

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**INITIAL DECISION**

Before  
Barbara Shadie Nause  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the Formal Complaint of a gas customer, finding that the Formal Complaint both lacks sufficient factual specificity and is legally insufficient. In addition, Complainant failed to comply with my Order Granting Preliminary Objection and Directing Complainant to File an Amended Complaint wherein she was notified that her failure to file an Amended Complaint would result in dismissal of her Formal Complaint.

**HISTORY OF THE PROCEEDING**

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

Ms. Berry stated, “This is an 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 requested that the PUC “order [the] 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 by the Commission’s Bureau of Consumer Services (“BCS”) 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 lacks specificity, pursuant to 52 Pa. Code § 5.101(a)(3), arguing that the Complaint does not contain specific enough information 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 PGW’s violation of a Commission regulation, statute, or order. PGW concluded its Preliminary Objections by requesting dismissal of the Complaint or any other appropriate relief.

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 until further directed by the presiding officer or Commission. *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. Ms. Berry did not file an answer to the Preliminary Objections.

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

On August 20, 2025, the Commission issued my Order Granting Preliminary Objection and Directing Complainant to File an Amended Complaint wherein I granted the Preliminary Objection regarding insufficient specificity, pursuant to 52 Pa. Code § 5.101(a)(3), and directed Ms. Berry to file an Amended Complaint at Docket No. F-2025-3055778 within ten days of service of the Order. Ms. Berry did not file the directed amended complaint.

Pursuant to 52 Pa. Code § 1.56(b), since service of the Order was by first-class mail, Ms. Berry had three (3) additional days to file an amended complaint. Accordingly, the record in this proceeding closed on September 5, 2025. For the reasons discussed below, Ms. Berry's Complaint filed on June 16, 2025 will be dismissed.

#### FINDINGS OF FACT

1. Complainant is Sheila-Tameka Berry, 7140 Ditman Street, Philadelphia, PA 19135.

2. Respondent is Philadelphia Gas Works, a jurisdictional gas distribution company providing residential and commercial gas services in the Commonwealth of Pennsylvania.

3. On June 16, 2025, Ms. Berry filed a Formal Complaint against PGW with the Commission.

4. Complainant checked the box marked “Other” on the Formal Complaint alleging “[t]his is an 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.

5. The Complaint does not provide any facts or allegations to support a claim.

6. On July 7, 2025, PGW filed Preliminary Objections to the Complaint, seeking dismissal of the Complaint pursuant to 52 Pa. Code § 5.101(a)(3) and 52 Pa. Code § 5.101(a)(4).

7. Complainant did not file a response to the Preliminary Objections.

8. On August 20, 2025, the Commission issued my Order Granting Preliminary Objection and Directing Complainant to File an Amended Formal Complaint within ten days of service of the Order.

9. The Order was served to Complainant, by the United States Postal Service, to her address of record and the Order was not returned as undeliverable.

10. Complainant’s Amended Complaint was due to be filed on or before September 5, 2025. 52 Pa. Code § 1.12(a).

11. As of the date of this Initial Decision, Ms. Berry has not filed an Amended Complaint.

## DISCUSSION

The Commission's Rules of Administrative Practice and Procedure provide for the filing of preliminary objections. The Commission's Rules at 52 Pa. Code § 5.101(a) limit preliminary objections to the following grounds:

- (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)(1)-(7).

Commission procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice. *Equitable Small Transp. Interveners v. Equitable Gas Co*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994). A preliminary objection in civil practice seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt. *Interstate Traveller Servs., Inc. v. Pa. Dept. of Env't Res.*, 406 A.2d 1020 (Pa. 1979); *Rivera v. Phila. Theological Seminary of St. Charles Borromeo, Inc.*, 595 A.2d 172 (Pa. Super. 1991). The Commission has adopted this standard. *Montague v. Phila. Elec. Co.*, 66 Pa.P.U.C. 24 (1988).

The moving party may not rely on its own factual assertions but must accept for the purposes of disposition of the preliminary objection, all well-pleaded,

material facts of the other party, as well as every inference fairly deducible from those facts. *Cnty. of Allegheny v. Commonwealth*, 490 A.2d 402 (Pa. 1985). Therefore, in ruling on a preliminary objection, the Commission must assume, for decisional purposes only, that the factual allegations of the Complaint are true. *Id.* The preliminary objection may be granted only if the moving party prevails as a matter of law. *Roc v. Flaherty*, 527 A.2d 211 (Pa. Cmwlth. 1985). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Dept. of Auditor Gen. v. State Emps. Ret. Sys.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003) (citing, *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002)).

