3) and legal insufficiency of a pleading pursuant to 52 Pa. Code § 5.101(a)(4).

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. *Pennsylvania State Lodge, Fraternal Order of Police v. Dept. of Conservation & Natural Resources*, 909 A.2d 413 (Pa. Cmwlth. 2006), *aff'd*, 592 Pa. 304, 924 A.2d 1203 (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. *County of Allegheny v. Commonwealth of Pennsylvania*, 490 A. 2d 402 (Pa. 1985); *Commonwealth of Pennsylvania v. Bell Telephone 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 Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

The preliminary objection may be granted only if the moving party prevails as a matter of law. *Rok v. Flaherty*, 527 A.2d 211 (Pa. Cmwlth. 1987). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Dep't of Auditor General, et al. v. State Employees' Retirement System, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003) (citing *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002)).

Insufficient specificity of a pleading

The Commission's regulations require that formal complaints set forth a clear and concise statement of the act or omission being complained of, including the result of any informal complaint or informal investigation. 52 Pa. Code § 5.22(a)(5). The Commission's regulations also require that formal complaints set forth a clear and concise statement of the relief sought. 52 Pa. Code § 5.22(a)(6).

A complaint must contain sufficient specificity and information to enable a respondent to understand the charges or allegations against it and conduct a meaningful investigation of the allegations, and to offer an appropriate response thereto. *Orlando Antonio Acosta v. PECO Energy Co.*, Docket No. F-2020-3015309 (Order entered Sep. 10, 2020). The Commission has held that a complaint filed with the Commission is adequate if it gives the respondent notice and an opportunity to defend; it need not be drawn with technical accuracy. *Green Cab Co. v. Hajducho*, 50 Pa. P.U.C. 745 (1977)

Viewing the Complaint in the light most favorable to Ms. Berry and accepting all of the factual assertions in the Complaint as true for the purposes of disposing of the Preliminary Objections, I agree with PGW that it has not been provided with the opportunity to provide an Answer or prepare a defense to the Complaint because the Complaint is unclear. Specifically, based on a reading of the Complaint, it is unclear what action or omission PGW has committed that led to the filing of the Complaint. The relief requested in the Complaint is also unclear.¹ In summary, based on a reading of the Complaint, I am unable to understand the material facts of the Complaint or the allegations against PGW.

Given the unclear nature of the Complaint, Ms. Berry will be directed to file an Amended Complaint in this proceeding.

Legal insufficiency of a pleading

A formal complaint must set forth “the act or thing done or omitted to be done” by a public utility “in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.” 66 Pa.C.S. § 701.

Complainant makes no specific claim as to what law the Commission has jurisdiction to administer and that PGW is alleged to have violated. The Complaint refers to herself as Agent/Authorized User and makes reference to Public Policy HJR 192, a Federal statute that the Commission does not have jurisdiction to administer. For relief, Ms. Berry seems to seek monetary damages which the Commission lacks jurisdiction to award.

As a creature of legislation, the Commission possesses only the authority the State Legislature has specifically granted to it in the Public Utility Code (the “Code”), 66 Pa. C.S. §§ 101, *et seq.* Its jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. *Feingold v. Bell of Pa.*, 383 A.2d

¹ Ms. Berry requests that “I would like PUC to order utility company to use my extended credit of the authorized user of the SSN on file and pay with the credits.”

1191 (Pa. 1977); *Allegheny County Port Authority v. Pa. P.U.C.*, 237 A.2d 602 (Pa. 1967). *Behrend v. Bell of PA*, 390 A.2d 233 (Pa. Super. 1978); *Pa. Department of Highways v. Pa. P.U.C.*, 182 A.2d 267 (Pa. Super. 1962); *City of Erie v. Pa. Electric Co.*, 383 A.2d 575 (Pa.Cmwlth. 1978).

Nothing in the Code confers jurisdiction upon the Commission to award monetary damages. *See, DeFrancesco v. Western Pennsylvania Water Company*, 453 A.2d 595 (Pa. 1982); *Elkin v. Bell of Pa.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977); *Poorbaugh v. Pa. PUC*, 666 A.2d 744 (Pa.Cmwlth. 1995).

Accordingly, I am granting PGW's Preliminary Objections and directing Ms. Berry to file an Amended Complaint within 10 days of service of the order. 52 Pa. Code § 5.101(h).

Conclusion

In conclusion, I find that the information contained in the Complaint is insufficient to enable PGW to provide an Answer to the Complaint. Therefore, PGW's Preliminary Objection concerning insufficient specificity is granted and Ms. Berry will be directed to file an Amended Complaint within ten days of service of this Order. If an Amended Complaint is not filed within ten days of service of this Order, the Complaint will be dismissed.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Philadelphia Gas Works' Preliminary Objections filed pursuant to 52 Pa. Code § 5.101(a)(3), in the matter of Sheila-Tameka Berry v. Philadelphia Gas Works, Docket No. F-2025-3055778, are granted.

2. That Sheila-Tameka Berry is directed to file an Amended Complaint at Docket No. F-2025-3055778 within ten days of service of this Order.

Date: August 20, 2025

/s/
Barbara Shadie Nause
Administrative Law Judge

F-2025-3055778 - SHEILA-TAMEKA BERRY v. PHILADELPHIA GAS WORKS

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