

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Vera Scroggins	:	
	:	
v.	:	C-2023-3039609
	:	
Pennsylvania-American Water Company	:	

INITIAL DECISION

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This Initial Decision denies Vera Scroggins’ Formal Complaint against Pennsylvania-American Water Company because Complainant has not established that Pennsylvania-American Water Company failed to provide safe, adequate or reasonable service in this matter.

HISTORY OF THE PROCEEDING

On April 3, 2023, Vera Scroggins (Complainant or Ms. Scroggins) filed a Formal Complaint (Complaint) against Pennsylvania-American Water Company (PAWC or Respondent or Company) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant contended that there were issues with the safety, reliability and reasonableness of her service.

On April 26, 2023,¹ the Respondent filed an Answer with New Matter denying the material allegations of the Complaint. On the same date, the Respondent filed Preliminary Objections. The Respondent alleged that the Complainant did not have standing in the case and that the Complaint was legally insufficient.

On May 11, 2023, the Complainant filed a reply to the Preliminary Objection.

By Motion Judge Assignment Notice dated May 22, 2023, the matter was assigned to the undersigned as the presiding officer.

On June 22, 2023, I issued an Interim Order regarding the Preliminary Objections.

On December 1, 2023², I re-issued an Interim Order regarding the Preliminary Objections.

In accordance with the Interim Order, the Complainant filed an Amended Formal Complaint as well as further Addendums and Updates to the Complaint with Requests for Information, on December 11, 2023, and December 25, 2023, respectively.

On December 12, 2023, the Secretary's Bureau served the Amended Formal Complaint on the Respondent.

¹ The Formal Complaint was served on the Respondent by the Secretary's Bureau on April 6, 2023.

² Due to an issue with the electric service system, the parties did not initially receive the Interim Order on June 22, 2023, and the Interim Order had to be re-served on the parties.

On January 2, 2024, the Respondent filed an Answer and New Matter and Preliminary Objections to the Amended Formal Complaint.

On January 10, 2024, a Motion Judge Assignment Notice was issued related to the further Preliminary Objections.³

On January 17, 2024, the Complainant filed an Answer to the Preliminary Objections.

After notification was provided to the presiding officer, on October 22, 2024, an Initial Telephonic Hearing Notice was issued, and the matter was set for an initial hearing on November 13, 2024, at 10:00 a.m.

On October 23, 2024, I issued a Prehearing Order which indicated procedural matters and hearing procedures.

On October 29, 2024, the Respondent requested a Continuance of the hearing on November 13, 2024. The Complainant did not object and I granted the request via electronic mail on November 7, 2024.

On November 7, 2024, a Rescheduled Initial Telephonic Hearing Notice was issued, and the matter was rescheduled for initial hearing on January 22, 2025, at 10:00 a.m.

On January 8, 2025, the Respondent filed a Motion for Continuance for the January 22, 2025, hearing. The Complainant did not object to the request. I did not grant

³ Due to an administrative error, the presiding officer was not provided with the second Motion Judge Assignment Notice.

the request the Motion for Continuance but indicated to the parties that the hearing would be converted to a prehearing conference to discuss any issues that the parties were having.

The Prehearing Conference was held as scheduled on January 22, 2025. The Complainant appeared *pro se*. Michael A. Gruin, Esquire, appeared on behalf of the Respondent. The parties discussed the outstanding issues, and I indicated that the matter would be scheduled for a hearing.

On January 23, 2025, the Complainant filed a further Amendment to the Formal Complaint.

On February 10, 2025, the Respondent filed a Motion to Strike the Additional Amended Formal Complaint.

On February 14, 2025, the Complainant filed an Answer to the Motion to Strike.

On April 14, 2025, the Complainant filed a Motion to Request that Amended Formal Complaint add additional concerns to it.

On May 12, 2025, a Rescheduled Initial Telephonic Hearing Notice was issued, and the matter was scheduled for a hearing on May 30, 2025, at 10:00 a.m.

On May 12, 2025, I issued a Prehearing Order that was served on the parties.

On May 19, 2025, the Respondent filed a Motion for Continuance of the May 30, 2025, initial hearing. The Respondent requested further clarification on the issues to be addressed at the hearing. The Complainant did not object to the request. I granted the request on May 29, 2025, via electronic mail.

On May 29, 2025, a Rescheduled Initial Telephonic Hearing Notice was served on the parties, and the matter was rescheduled for June 20, 2025, at 1:30 p.m.

