

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held September 25, 2025

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Michael and Mary Weishner

C-2024-3046232

v.

Pennsylvania American Water Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions filed by Michael and Mary Weishner (the Weishners or the Complainants) on February 11, 2025, to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) Mary D. Long, issued on February 5, 2025, in the above-captioned matter. Pennsylvania American Water Company (PAWC or the Company) filed Reply Exceptions on February 25, 2025.

Upon consideration of the Exceptions and Reply thereto, the Complainant's Exceptions shall be denied, consistent with this Opinion and Order. However, we shall

also modify the Initial Decision, consistent with this Opinion and Order, to reject Findings of Fact Nos. 34 and 35, as discussed more fully below.

I. History of Proceeding

On January 24, 2024, the Weishners filed a formal complaint (Complaint) with the Commission alleging, *inter alia*, that: (1) they had experienced muddy-dirty water; (2) they had contacted PAWC customer service with no response; (3) they had to install a new filter system to deal with the muddy water issue; (4) PAWC had contemporaneously installed a new water distribution line approximately 200 feet from their home; (5) PAWC had supplied the residents on the street where the new water main was being installed with “water buffaloes”¹ to ensure they were supplied with clean water; and (6) during this time, the Weishners only received dirty water, and no water buffalo. Complaint at 2.

On February 29, 2024, PAWC filed its Answer to the Complaint. In its Answer, PAWC admitted, in part, and denied, in part, the material allegations. Specifically, *inter alia*, PAWC stated: (1) a water main break near the Complainants’ residence might have caused the discoloration in the water, and that the Company flushed a hydrant near the Complainants’ residence to address the reported water discoloration; (2) PAWC denied that it discriminated against the Complainants; (3) PAWC denied that the water main replacement on Kirk Lane would have caused any discoloration of the Complainants’ water; (4) PAWC asserted that the Commission has no jurisdiction to mandate that PAWC pay monetary damages to the Complainants; and (5) PAWC admitted that the Complainants filed an informal complaint with the Commission’s

¹ A water buffalo is a large, portable tank that supplies potable water. I.D. a 2, n.1; Tr. at 41-42.

Bureau of Consumer Services (BCS), but the Company denied knowledge or the truth of the Complainants' asserted communications with BCS. Answer at 1-2.

On June 7, 2024, Counsel for PAWC filed a Certificate of Satisfaction with the Commission resolving the matter. However, on June 17, 2024, the Weishners filed a Notification of Disagreement for Satisfaction. In this letter, Mr. Weishner stated that “[t]he Water Co. has gone back on their promise, I had to call them today and Received NO customer service.” Notification of Disagreement for Satisfaction at 1. Mr. Weishner also stated that he and his wife would like to pursue their Complaint. *Id.*

On July 23, 2024, a Telephonic Hearing Notice was issued to the Parties, but on July 25, 2024, Mr. Weishner requested a Hearing Continuance due to poor health and scheduled doctors' appointments. Request for Hearing Continuance at 1.

On August 5, 2024, a Cancellation/Rescheduled Initial Telephonic Hearing Notice was issued, along with a Prehearing Order outlining the requirements for participating in the initial telephonic hearing to be held on September 18, 2024.

A telephonic hearing was held on September 18, 2024, where Mr. Weishner appeared *pro se*. PAWC was represented by counsel and offered one witness, Mr. Michael Ricculti and three exhibits. At the end of this hearing, PAWC's counsel requested that a further hearing be scheduled to afford PAWC the opportunity to answer the Complainants' alleged new claims about PAWC's customer service center responses regarding this matter. ALJ Long noted that the Complainants had no objection to the second hearing and therefore granted PAWC's request. A Call-in Telephone Hearing Notice was issued on September 18, 2024, setting an October 31, 2024, date for the additional hearing.

At the October 31, 2024, hearing, Counsel for PAWC presented the testimony of one witness, Ms. Cheryl DiSanti, and PAWC Exhibits 4-10.² These exhibits were entered into the record without objection. I.D. at 1-2, Tr. at 130. Mr. Weishner conducted cross-examination of Ms. DiSanti and presented additional responsive testimony in support of the Complaint. PAWC Counsel conducted cross-examination. Tr. at 135-54.

