

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

William Beaver	:	
	:	
v.	:	C-2025-3056718
	:	
Buckeye Partners, L.P.	:	

INTERIM ORDER ON PRELIMINARY OBJECTIONS

Procedural Background

On July 30, 2025, William Beaver (Complainant), filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Buckeye Partners, L.P. (Company or Respondent). In the Formal Complaint, the Complainants checked the box labeled “Other.” The Complainant indicates that there is imminent pipeline failure carrying hazardous materials.

On August 28, 2025¹, 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 Commission lacks jurisdiction in this matter. Further, it indicates that there is an indispensable party that is not a part of the proceedings and that the Complaint lacks a basis on which relief can be given.

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.

¹ The formal complaint was served by the Secretary’s Bureau on August 8, 2025.

On October 6, 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. Intervenors 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 deductible 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. Intervenors 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 to have livestock and buildings moved on his neighbor’s property because the Commission lacks the jurisdiction to grant such relief.

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

The Commission has repeatedly acknowledged that it lacks jurisdiction over disputes between private parties, as such matters must be resolved in the Pennsylvania courts of common pleas. *See, e.g., Key Recycling, LLC v. Recleim, LLC*, 2022 PA. PUC LEXIS 36, *11-12, Docket No. C-2020-3021125 (Feb. 3, 2022); *Renee Yanko v. Pennsylvania-American Water Co.*, 2021 PA. PUC LEXIS 76, *10, Docket No. F-2019-3011774 (March 25, 2021); *Douglas Park v. PPL Electric Utilities Corp.*, 2013 Pa. PUC LEXIS 175, *10, Docket No. F-2012-2308984 (March 13, 2013). Indeed, “there can be no dispute that the courts of common pleas have subject matter jurisdiction over common law claims...involving private individuals and businesses....” *Pettko v. Pa. Am. Water Co.*, 39 A.3d 473, 478 N. 9 (Pa. Cmwlth. 2012).

In this proceeding, Complainants explicitly request the Commission order that livestock, pen, fence posts, and fencing be moved from its current location to be further from the Company’s pipeline and his property line. The issue of his neighbor’s livestock and structures are not within the jurisdiction of the Commission, and the Commission cannot grant the requested relief. As such, this portion of the Complaint must be dismissed.

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

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

⁴ *Roberts v. Martorano*, 235 A.2d 602 (1967).

However, the Complainant has indicated that there are issues with pipeline safety near his home. He notes that there are multiple hazards over the pipeline and easement/right of way. Taking the facts in this matter in the most favorable light of the non-moving party, it appears that there is a legal and factual dispute between the parties that needs to be resolved.

Further, the Commission has expressed the concern that, in general, complainants may find it difficult to navigate through pre-hearing motions and should be given the chance to orally describe their basic issue and supporting facts. On this vein, it would be inappropriate to grant the Company's Preliminary Objection at this point.

On the other hand, the Respondent must have an opportunity to understand and respond in a meaningful way to the Formal Complaint. The Commission's rules of procedure permit the Commission to direct a more specific pleading.⁵ Therefore, the Complainant is directed to file an amendment to his Complaint which includes more details regarding the nature of the dispute with the Respondent, how the Commission has over jurisdiction in his dispute with the Respondent and states with specificity what he would like the Commission to do to resolve this dispute that is within the Commission jurisdiction. In the event that the Complainant fails to comply with this Order, the Respondent may file an appropriate motion to seek dismissal of the Complaint.

Order

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection as filed by Buckeye Partners, L.P. is granted in part such that the Complainant's requested relief of moving the livestock and structures on his neighbor's property is stricken from the Complaint and dismissed without a hearing.

⁵ 52 Pa. Code § 5.93. *See also* 52 Pa. Code § 5.101(e).

C-2025-3056718 WILLIAM BEAVER V. BUCKEYE PARTNERS LP

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