On May 30, 2025, I issued Interim Order No. 2 which set out the issues to be addressed at the hearing on June 20, 2025.

The hearing proceeded as scheduled on June 20, 2025. The Complainant participated *pro se* and testified. The Complainant also presented the testimony of two witnesses, Craig Stevens and Raymond Kemble. The Complainant presented five exhibits at the hearing which were entered into the record. The Respondent appeared and was represented by Michael A. Gruin, Esquire, who presented the testimony of Charles Motley, Water Quality and Environmental Compliance Manager and Don Kessler, Senior Manager. The Respondent offered 11 exhibits, which were all entered into the record.

The record closed on August 13, 2025, when I received my copy of the hearing transcript.⁴

FINDINGS OF FACT

1. The Complainant in this case is Vera Scroggins, who resides at 71 Gus Park Lane, Brackney, Pennsylvania 18812. Tr. 41.

2. The Respondent is Pennsylvania-American Water Company.

⁴ The Complainant filed a Brief with the Commission on October 22, 2025. This Brief will not be considered as it was filed after the close of the record in this matter.

3. The Formal Complaint is related to the address at Ritztex Road, Montrose, Pennsylvania 18801. Tr. 64-65; PAWC Exh. 10.
4. The service is related to a spigot that supplies water to a number of residents in the area. Tr. 56.
5. The spigot was installed at the request of residents after contamination of wells in approximately 2012. Tr. 65.
6. The Complainant is on the PAWC account with Craig Stevens for the spigot. Tr. 41.
7. Mr. Stevens collects water from the spigot to use at his home at 1527 Silver Creek Road, Montrose, PA 18801. Tr. 64, 68.
8. In the area of Montrose Lake, there are a number of natural gas fracking operations. Tr. 42.
9. The Complainant is concerned with the levels of radium, radioactivity, heavy metals and VOCs⁵ in the drinking water. Tr. 44.
10. PAWC has had boil water advisories in the last two years. Tr. 47.
11. One boil water advisory lasted for two days. Tr. 48.
12. The Complainant has noticed that the drinking water in the Montrose Water System has a strong chlorine odor and has a less than desirable taste. Tr. 49-50.

⁵ Volatile Organic Compounds.

13. Mr. Stevens has noticed discoloration of the water that came out of the spigot. Tr. 68.

14. Counsel for PAWC and Don Kessler from PAWC provided the Complainant with information and website links to access information regarding the testing that the Company does on its water. Tr. 61.

DEP Water Testing Regulations

15. The water testing requirements are covered under 25 Pa. Code Chapters 1 and 9. Tr. 84.

16. These testing regulations are promulgated by the Pennsylvania Department of Environmental Protection (DEP). Tr. 85.

17. The specific requirements and obligations for testing are found in 25 Pa. Code Chapter 109, Subchapters B, C, K and L. Tr. 85.

18. Subchapter B represents the monitoring that is required by the DEP. Tr. 85.

19. Subchapter C represents the frequency and schedule for monitoring. Tr. 85.

20. Subchapter K is specific to testing for lead and copper in water. Tr. 85.

21. Subchapter L defines the requirements for testing related to cryptosporidium. Tr. 85.
22. PAWC tests for a number of contaminants in the Montrose Water System. Tr. 86; PAWC Exh. 1.
23. The testing frequency varies by contaminant. Tr. 86; PAWC Exh. 1.
24. PAWC complies with the testing requirements for the Montrose Water System. Tr. 87; PAWC Exh. 1.
25. The DEP frequently updates the requirements, sometimes each quarter or each monitoring period or on an annual basis. Tr. 88.
26. The DEP produces an annual report in February of each year. Tr. 88
27. The Drinking Water Reporting System is publicly available on the DEP website. Tr. 88.
28. PAWC is required to produce a Comprehensive Monitoring Plan which is created by the Company and approved by the DEP. Tr. 89-90; PAWC Exh. 2.
29. The Comprehensive Monitoring Plan is reviewed during sanitary surveys which occur on a yearly basis. Tr. 89-90.
30. The Montrose Water System is a relatively small and less complex system that PAWC operates in Pennsylvania. Tr. 90.

31. PAWC has a Total Coliform Sample Siting Plan for the Montrose Water System. Tr. 91; PAWC Exh. 3.

32. The Total Coliform Sample Siting Plan is a document which represents the requirements for monitoring covered under 25 Pa. Code Chapter 109, Subchapter C, Section 301 of the DEP's regulations. Tr. 91.