On October 31, 2024, ALJ Long issued an Interim Order closing the Hearing Record.

On February 5, 2025, the Commission issued the Initial Decision of ALJ Long. Therein, the ALJ dismissed the Complaint against PAWC and ordered that the Secretary's Bureau mark this case closed. I.D. at 15.

As previously noted, on February 11, 2025, the Complainants filed Exceptions to the I.D.³ On February 25, 2025, PAWC filed its Reply to Exceptions. On March 3, 2025, the Weishners filed a single-page letter addressed to then-Secretary Rosemary Chiavetta, purporting to further respond to the I.D. and PAWC's Reply to Exceptions.⁴

² All of these Exhibits were marked Confidential and placed into a Confidential file folder. It is unclear what the basis is for such classification, other than these records would reflect identifying customer account information. We note that simple redaction of such information on such exhibits would suffice to protect such information, while keeping the public record more robust and transparent.

³ On February 11, 2025, the Secretary's Bureau served the Exceptions on All Parties of Record stating that its review of the filing revealed that no Certificate of Service or other indication that the Parties of Record to the case were served with the Exceptions. Pursuant to 52 Pa. Code § 5.535, PAWC was given until February 25, 2025, to file Replies to Exceptions.

⁴ As Commission Regulations do not authorize replies to Reply Exceptions, we shall disregard this filing in our disposition of this matter.

II. Background

This case involves the issue of whether PAWC adequately and reasonably responded to the Weishners' complaints of discolored water in their residence, contemporaneous with PAWC's installation of a nearby main extension. As will be discussed in more detail, *infra*, while PAWC's customer service response was not perfect, we agree with ALJ Long that it was reasonable under the circumstances.

The ALJ's Findings of Fact provide helpful background⁵ and we quote them verbatim, as follows:

1. The Complainants are Michael and Mary Weishner who reside at 420 Country Club Road, Washington, Pennsylvania.
2. The Respondent is Pennsylvania American Water Company, a jurisdictional public utility.
3. Kirk Lane connects with Country Club Road. PAWC Ex. 1.
4. In 2022, PAWC received a request to extend service to serve a new house on 20 Kirk Lane. Tr. 38.
5. Although there was a pre-existing main on Kirk Lane, due to its age and condition, PAWC elected to replace the main. Tr. 39.
6. PAWC began construction on the Kirk Lane main replacement project in May 2023. Tr. 40.
7. Two homes on Kirk Lane were without water service during the project and PAWC provided them with water buffalos. Tr. 41; PAWC Ex. 1.

⁵ We note that, as discussed in Section III.D.1 below, Findings of Fact Nos. 34 and 35 are rejected as having inadequate support in the record. They are quoted here for purposes of useful background only.

8. PAWC did not turn off water service to the main on Country Club Road. Tr. 42.
9. After new main pipes are in place, PAWC “blows off” water through the new pipe until two water tests indicate that bacteria levels in the water are acceptable. Tr. 44.
10. The Kirk Lane project blow off began in early August 2023 and continued until August 16, 2023. Tr. 48; PAWC Ex. 2.
11. The Kirk Lane main was put into service on either August 17, 2023, or August 18, 2023. Tr. 48-49.
12. On August 17, 2023, Mary Weishner telephoned the PAWC call center to report that the water coming from the taps in her home appeared to be “yellowish” and included “particles/sediment.” Tr. 13, 104; PAWC Ex. 5.
13. The customer service representative created a water quality notification on August 17, 2023, which was sent to the performance department and to the water quality department. Tr. 105; PAWC Ex. 5.
14. PAWC responded by sending employees to flush two hydrants. Tr. 45; PAWC Ex. 1.
15. PAWC employees chose the hydrants because they were the last two hydrants on the main to pull the water in case there was an issue. Tr. 57; PAWC Ex. 1.
16. PAWC did not contact the Weishners to report that they had flushed two fire hydrants. Tr. 62.
17. It is not PAWC policy to immediately send a field representative to test the water at a location where a customer reports discolored water. Tr. 106; *see also* Tr. 51-52.
18. The local office did not ask field operations employees to visit the Weishner home. Tr. 51, 52.

