

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Gunther and Margaret Unflat	:	
	:	
v.	:	C-2025-3056483
	:	
PPL Electric Utilities Corporation	:	

**INTERIM ORDER ON PRELIMINARY OBJECTIONS**

Procedural Background

On July 19, 2025, Gunther and Margaret Unflat (Complainants), filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (Company or Respondent). In the Formal Complaint, the Complainants checked the box labeled “Other.” The Complainants requested that PPL pay for the cost of household appliances and surge protector. They also indicated that they want the Company to maintain the trees near the electrical lines and do testing regarding the voltage sent to their home.

On August 13, 2025<sup>1</sup>, the Company filed an Answer and New Matter. On the same date, the Company also filed a Preliminary Objection to the Complaint. In the filing, the Company asserts that the Complainants’ request for damages should be dismissed as the Commission does not have jurisdiction.

The Company’s Preliminary Objections contained a Notice to Plead, requiring Complainant to file a response within ten days of service. As of the date of this Order, the Complainant has not filed any response to the Preliminary Objection.

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<sup>1</sup> The formal complaint was served by the Secretary’s Bureau on July 24, 2025.

On September 18, 2025, the Commission issued a Motion Judge Assignment Notice, assigning this proceeding to me.

### Legal Discussion

The Commission's Rules of Administrative Practice and Procedure provide for the filing of preliminary objections. Commission preliminary objection practice is comparable to Pennsylvania civil practice respecting the filing of preliminary objections. *Equitable Small Transp. Intervenor v. Equitable Gas Co.*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994). 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.

For purposes of disposing of the preliminary objections, the Commission must accept as true all well-pleaded material facts of the nonmoving party, as well as every reasonable inference deducible from those facts. *County of Allegheny v. Cmwlth of Pa.*, 490 A. 2d 402 (Pa. 1985); *Cmwlth of Pa. v. Bell Tele. 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 Complainant and should dismiss the Complaint only if it appears that Complainant would not be entitled to relief under any circumstances as a matter of law. *Equitable Small Transp. Intervenor v. Equitable Gas Co.*, 1994 Pa. P.U.C. LEXIS 69, Docket No. C-00935435 (July 18, 1994); *see also, Interstate Traveler Serv., Inc. v. Pa. Dept of Envir. Resources*, 486 Pa. 536, 406 A.2d 1020 (1979). "For purposes of testing the legal sufficiency of the challenged pleading, a [motion to

dismiss] ... admits as true all well-pleaded, material, relevant facts, and every inference deducible from those facts.” *Marinoff v. Bell Tele. Co. of Pa.*, 75 Pa. PUC 489, 491 (1991).

The Company argues the Commission must strike Complainants’ request for monetary damages because the Commission lacks the jurisdiction to award them.

Subject matter jurisdiction is a prerequisite to the exercise of the power to decide a controversy.<sup>2</sup> The Commission cannot exceed its jurisdiction and must act within it.<sup>3</sup> Jurisdiction may not be conferred by the parties where none exists.<sup>4</sup>

The courts of Pennsylvania have long recognized that the reasonableness, adequacy, and sufficiency of public utility service are within the exclusive original jurisdiction of the Commission.<sup>5</sup> However, Pennsylvania courts have also held that the enforcement powers of the Commission do not include the power to award monetary damages. *Elkin v. Bell*, 420 A.2d 371 (1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (1978); see *Nagy v. Bell Tel. Co.*, 436 A.2d 701 (Pa. Super. 1981). The Court of Common Pleas retains original jurisdiction over suits for monetary damages. *Behrend v. Bell Tel. Co.*, 363 A.2d 1152 (Pa. Super 1976).

In this proceeding, Complainants explicitly request the Commission order the Company pay them for certain household appliances and a whole house surge protector. This portion of the Complaint is stricken from the Complaint and dismissed without hearing because the Commission lacks jurisdiction to award monetary damages.

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<sup>2</sup> *Hughes v. PA State Police*, 619 A.2d 390 (1992), *alloc. denied*, 637 A.2d 293 (1993).

<sup>3</sup> *City of Pittsburgh v. Pa. Public Utility Commission*, 43 A.2d 348 (Pa. Super. 1945).

<sup>4</sup> *Roberts v. Martorano*, 235 A.2d 602 (1967).

<sup>5</sup> See, *Duquesne Light Company v. Monroeville Borough*, 449 Pa. 573, 298 A.2d 252 (1972); *Behrend v. Bell Telephone Company*, 431 Pa. 63, 243 A.2d 346 (1968); *Elkin v. Bell Telephone Company*, *supra*.

The Public Utility Code at 66 Pa.C.S. § 1501 requires public utilities to provide reasonable and adequate, not perfect service. The statute at 66 Pa.C.S. § 1501, provides, in relevant part:

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.

Interpreting this provision in *West Penn Power Co. v. Pa. Pub. Util. Comm'n*, 478 A.2d 947 (Pa. Cmwlth. 1984), the Commonwealth Court stated:

We hold that in order for the PUC to sustain a complaint brought under this section, the utility must be in violation of its duty under this section. Without such a violation by the utility, the PUC does not have the authority, when acting on a customer's complaint, to require any action by the utility. (footnote omitted).

478 A.2d at 949.

The statutory definition of "service" is to be broadly construed.<sup>6</sup> *Country Place Waste Treatment Co., Inc. v. Pa. Publ. Util. Comm'n*, 654 A.2d 72 (Pa. Cmwlth. 1995). In applying the facts to the law, the issue becomes whether PWSA's actions as described in the Complaint rise to the level of inadequate service that constitutes a violation of the Public Utility Code. This question remains in factual and legal dispute by the parties. The Complainant indicated that there were a number of issues with his service, including PWSA's failure to shut off the water, failure to fix the curb box as well as billing issues. Therefore, the matter must

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<sup>6</sup> "Service." Used in its broadest and most inclusive sense, includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities, or contract carriers by motor vehicle, in the performance of their duties under this part to their patrons, employees, other public utilities, and the public, as well as the interchange of facilities between two or more of them . . . 66 Pa.C.S. § 102.

move forward for a hearing. While it is noted that the Commission does not have jurisdiction regarding specific water quality requirements, general water quality issues would be considered “service” under the Public Utility Code.

In the Complaint, the Complainants indicate that they have been experiencing issues with their electric service for years, including power outages and surges. The Complainants also indicated that they had concerns regarding the vegetation in the area impeding the electrical lines. Further, the Complainants indicated that they were having increased voltage coming into their residence which are causing problems.

There is a question as to whether PPL provided safe, adequate and reasonable service to the Complainants at their property related to the power outages and surges and how it handles vegetation control in the area and the voltage problems. There is a need to determine if there is a violation of Section 1501 of the Public Utility Code and if civil penalties are warranted under the law.

Based on all of the above, there is a disputed question of fact and law which must be resolved. The Complainants aver that there is a reliability, safety or quality problem with their utility service which the Respondent specifically denied in its Answer. Therefore, questions remain whether, pursuant to the Public Utility Code and applicable regulations, PPL provided the Complainants with adequate, efficient, safe, and reasonable service and whether civil penalties are warranted in this case. This matter should be scheduled for a hearing related to the remaining issues.



**C-2025-3056483 - GUNTHER AND MARGARET UNFLAT v. PPL ELECTRIC UTILITIES CORPORATION**

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