33. PAWC has a Disinfection Requirements Rule Sample Plan, which specifies the frequency and testing locations within the Montrose Water System. Tr. 93; PAWC Exh. 4.

34. PAWC has a Disinfection Byproducts Monitoring Plan which deals with disinfection byproducts such as trihalomethanes and total organic carbon (TOC). Tr. 95; PAWC Exh. 11.

35. PAWC has a Site Location Plan specifically for lead and copper which details site locations for testing. Tr. 97; PAWC Exh. 5.

36. PAWC has a Long Term 2 Enhanced Surface Water Treatment Rule Monitoring Plan regarding the testing and monitoring for cryptosporidium which has been approved by the DEP. Tr. 99; PAWC Exh. 6.

37. The plans are on file with the DEP and are available upon request from the public. Tr. 93.

Presence of Chlorine in Water

38. Chlorine is present in PAWC drinking water in the Montrose system because it is used to disinfect the water. Tr. 95.

39. The DEP specifies the amount of chlorine that can be in the system.
Tr. 96.

40. PAWC complies with DEP regulations regarding chlorine levels.
Tr. 96.

41. PAWC tests for chlorine on a continuous basis at various points in the system. Tr. 96.

42. The results of chlorine testing are available on the Drinking Water Reporting System. Tr. 96.

43. Data on chlorine levels is reported to the DEP on a monthly basis and available on the DEP's website. Tr. 97.

PAWC Compliance

44. PAWC has a staff of nine people who are in charge of monitoring the systems under the PAWC structure. Tr. 101.

45. The Montrose Water System also has an operational staff who are also involved in monitoring the system. Tr. 101.

46. PAWC has fully complied with all DEP water quality regulations and its testing requirements. Tr. 102.

47. PAWC has not been cited by the DEP for violations of its regulations related to the Montrose Water System. Tr. 102.

48. All of the testing results are publicly available through PAWC's Consumer Confidence Report and through the DEP's website. Tr. 102.

49. After a review of its records, PAWC does not have any consumer complaints for the Montrose Water System related to contaminants in the water supply. Tr. 104.

50. The Consumer Confidence Report and the information contained in the report are regulated by the DEP and the Environmental Protection Agency (EPA). Tr. 124.

51. There may be discoloration of tap water if a tap is not used on a regular basis, and the tap would need to be flushed. Tr. 105.

Boil Water Advisories

52. Boil water advisories are issued when a layer of protection in the system fails, typically a water main break. Tr. 108.

53. There have only been boil water advisories when there has been a water main break in the Montrose Water System. Tr. 132.

54. There is a standard of criteria to meet to lift a boil water advisory dictated by the DEP. Tr. 132.

55. The process requires two days of testing to show that the system has gone back to normal before a boil water advisory can be lifted. Tr. 132.

DISCUSSION

The Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of a rule or order. As the proponent of a rule or order, Complainant has the burden of proof in this matter pursuant to 66 Pa.C.S. § 332(a).

To establish a sufficient case and satisfy the burden of proof, Complainant must show that the respondent public utility is responsible or accountable for the problem described in the Complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990), *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). That is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unempl. Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the Complainant shifts to the Respondent. If the evidence presented by the Respondent is of co-equal weight, the Complainant has not satisfied her burden of proof. The Complainant would be required to provide additional evidence to rebut the evidence

of the Respondent. *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlt. 1982).

While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlt. 2001).

Quality of Service

The Complainant contends that there is an issue with the quality of service provided by PAWC.

The Public Utility Code at 66 Pa.C.S. § 1501 requires public utilities to provide service that is reasonable and adequate, not perfect. 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.

66 Pa.C.S. § 1501.

Interpreting this provision in *West Penn Power Company v. Pennsylvania Public Utility Commission*, 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.⁶ *Country Place Waste Treatment Co., Inc. v. Pa. Pub. Util. Comm'n*, 654 A.2d 72 (Pa. Cmwlth. 1995).

Ms. Scroggins testified that in the area of Montrose Lake, there are a number of natural gas fracking operations. Tr. 42. The Complainant is concerned with the levels of radium, radioactivity, heavy metals and VOCs in the drinking water. Tr. 44. Ms. Scroggins noted that PAWC has had boil water advisories in the last two years. Tr. 47. One boil water advisory lasted for two days. Tr. 48. The Complainant has noticed that the drinking water in the Montrose Water System has a strong chlorine odor and has a less than desirable taste. Tr. 49-50. Mr. Stevens has noticed discoloration of the water that came out of the spigot. Tr. 68.

⁶ "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.