19. PAWC customer service did not follow up with the Weishners within 24 or 48 hours of the August 17, 2023 telephone call. Tr. 107.
20. On August 21, 2023, Mr. Weishner telephoned the PAWC call center to complain that PAWC had not followed up on his water quality complaint and to complain that he did not receive a water buffalo like his neighbor did. Tr. 109; PAWC Ex. 6.
21. The customer service representative created a Business Process Exception Management (BPEM) notification which would direct the Weishners' concerns to a local PAWC representative to follow up. Tr. 109; PAWC Ex. 6.
22. PAWC field employees received another notice regarding the Weishners' water quality complaint. Tr. 46.
23. PAWC again flushed the hydrants in the vicinity of the Weishners on August 21, 2023. Tr. 46.
24. Mr. Weishner filed an informal complaint with the Commission's Bureau of Consumer Services, initiating a PAWC response from the regulatory team. Tr. 111; *see* PAWC Ex. 10.
25. A PAWC Local Operation Specialist contacted Mr. Weishner on August 23, 2023. Tr. 111; PAWC Ex. 7.
26. PAWC followed up on the August 17, 2023 Weishner call on August 31, 2023. Mr. Weishner continued to complain about the water in his home and the water buffalos that PAWC distributed to his neighbors. Tr. 113; PAWC Ex. 8.
27. Mr. Weishner telephoned the PAWC call center on December 21, 2023. Mr. Weishner spoke to a supervisor and requested reimbursement for a water filtration system. Tr. 116.

28. Following the December 21, 2023 telephone call, PAWC opened a claim with its insurance carrier, Travelers. Tr. 116; PAWC Ex. 9.
29. Travelers denied Mr. Weishner's damage claim. Tr. 117; *see* Tr. 141-42.
30. Mr. Weishner did not provide PAWC with any photographs or water sample results to support his claim regarding poor water quality, nor did Mr. Weishner submit an invoice for the water filtration system. Tr. 117; *see also* Tr. 30-31.
31. A customer's water can be discolored for a variety of reasons, including issues with plumbing or appliances inside a home, hydrant flushing and water main breaks. Tr. 45, 106.
32. There were no water main breaks in the vicinity of Country Club Road in August 2023 or in 2024. Tr. 46, 54.
33. PAWC did not open the main on Country Club Road during the construction of the Kirk Lane main. Tr. 71.
34. It is not possible that water from the Kirk Lane main flowed back to Country Club Road main because the water pressure caused the water to come down Country Club Road and flow up Kirk Lane. Tr. 46, 50.
35. During the blow off period, water would have gone back out of the end of the Kirk Lane main. Tr. 50.
36. There are several other premises served by the main on Country Club Road. PAWC Ex. 1.
37. There were no other reports of water quality issues in the Weishners' area. Tr. 42, 108, 114.
38. As of October 31, 2024, the water coming from the faucets in the Weishner home was not discolored. Tr. 152, 154.

39. Michael Riccuiti, a supervisor of field operations, visited the Weishner home in June 2024. Tr. 51-53.
40. Although the tank for the bathroom toilet had some discoloration, Mr. Riccuiti did not observe muddy ice trays or muddy filters. Tr. 53.

I.D. at 3-8.

III. Discussion

A. Legal Standards

1. Jurisdiction and Scope of Commission Review of Initial Decision

Jurisdiction relates solely to the competency of the particular court or administrative body to determine controversies of the general class to which the case then presented for its consideration belongs. *Riedel v. The Human Relations Comm'n of the City of Reading*, 559 Pa. 33, 739 A.2d 121 (1999). 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 Code. *Shedlosky v. Pa. Elec. Co.*, Docket No. C-20066937 (Order entered May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. PUC*, 43 A.2d 348 (Pa. Super.1945). Subject matter jurisdiction is a prerequisite to the exercise of the power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth.1992), *app. denied* (Pa. 1993).

Section 701 of the Public Utility Code (Code) outlines the Commission's procedure for the review of complaints, stating in relevant part:

The Commission, or any person ... having an interest in the subject matter ... may complain in writing, setting forth any act or thing done or omitted to be done by any 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.

