

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Helena Barnhill	:	
	:	
v.	:	C-2025-3056201
	:	
Philadelphia Gas Works	:	

**ORDER**  
**DENYING PRELIMINARY OBJECTION**

On July 9, 2025, Helena Barnhill (Complainant or Ms. Barnhill) filed a formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant placed checkmarks in the boxes indicating: “The utility is threatening to shut off my service or has already shut off my service” and “I am having a reliability, safety or quality problem with my utility service.” In an attachment to the Complaint, the Complainant stated she had concerns with a letter received by PGW requesting access to her home and also requested that the gas line to her home be moved.

On July 29, 2025, PGW filed an Answer with New Matter (Answer) along with a Notice to Plead. In its Answer, PGW admitted in part and denied in part various material allegations of the Complaint. Specifically, PGW denied that there is an active shut off notice for the gas service at 4635 Horrocks Street, Philadelphia, PA (Service Address). In its New Matter, PGW averred that it has not performed any work at the Service Address or on the Complainant’s service line since February of 2022, thus, the Commission lacks jurisdiction over this matter pursuant to the statute of limitations at 66 Pa.C.S. § 3314, which divests the Commission of jurisdiction over an action brought more than three years from the date the liability arose. PGW requested that the Complaint be dismissed.

The Complainant's Answer to PGW's New Matter was due within twenty days of the date of service of the Answer with New Matter. 52 Pa. Code § 5.63(a). The Complainant did not file an Answer to PGW's New Matter.

Also on July 29, 2025, PGW filed a Preliminary Objection to the Complaint along with a Notice to Plead. In its Preliminary Objection, PGW reiterated its argument that the statute of limitations at 66 Pa.C.S. § 3314 divests the Commission of jurisdiction in this matter because the alleged liability occurred more than three years ago. Thus, PGW requests the case be dismissed.

The Complainant's Answer to PGW's Preliminary Objection was due within ten days of the date of service of the Preliminary Objection. 52 Pa. Code § 5.101. The Complainant did not file an Answer to PGW's Preliminary Objection.

By Motion Judge Assignment Notice dated September 8, 2025, the parties were informed that I was assigned as the Presiding Officer in this matter and responsible for resolving any issues which may arise during the preliminary phase of this proceeding.

PGW's Preliminary Objection is now ready to be ruled upon. For the reasons discussed below, the Preliminary Objection will be denied and the case will be scheduled for a hearing.

#### DISCUSSION

The Commission's Rules of Administrative Practice and Procedure provide for the filing of Preliminary Objections. 52 Pa. Code § 5.101. Commission Preliminary Objection practice is comparable to Pennsylvania civil practice respecting the filing of preliminary objections. *Equitable Small Transp. Intervenors v. Equitable Gas Co.*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994). The Commission's Rules provide, in relevant part:

**§ 5.101. Preliminary objections.**

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically the legal and factual grounds relied upon and be limited to the following:

- (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).

In deciding the preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the Complainant, recovery or relief is possible. *Dept. of Auditor Gen. v. State Emp. 's Ret. Sys.*, 836 A.2d 1053 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa. Cmwlth. 1996). Any doubt must be resolved in favor of the non-moving party (Ms. Barnhill) by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002). All of the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the preliminary objections, and only those facts specifically admitted may be considered against the non-moving party. *Ridge v. State Emp. 's Ret. Bd.*, 690 A.2d 1312 (Pa. Cmwlth. 1997).

In this case, PGW contends that it has not performed any work at the Service Address or on the Complainant's service line since February of 2022, thus, the statute of limitations at 66 Pa.C.S. § 3314 divests the Commission of jurisdiction. However, the Commission must view the complaint 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.

Here, Ms. Barnhill alleges that PGW is threatening to shut off or has already shut off her service, she is having a reliability, safety or quality problem with her service, she has concerns with a letter received by PGW requesting access to her home, and she requests that the gas line to her home be moved. When viewing these allegations as true for purposes of the Preliminary Objection, it is clear that recovery or relief would be possible for the Complainant, and the Commission has jurisdiction over this matter.

Based on the foregoing, I conclude that PGW has failed to show that the Complainant would not be entitled to relief under any circumstance as a matter of law. Accordingly, PGW's Preliminary Objection seeking the dismissal of the Complaint for lack of jurisdiction will be denied.

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection of Philadelphia Gas Works in the matter of Helena Barnhill v. Philadelphia Gas Works, Docket No. C-2025-3056201 is denied.



**C-2025-3056201 - HELENA BARNHILL v. PHILADELPHIA GAS WORKS**

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