

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Judith Johnson	:	
	:	
v.	:	C-2025-3056030
	:	
Philadelphia Gas Works	:	

**ORDER**  
**GRANTING PRELIMINARY OBJECTION**

On June 25, 2025, Judith Johnson (“Ms. Johnson”) filed a Formal Complaint against Philadelphia Gas Works (“PGW”) with the Pennsylvania Public Utility Commission (“Commission”). In her Complaint, Ms. Johnson requested a payment agreement and alleged that she was having a reliability, safety or quality problem with her utility service. Complaint ¶ 4. For relief, Ms. Johnson requests PGW pay \$800.00 for drywall cut out of wall, \$600.00 for PECO bills and \$2,392.50 for another unspecified expense. Complaint ¶ 5.

On July 22, 2025, PGW filed an Answer with New Matter to the Complaint, properly endorsed with a Notice to Plead. In its Answer, PGW denied that there was a reliability, safety or quality problem with gas service at Complainant’s residence. Specifically, PGW stated that on multiple occasions between December 2024 and January 2025, Complainant contacted PGW complaining of low gas pressure to her house heater. As a result of the reports, PGW visited her property and determined that the house heater, which had been installed by a private contractor a few months earlier, was installed with an undersized fuel line. PWG advised Complainant to contact a private contractor regarding the issue. During one of the visits, PGW needed to access the meter, which was inaccessible behind drywall, and PGW had Complainant sign an occupant consent card prior to removing a portion of the drywall. Answer ¶ 4.

In its New Matter, PGW asserted that to the extent that Ms. Johnson seeks an award of damages against PGW for money spent to correct the issues with her house heater and meter exchange, such relief is a claim for money damages and beyond the power of the

Commission to order. PGW concluded its Answer with New Matter by requesting dismissal of the Complaint and any other relief in favor of PGW as deemed appropriate.

Pursuant to 52 Pa. Code § 5.63, Ms. Johnson had twenty (20) days from the date of service to file an answer to the New Matter. As of the date of this Order, Ms. Johnson has not filed an answer to New Matter.

Also on July 22, 2025, PGW filed a Preliminary Objection to the Complaint, properly endorsed with the Notice to Plead. In its Preliminary Objection, PGW seeks dismissal of the Complaint's claims for damages, pursuant to 52 Pa. Code § 5.101(a)(1) and 52 Pa. Code § 5.101(a)(2), arguing that the Commission lacks authority to award damages and the inclusion of the requested relief of money damages constitutes impertinent matter.

Pursuant to 52 Pa. Code § 5.101(f)(1), Ms. Johnson 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. Johnson has not filed an answer to PECO's Preliminary Objection.

On August 27, 2025, the Commission issued a Motion Judge Assignment Notice, assigning me as Presiding Officer.

PGW's Preliminary Objection is procedurally ready to be ruled upon. For the reasons discussed below, the Preliminary Objection will be granted.

### DISCUSSION

PGW in this matter filed a Preliminary Objection 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).

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). PGW asserts that the Commission does not have jurisdiction over damages claims pursuant to 52 Pa. Code § 5.101(a)(1) and the Complainant's request for damages is an "impertinent matter" pursuant to 52

Pa. Code § 5.101(a)(2). The law supports the position of PGW.

The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. *Tod and Lisa Shedlosky v. Pennsylvania Electric Co.*, Docket No. C-20066937 (Opinion and Order entered May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). (Pa. 1993). It is well-established under Pennsylvania law that the enforcement powers of the Commission do not include the power to award money damages. *Elkin v. Bell Tel. Co. of Pa.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1978). The Commission cannot award the reimbursement sought by Ms. Johnson here. *See Morrow v. Bell Telephone Co. of Pa.*, 330 Pa.Super. 276, 479 A.2d 548 (1984); *West Penn Power Co. v. Pa. Pub. Util. Comm'n*, 104 Pa.Cmwlt. 21, 521 A.2d 75 (1987); *Ostrov v. I.F.T., Inc.*, 402 Pa.Super. 87, 586 A.2d 409 (1991). A request for monetary damages must be pursued before a Magisterial District Justice or a Court of Common Pleas.

Given that the Commission does not have power to award monetary damages jurisdiction over damages claims, the Preliminary Objection will be granted, and the portions of the Complaint seeking monetary damages will be dismissed. This Order does not dismiss the Complaint in its entirety; therefore, a hearing will be held on the other matters raised in the Complaint.

#### ORDER

THEREFORE,

IT IS ORDERED:

1. Pennsylvania Gas Work's Preliminary Objection filed in the matter of Judith Johnson v. PGW Energy Company, Docket No. C-2025-3056030 is granted.
2. That the portions of the Formal Complaint seeking monetary damages

are dismissed.

3. That the matter shall be set for an evidentiary hearing on the issues raised in the Complaint.

Date: September 5, 2025

/s/  
Barbara Shadie Nause  
Administrative Law Judge

**C-2025-3056030 - JUDITH JOHNSON v. PHILADELPHIA GAS WORKS**

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Served via USPS First-Class mail September 5, 2025

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Accepts eService September 5, 2025

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