As explained by the Commission in *West Penn Power Co. v. Pa. PUC*, 478 A.2d 947 (Pa. Cmwlth. 1984) (*West Penn*), Section 701 of the Code provides for complaints against a public utility for anything done or not done in violation of the laws administered by the Commission or Commission Regulations and Orders. *Id.* However, for the Commission to sustain a complaint against a public utility, the utility must be found to be in violation of its duty under the Code, the Commission's Regulations, or an Order of the Commission. Without proof of such a violation, the Commission does not have authority to require any action by the public utility in relation to the customer's complaint. *West Penn*.

Furthermore, on review of an initial decision, the Commission has all of the powers which it would have in making the initial decision. 66 Pa.C.S. § 335(a). The Commission is the ultimate fact finder in proceedings before it and is charged with the responsibility of considering all relevant evidence and of determining the weight of the evidence, the credibility of witnesses, and the reliability of estimates and opinions. *Hess v. Pa. PUC*, 107 A.3d 246 (Pa. Cmwlth. 2014); *Pennsylvania Communities Organizing for Change, Inc. v. Pa. PUC*, 89 A.3d 338 (Pa. Cmwlth. 2014); *York Water Company v. Pa. PUC*, 414 A.2d 138 (Pa. Cmwlth. 1980).

The Commission may review the initial decision in its entirety without limit. *Romero v. Pa. PUC*, 154 A.3d 422 (Pa. Cmwlth. 2017). In fact, the Commission has full authority to disregard the initial decision of the administrative law judge and overrule it if the Commission reaches a contrary result, even where the initial decision is eminently reasonable. *AT&T Comms. of Pennsylvania v. Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth. 1990) citing *East Goshen Township v. Pa. PUC*, 486 A.2d 550 (Pa. Cmwlth. 1985).

2. Burden of Proof

Pursuant to Section 332(a) of the Code, the Complainant, as the proponent of a rule or order, bears the burden of proof. 66 Pa.C.S. § 332(a). To satisfy the burden of proof, the Complainant, as the party seeking relief, must establish a sufficient case that PAWC is responsible for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). This showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992). This standard requires the Complainant's evidence be more convincing, by even the smallest amount, than the evidence presented by PAWC. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

This Commission's decisions must be supported by substantial evidence in the record; more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & West Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980). "Opinions and conclusions cannot be relied upon as substantial evidence in a decision by the Commission." *Norman v. Phila. Gas Works*, Docket No. C- 2018-2640719 (Opinion and Order entered October 7, 2021) (*Norman*).

Upon presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the evidentiary burden shifts to PAWC to present persuasive evidence rebutting that of the Complainant. In the instant matter, if PAWC's evidence is of co-equal weight, the Complainant has not satisfied their burden of proof and must provide additional evidence to rebut that of PAWC. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd* 461 A.2d 1234 (Pa. 1983) (*Burleson*). While the evidentiary burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission to prove their case by a preponderance of the evidence. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

3. Adequate, Efficient, Safe and Reasonable Service

A public utility has a duty to maintain adequate, efficient, safe and reasonable service and facilities and to make repairs, changes, and improvements that are necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. 66 Pa.C.S. § 1501. Section 1501 of the Code provides, in pertinent part, as follows:

§ 1501. Character of service and facilities.

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules

and regulations governing the conditions under which it shall be required to render service.

66 Pa.C.S. § 1501.

In addition, the Commonwealth Court has cautioned that the Commission may not sustain a complaint pursuant to Section 1501 of the Code unless it finds that a utility has violated a duty to render reasonable and reliable service. *West Penn Power Co. v. Pa. PUC*, 478 A.2d 947 (Pa. Cmwlth. 1984). Further, the Commission has stated that a utility is not mandated to furnish perfect service:

[Section 1501] does not mandate perfect service nor must a public utility provide the best possible service. Most certainly, a public utility is not a guarantor of either perfect service or the best possible service.

Re Metro. Edison Co., 80 Pa. P.U.C. 663, 672 (1993). However, a public utility is obligated to provide service that is reasonable and adequate. *Analytical Lab. Servs., Inc. v. Metro. Edison Co.*, Docket No. C-20066608 (Order entered December 21, 2007).

The requirement to render reasonable service applies to all aspects of a utility's service to customers. A utility's response to, and investigation of, customer complaints also must be reasonable and adequate. *Thurby v. West Penn Power Co.*, Docket No. C-2011-2254048 (Final Order entered April 4, 2013).

