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October 14, 2025

By Electronic Filing

Matthew L. Homsher, Secretary
Secretary's Bureau
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

Re: Danielle Day v. Allied Utility Services Inc.; Docket No. C-2025-3057638;
**PRELIMINARY OBJECTIONS TO FORMAL COMPLAINT OF
DANIELLE DAY**

Dear Secretary Homsher:

Enclosed for filing with the Pennsylvania Public Utility Commission are the Preliminary Objections of Allied Utility Services Inc. in the above-captioned proceeding.

Very truly yours,

A handwritten signature in blue ink, appearing to read "TSS", is written over a horizontal line.

Todd S. Stewart

Counsel for Allied Utility Services Inc.

TSS/das
Enclosures

cc: Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DANIELLE DAY	:	
	:	
Complainant,	:	
	:	
v.	:	
	:	Docket No. C-2025-
ALLIED UTILITY SERVICES, INC.,	:	
	:	
Respondent.	:	
	:	

**ALLIED UTILITY SERVICES, INC.’S
PRELIMINARY OBJECTIONS
TO
FORMAL COMPLAINT OF DANIELLE DAY**

Pursuant to 52 Pa. Code § 5.101, Allied Utility Services, Inc. (“Allied”) submits these Preliminary Objections to the Formal Complaint of Danielle Day in the above captioned proceeding and request that the Complaint be dismissed.

I. INTRODUCTION

1. The Complaint alleges that Allied failed to inspect a sewer line that connects Complainant’s residence to Allied’s sewer system prior to permitting the owner of the property to make the connection.

2. Complainant’s residence was constructed in 2004 and was connected to Allied’s facilities in that same year. Complainants purchased the property in 2014. Complainant’s sewer line failed in 2025 more than 20 years after the house was built and connected to Allied’s sewer facilities.

3. The conduct complained of is that Allied failed to inspect the sewer connection and implicitly claim that Allied's failure to do so was the proximate cause of the failure of their sewer line twenty years later.

II. LEGAL STANDARD FOR PRELIMINARY INJUNCTIONS

4. The Commission's regulations allow a respondent to file preliminary objections to a complaint. 52 Pa. Code § 5.101. Preliminary motion practice before the Commission is similar to that utilized in Pennsylvania civil practice. *Equitable Small Transportation Interveners v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, PUC Docket No. C-00935435 (July 18, 1994) (citing Pa. R.C.P 1017). A preliminary objection in civil practice seeking dismissal of a pleading will be granted where relief is clearly warranted and free from doubt. *Interstate Traveller Services, Inc. v. Pa. Dept. of Environmental Resources*, 406 A.2d 1020 (Pa. 1979).

5. In determining whether to sustain preliminary objections, all well-pleaded material, factual averments and all inferences fairly deducible therefrom are presumed to be true. *Marks v. Nationwide Ins. Co.*, 762 A.2d 1098, 1099 (Pa. Super. Ct. 2000), *appeal denied*, 788 A.2d 381 (Pa. 2001). The pleaders' conclusions of law, unwarranted inferences from facts, argumentative allegations or expressions of opinion should not be considered to be admitted as true. *Id.* The preliminary objections should be sustained if, based on the facts averred by the plaintiff, the law says with certainty that no recovery is possible. *Soto v. Nabisco, Inc.*, 32 A.3d 787, 790 (Pa. Super. Ct. 2011), *appeal denied*, 50 A.3d 126 (Pa. 2012).

III. PRELIMINARY OBJECTIONS

A. The Commission Lacks Jurisdiction Pursuant to 66 PA. C.S. § 3314.

6. The Complaint should be dismissed because it is barred by the three-year limitation on actions in Section 3314 of the Public Utility Code, 66 Pa. C.S. § 3314, which deprives the Commission of jurisdiction over this matter.

7. Section 3314 states: “No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part.” *Id.*

8. The Commission has recognized that this time-bar deprives the Commission of jurisdiction over matters for which alleged liability arose more than three years prior to the filing of a complaint. *PA PUC Bureau of Investigation and Enforcement v. PECO Energy Co.*, Docket No. M-2021-3014286 (Opinion and Order entered Aug. 5, 2021) (“We further note that the application of the statute of limitations under Section 3314 is non-waivable. The language of Section 3314 expressly provides that no action for recovery of penalties or forfeitures, or any prosecution may be maintained unless brought within three years from the date the liability arose. Therefore, Section 3314 terminates the right to bring an action as well as any remedy and divests the Commission of jurisdiction to hear an action brought more than three years from the date the liability arose and may not be raised at any time.”).

9. Complainant is alleging that Allied’s alleged failure to inspect a sewer line prior to connection with Allied’s facilities, which was completed in 2004, caused the failure of their sewer line some 20 years later.

10. Because the alleged activities giving rise to the alleged liability occurred in 2004, the Complaint is time barred per Section 3314 depriving the Commission of jurisdiction, and the Complaint should be dismissed.

B. PRELIMINARY OBJECTION 2: LEGAL INSUFFICIENCY (SEEKING DAMAGES)

11. The Complaint is legally insufficient because it seeks compensation in the form of damages for her claim that Allied violated the Public Utility Code, the Commission's regulations or Commission Order, or violated its own tariff.

12. It is black letter law that the Commission does not have statutory authority to award damages.¹

13. Even if Complainant were to prevail on the merits, the Commission cannot award damages to Complainants, therefore any reference to damages should be stricken from the Complaint.

¹ *Feingold v. Pa PUC*, 383 A.2d 791, 477 Pa. 1, 1977 Pa. LEXIS 957 (Pa. 1977).

IV. CONCLUSION

WHEREFORE, Allied Utility Services, Inc. respectfully request the Complaint be dismissed, or in the alternative, portions thereof stricken consistent with these Preliminary Objections.

Respectfully submitted,



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Counsel for Allied Utility Services Inc.

VERIFICATION per 52 Pa Code § 1.36

I, H. James Wilson, Jr., hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

ALLIED UTILITY SERVICES, INC.

Signature: H. James Wilson, Jr.

Title: PRESIDENT

Date: 10/13/2025

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL

Danielle and Rodney Day
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Sean Donnelly
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Todd S. Stewart

Dated this 14th day of October, 2025