In order to be legally sufficient, a complaint must set forth an act or thing done or omitted to be done or about to be done by the respondent in violation, or claimed violation, of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission. *Drake v. Pa. Elec. Co.*, Docket No. C-2014-2413771 (Final Order entered June 12, 2014); 66 Pa.C.S. § 701.

In addition, a formal complaint must 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). Further, a formal complaint must 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. *Acosta v. PECO Energy Co.*, Docket No. F-2020-3015309 (Final Order entered Sep. 10, 2020). Additionally, 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).

The averments in the Complaint are limited to the box checked “Other” alleging, “This is an billing error due to the United States. The said name on the account in all caps is not me, I’m not a corporation.” In the “Relief” section, Complainant has written 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.”

I agreed with PGW that the Complainant’s allegation lacks a legitimate reason for a complaint and does not permit PGW to formulate and provide a meaningful answer to the Complaint. PGW cannot determine the allegations against it to conduct a meaningful investigation and to prepare a coherent response or defense. In addition, PGW cannot discern what relief Complainant seeks by her statement 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.” Further, since the original Complaint did not provide sufficient specificity to permit PGW to formulate a meaningful answer, I granted PGW’s preliminary objection for insufficient specificity. However, instead of dismissing the Complaint, I exercised my discretion and gave the Complainant an opportunity to amend her Complaint to provide more specific factual allegations which would allow PGW to investigate and file an appropriate response.

Therefore, by Order issued and served on August 20, 2025, I directed the Complainant to file a more detailed Amended Complaint within ten days of August 20, 2025.

It is important to note that the Preliminary Objections were served upon the Complainant along with a Notice to Plead, and that Complainant did not file a response. The Order granting the Preliminary Objections was issued on August 20, 2025, and directed the Complainant to file an Amended Complaint at Docket No. F-2025-3055778 within ten days of the Order and if an Amended Complaint was not filed within ten days

of service of the Order, the Complaint would be dismissed. This Order was served on Complainant via U.S. First-Class Mail.

To date, the Complainant has not filed an Amended Complaint. This creates a procedural dilemma, where the Respondent cannot answer the Complaint, and the Complaint cannot be prosecuted because the grounds upon which it was filed are insufficient and unclear. The Complainant has had ample opportunity to respond to both the Preliminary Objections and the Order and has failed to take advantage of those opportunities.

Moreover, failure to comply with an order issued by a presiding officer warrants dismissal of the application or complaint. *See, e.g., Application of And Ex Cor*, A-2012-2337848 (Final Order entered June 19, 2013); *New Fizon Catering, Inc. v. PECO Energy Co.*, Docket No. C-2008-2065498 (Opinion and Order entered June 24, 2009); *Snyderville Cmty. Dev. Corp. v. PECO Energy Co.*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006).

Therefore, for the reasons discussed above, the Complaint will be dismissed and the docket closed.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties in this case. 66 Pa.C.S. § 701.
2. 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).

3. A party may file a preliminary objection raising legal insufficiency. 52 Pa. Code § 5.101(a)(4).

4. To be legally sufficient, 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.

5. A party may file a preliminary objection raising insufficient specificity. 52 Pa. Code § 5.101(a)(3).

6. A formal complaint must 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).

7. A formal complaint must set forth a clear and concise statement of the relief sought. 52 Pa. Code § 5.22(a)(6).

8. 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. *Acosta v. PECO Energy Co.*, Docket No. F-2020-3015309 (Final Order entered Sep. 10, 2020).

9. 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).

10. 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. 66 Pa.C.S. § 701; 52 Pa. Code § 5.22(a)(5).

11. The averments in the Complaint lacks factual specificity and are legally insufficient and the Complaint fails to set forth any facts that could be construed as PGW's violation of a Commission regulation, statute or order. 52 Pa. Code § 5.101(a)(3), (4).

12. Complainant failed to comply with my Order Granting Preliminary Objection and Directing Complainant to File an Amended Complaint. *Application of And Ex Cor*, A-2012-2337848 (Final Order entered June 19, 2013); *New Fizon Catering, Inc. v. PECO Energy Co.*, Docket Nos. C-2008-2065498 and C-2008-2079076 (Opinion and Order entered June 24, 2009); *Snyderville Cmty. Dev. Corp. v. PECO Energy Co.*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006).

13. Complainant had notice that her failure to file an Amended Complaint would result in dismissal of her Complaint. *See* Order served August 20, 2025, p. 6.