4. Discrimination in Service

With regard to discrimination in service, Section 1502 of the Code provides in pertinent part:

§ 1502. Discrimination in service.

No public utility shall, as to service, make or grant any unreasonable preference or advantage to any person . . . or subject any person . . . to any unreasonable prejudice or disadvantage.

66 Pa.C.S. § 1502.

We evaluate a public utility's provision of service with these governing non-discrimination principles in mind.

B. ALJ's Initial Decision

In the Initial Decision, ALJ Long made forty (40) Findings of Fact and reached five (5) Conclusions of Law. I.D. at 3-8, 14. The Findings of Fact and Conclusions of Law are incorporated herein by reference and adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order. ALJ Long determined that the Complainants did not meet their burden of proving that PAWC had violated a provision of the Code, Commission Regulations, or an order of the Commission, and that the Complaint should therefore be dismissed. More specifically, ALJ Long determined that the Weishners did not prove, by a preponderance of the evidence, that "PAWC failed to provide them with adequate water quality and failed to provide them with reasonable customer service in response to their water quality complaint." I.D. at 8.

C. Exceptions and Reply to Exceptions

1. Exceptions

As previously noted, the Weishners filed timely Exceptions to the I.D. on February 11, 2025. In their Exceptions, the Weishners claim, *inter alia*, that: (1) the Commission published their names, addresses, and phone number without their permission regarding their opposition to a proposed rate increase that had been filed with the Commission; (2) they had attempted to contact PAWC, but a PAWC worker in the field stated that “if they reported discoloration in the water, they would be charged for topsoil;” (3) the Weishners requested via four telephone calls and four in-person work site visits that a Company representative come to their residence to examine the water issue, but no one came for ten months; (4) PAWC is refusing to help them because the Complainants objected to PAWC’s rate increase; and (5) the neighbors had received a water buffalo after they were contacted by PAWC and told not to drink the water. Exceptions at 1.

2. Reply to Exceptions

PAWC timely filed its Reply to Exceptions on February 25, 2025.⁶ In its Reply, PAWC asserted, *inter alia*, that: (1) the Complainants were listed on a service list provided by the Commission for submitting a filing regarding the rate case; (2) there were no PAWC projects on the Company’s system which could have caused the Complainants’ muddy water; (3) the Weishners’ claim had been handled according to

⁶ The Complainants failed to include a Certificate of Service with their Exceptions indicating that all parties had been served with the Exceptions. To avoid any prejudice to any party caused thereby, by Secretarial Letter issued on February 11, 2025, the Commission served the Exceptions on all parties of record, including PAWC’s Counsel of Record and established the February 25, 2025, deadline for the submission of timely Reply Exceptions.

PAWC policy; and (4) after the closure of the Weishners' BCS Complaint, PAWC was willing to still consider reimbursing the Weishners if there was evidence of the claims that are being presented. R. Exc. at 2-5.

In its Reply, PAWC asserts, *inter alia*, that: (1) the Weishners were properly included on the rate case service list that was provided by the Commission; (2) the PAWC water main being replaced on Kirk Lane does not serve the Weishners; (3) there have not been any water main breaks on Country Club Road, which is the street serving the Complainants' residence; (4) there were no other customers on Weishners' street and associated water main, who contacted PAWC regarding their water being discolored; (5) PAWC's record of phone exchanges between PAWC and the Complainants demonstrates PAWC's responsiveness to the Weishners' dirty water complaint; and (6) the Complainants' claim that water buffaloes were supplied to Kirk Lane customers due to contaminated water is not supported by evidence because the water tests conducted by PAWC indicated there was no bacteria present in the water. R. Exc. at 2-6.

PAWC also asserts in its Reply to Exceptions that its response to the Complainants' dirty water concerns was reasonable under the circumstances. In this regard, the Company argues that the record reflects that Mrs. Weishner first contacted the Company shortly before noon on Thursday August 17, 2023. R. Exc. at 4 (citing PAWC Exh. 5). PAWC submits that in response to her call, the Company created a water quality report and sent two employees out to the location to flush two nearby water hydrants the same day as the call was received. R. Exc. at 4 (citing Tr. at 45, PAWC Exh. 1). In addition, PAWC cites to the testimony of its witness, Ms. DiSanti, who explained that discolored water happens from time to time for a number of reasons, including issues with plumbing or appliances inside a home, and for external reasons such as hydrant flushing or main breaks. PAWC adds that Ms. DiSanti detailed that discolored water typically is a temporary condition and clears up in a short period of time. She noted that

in nearly every such case, simply running the faucets for a few minutes will resolve the issue. R. Exc. at 4 (citing Tr. at 106).

PAWC notes that Ms. DiSanti also explained that the Company's policy in response to reports of water discoloration is to try to call a customer back within one business day to give the customer an update if one is available. According to the Company, in the instant matter, Mrs. Weishner called at midday on Thursday, and the next business day was a Friday. As of the close of business on Friday, PAWC argues that its witness confirmed that there was no update to give the Weishners. R. Exc. at 4 (citing Tr. at 108).

PAWC submits that Mr. Weishner then called the Company back on the next business day, Monday August 21, 2023, regarding the fact that a neighbor on Kirk Lane had received a water buffalo and he had not. R. Exc. at 4 (citing Tr. at 109; PAWC Exh. 6). In response to Mr. Weishner's August 21 call, the call center representative created a Business Process Exception Management (BPEM) record requesting that a local supervisor undertake a review. R. Exc. at 4 (citing Tr. at 109-10). PAWC explains that in response to that BPEM, the account records indicate that at 5:37 PM on that same day – August 21 – an Operations Specialist noted the account saying that she sent the issue to local supervisors for investigation. PAWC states that before the local supervisors could contact Mr. Weishner, he filed an informal complaint with BCS. R. Exc. at 4-5 (citing Tr. at 111). PAWC stresses that the Operations Specialist called Mr. Weishner back on August 23, 2023, at which time Mr. Weishner said he wanted someone to take a water sample and that he had an attorney. R. Exc. at 5 (citing Tr. at 111; PAWC Exh. 7). PAWC adds that on August 31, 2023, another PAWC representative called Mr. Weishner, who raised concerns about PAWC's rates and the fact that one of his neighbors received a water buffalo, among other things. R. Exc. at 5 (citing Tr. at 113 and PAWC Exh. 8).

PAWC emphasizes that its investigation confirmed that the Company had no other reports of water quality issues in the area, and that BCS had closed the Weishner's informal complaint. R. Exc. at 5 (citing Tr. at 113, PAWC Exh. 10). Following the closure of the BCS complaint, PAWC notes that Mr. Weishner contacted the Company again and requested reimbursement for a water filtration system. R. Exc. at 5 (citing Tr. at 113; PAWC Exh. 9). PAWC notes that it referred the claim to its insurance carrier, who denied the claim. R. Exc. at 5 (citing Tr. at 117). PAWC insists that it was still willing to consider a reimbursement for a loss, but at the time of the hearing, the Company had not been provided with any evidence of poor water quality in the Complainants' home, such as photos, water samples, or dirty filters. R. Exc. at 5.

D. Disposition

We note that any argument or Exception not specifically delineated shall be deemed to be considered and denied without further discussion or consideration. The Commission is not required to consider expressly, or at length, each contention or argument made by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

In addition, while the Commission cannot adjudicate whether PAWC acted negligently or recklessly, or find that PAWC is liable to the Complainants under common tort law principles, the Commission is the proper entity to resolve the issues raised in the Complaint regarding whether PAWC provided reasonable service under Section 1501 of the Code, 66 Pa.C.S. § 1501, with respect to PAWC's communications and interactions with the Complainants regarding their ongoing discolored water complaint.

1. Adequacy of Service

The statutory definition of “service” is to be broadly construed by the Commission and the courts. *Country Place Waste Treatment Co., Inc. v. Pa. PUC*, 654 A.2d 72 (Pa. Cmwlth. 1995). A utility’s “service” is not merely confined to the distribution of utility service, but also includes “any and all acts” related to that function. *West Penn Power Co. v. Pa. PUC*, 578 A.2d 75 (Pa. Cmwlth. 1990) (public utility failed to use reasonable means to notify landowner of vegetation removal). For example, inappropriate and unreasonable treatment to customers can be interpreted as inadequate service. See *Barbara R. Lolly v. Duquesne Light Co.*, Docket No. C-2010-2167824 (Opinion and Order entered May 9, 2011) (citing *Edward T. O’Toole v. Metropolitan Edison Co.*, Docket No. C-20030854 (Order entered May 9, 2005)). Quality customer service is expected of all regulated utilities. *Id.* Upon a review of the Complaint on its face, we find that the Complainants appear to allege that PAWC acted improperly with respect to its interactions with them.

We observe, however, that the Complainants’ direct case consists solely of Mr. Weishner’s testimony. Mrs. Weishner, who made the initial discolored water complaint to PAWC, did not testify. Further, the Weishners did not present the testimony of their plumber or any other independent professional regarding their water discoloration issue or the installation of any water filtration system in their home to address such an issue. Furthermore, the Complainants provided no water samples or pictures of their dirty water or equipment or damage to plumbing fixtures, appliances, or their water heater. Finally, no invoices for the purchase of corrective devices or equipment were presented. Based upon the evidence presented, we must agree with ALJ Long that the Complainants did not carry their burden of proof as to this aspect of the instant service adequacy complaint. More than a scintilla of evidence is required in support of a

Commission order and the Complainants' assertions, without the benefit of supporting evidence, are insufficient to sustain a complaint.⁷

We turn next to the question of what constitutes an adequate customer service response by a utility such as PAWC when a customer complains of discolored water. PAWC received calls regarding dirty water at the service address from the Complainants on August 17 and 21, 2023. In the instant matter, the Company flushed its mains not once, but twice, in response to the Weishners' dirty water complaints. I.D. at 13; Tr. at 45. These actions were consistent with PAWC's established practice in an attempt to clear any discoloration or sediment in its water main. However, a close reading of the record makes clear that the internal processes at PAWC included call center staff routing communications about the Weishners' calls to different units within the Company's various segments, but that field personnel were not told to visit the site. I.D. at 5, Finding of Fact No. 16; Tr. at 62. PAWC's customer service witness, Ms. DiSanti, conceded that the Company's customer service responses to the Weishners could have been better. *See* I.D. at 11.

We agree with ALJ Long and PAWC that "PAWC's customer service response to the Weishners could have been improved with better coordination among PAWC's various customer service and water quality teams and more timely updates to the Weishners." I.D. at 12. However, we also agree that it is well-established that a

⁷ In addition, upon our independent review of the record, we find that the record does not include any competent expert testimony offered by *either party* in support of causation theories. On rebuttal to Mr. Weishner's unsubstantiated causation claims, the Company offered the testimony of a field supervisor, Mr. Riccuiti. However, Mr. Riccuiti was not qualified as an expert before the tribunal in support of PAWC's assertion that the Kirk Lane main construction could not have caused the Weishners' dirty water issue. In summary, no competent evidence was presented by either party identifying the likely cause of the discolored water. Therefore, as noted below, the ALJ's findings of fact which discuss causation, Findings of Fact Nos. 34 and 35 on page 7 of the I.D., are rejected as being without adequate evidentiary basis in the record.

utility such as PAWC is not required to provide perfect service. Rather, it is required to provide adequate, efficient, safe, and *reasonable* service.

We conclude that the record supports that PAWC has been reasonably responsive to the multiple contacts from the Complainants about discolored water. In summary, PAWC has met the statutory standard of adequacy. For instance, as detailed in the Company's Reply to Exceptions and in the record, the Weishners' calls were met with prompt main flushing action. And PAWC representatives did communicate with the Weishners about their complaint on several occasions, even going so far as to open an insurance claim with Travelers. The Complainants never produced any concrete evidence of dirty water or harm to appliances and the like. Under the circumstances, we determine that PAWC's actions constituted reasonable and adequate service, as required by Section 1501 of the Code.

Further, we make no determination on the cause of the Complainants' discolored water, because the record is devoid of any competent evidence to reach a determination on the issue. The Complainants, who bear the burden of proof in this matter, offered no expert witness to support their claim that PAWC's Kirk Lane water main construction project caused their discolored water problem. Likewise, while the Company offered the testimony of a field supervisor to rebut the Complainants' causation claims, that witness freely admitted on cross-examination and re-direct that he is not an engineer or expert in water issues.⁸ Tr. at 71, 75. Thus, we expressly reject, as without support in the record, the ALJ's Findings of Fact Nos. 34 and 35 on page 7 of the Initial Decision concluding that PAWC's work on the Kirk Lane main installation could

⁸ PAWC's witness, Mr. Riccuiti, was neither presented to the tribunal as an expert witness, nor qualified as such. Accordingly, he is not qualified to offer expert testimony that draws conclusions regarding whether the Kirk Lane construction could have caused the Complainants' discolored water. *See Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). *See also* Pa. R.E. 701-705, 225 Pa. Code §§ 701-705.

not have caused the Complainants' discolored water. Finally, because the Complainants presented no competent expert evidence regarding the issue of causation, there was no causation evidence for PAWC to rebut. Accordingly, to the extent that the Complainants' Exceptions address causation, they are denied.⁹

2. Listing of Complainants' Information on Base Rate Case Certificate of Service

As to the Complainants' claim that the Commission improperly revealed their status as PAWC base rate case complainants by listing their names and address on the Certificate of Service, it is meritless. Our rules and regulations regarding the compilation of a service list are designed to ensure that all parties to such cases receive documents and they are provided due process of law during the course of the proceedings. The Complainants' Exception arguing error on this basis is thus denied.

3. Discrimination Claims

With regard to discrimination, the Complainants' Exception claiming PAWC unreasonably refused to provide them a water buffalo like their neighbors on Kirk Lane, is meritless. The Complainants' claim of discrimination is without evidentiary support in the record, and PAWC nevertheless provided substantial record rebuttal evidence that the water buffaloes on Kirk Lane were supplied to those two customers because they had no water service available to them during the Kirk Lane main replacement project. Tr. at 41-42. PAWC's witness, Mr. Riccuiti, testified that the

⁹ It is well-established that the Commission has primary jurisdiction over service adequacy and reasonableness complaints under Section 1501 of the Code, 66 Pa.C.S. § 1501, but it does not have authority to adjudicate damages claims. Such matters, including issues of causation, are reserved to the civil courts. *See Johnson v. Duquesne Light Co.*, Docket No. C-2022-3032695 (Order entered December 31, 2023), *reconsideration denied* (Order entered February 1, 2024).

Country Club Road main was not shut down during the Kirk Lane construction. Tr. at 42. We find this distinguishing factor to be a valid basis for PAWC to have supplied water buffaloes to only those customers who had no water service.

In addition, our review of the record reveals no evidence to support the Complainants' unsupported claim that PAWC discriminated against them and treated them differently because they had filed a complaint opposing PAWC's base rate increase. PAWC's witness, Mr. Riccuiti, testified that he did not even know of the Weishner's rate case complaint until after this instant Complaint proceeding commenced. Tr. at 53.

Accordingly, we find no evidence of unreasonable discrimination by the Company under Section 1502 of the Code. 66 Pa. C.S. § 1502. Therefore, the Complainants' Exceptions on this issue are denied.

IV. Conclusion

Based on the foregoing discussion and our review of the Initial Decision, Exceptions, Reply to Exceptions, and the record in this proceeding, we shall deny the Exceptions filed by the Weishners in their entirety, and modify the Initial Decision of ALJ Mary D. Long, issued on February 5, 2025, consistent with this Opinion and Order; **THEREFORE,**

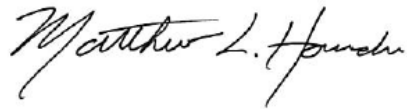
IT IS ORDERED:

1. That the Exceptions of Michael and Mary Weishner, filed on February 11, 2025, to the Initial Decision of Administrative Law Judge Mary D. Long, issued on February 5, 2025, at Docket No. C-2024-3046232, are denied, consistent with this Opinion and Order.

2. The Initial Decision of Administrative Law Judge Mary D. Long, issued on February 5, 2025, at Docket No. C-2024-3046232, is adopted, as modified, consistent with this Opinion and Order.

3. That this proceeding be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Matthew L. Homsher". The signature is written in a cursive style with a large initial "M".

Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: September 25, 2025

ORDER ENTERED: September 25, 2025