PAWC's witness, Mr. Motley, testified that the water testing requirements are covered under 25 Pa. Code Chapters 1 and 9. Tr. 84. These testing regulations are promulgated by the DEP. Tr. 85. The specific requirements and obligations for testing are found in 25 Pa. Code Chapter 109, Subchapters B, C, K and L. Tr. 85. Subchapter B represents the monitoring that is required by the DEP. Tr. 85. Subchapter C represents the frequency and schedule for monitoring. Tr. 85. Subchapter K is specific to testing for lead and copper in water. Tr. 85. Subchapter L defines the requirements for testing related to cryptosporidium. Tr. 85.

Mr. Motley testified that PAWC tests for a number of contaminants in the Montrose Water System. Tr. 86; PAWC Exh. 1. The testing frequency varies by contaminant. Tr. 86; PAWC Exh. 1. PAWC complies with the testing requirements for the Montrose Water System. Tr. 87; PAWC Exh. 1.

Mr. Motley also noted that the DEP frequently updates the requirements, sometimes each quarter or each monitoring period or on an annual basis. Tr. 88. The DEP produces an annual report in February of each year. Tr. 88. The Drinking Water Reporting System is publicly available on the DEP website. Tr. 88.

Further, Mr. Motley stated that PAWC is required to produce a Comprehensive Monitoring Plan which is created by the Company and approved by the DEP. Tr. 89-90; PAWC Exh. 2. The Comprehensive Monitoring Plan is reviewed during sanitary surveys which occur on a yearly basis. Tr. 89-90. The Montrose Water System is a relatively small and less complex system that PAWC operates in Pennsylvania. Tr. 90.

Moreover, Mr. Motley testified that PAWC has a Total Coliform Sample Siting Plan for the Montrose Water System. Tr. 91; PAWC Exh. 3. The Total Coliform Sample Siting Plan is a document which represents the requirements for monitoring

covered under 25 Pa. Code Chapter 109, Subchapter C, Section 301 of the DEP's regulations. Tr. 91. PAWC has a Disinfection Requirements Rule Sample Plan, which specifies the frequency and testing locations within the Montrose Water System. Tr. 93; PAWC Exh. 4. PAWC has a Disinfection Byproducts Monitoring Plan which deals with disinfection byproducts such as trihalomethanes and total organic carbon (TOC). Tr. 95; PAWC Exh. 11. The plans are on file with the DEP and are available upon request from the public. Tr. 93.

Specifically related to Ms. Scroggins' concerns, Mr. Motley responded that chlorine is present in PAWC drinking water in the Montrose system because it is used to disinfect the water. Tr. 95. The DEP specifies the amount of chlorine that can be in the system. Tr. 96. PAWC complies with DEP regulations regarding chlorine levels. Tr. 96. PAWC tests for chlorine on a continuous basis at various points in the system. Tr. 96. The results of chlorine testing are available on the Drinking Water Reporting System. Tr. 96. Data on chlorine levels is reported to the DEP on a monthly basis and available on the DEP's website. Tr. 97.

Mr. Motley stated that PAWC has a Site Location Plan specifically for lead and copper which details site locations for testing. Tr. 97; PAWC Exh. 5. PAWC has a Long Term 2 Enhanced Surface Water Treatment Rule Monitoring Plan regarding the testing and monitoring for cryptosporidium which has been approved by the DEP. Tr. 99; PAWC Exh. 6.

Mr. Motley also noted that PAWC has a staff of nine people who are in charge of monitoring the systems under the PAWC structure. Tr. 101. The Montrose Water System also has an operational staff who are involved in monitoring the system. Tr. 101. PAWC has fully complied with all DEP water quality regulations and its testing requirements. Tr. 102. PAWC has not been cited by the DEP for violations of its regulations related to the Montrose Water System. Tr. 102. Mr. Motley also noted that

PAWC's Consumer Confidence Report and the information contained in the report are regulated by the DEP and the EPA. Tr. 124.

Further, Mr. Motley states that all of the testing results are publicly available through PAWC's Consumer Confidence Report and through the DEP's website. Tr. 102. After a review of its records, PAWC does not have any consumer complaints for the Montrose Water System related to contaminants in the water supply. Tr. 104. Counsel for PAWC and Don Kessler from PAWC provided the Complainant with information and website links to access information regarding the testing that the Company does on its water. Tr. 61.

Mr. Motley also addressed some of the Complainant's other concerns. He noted that there may be discoloration of tap water if a tap is not used on a regular basis, and the tap would need to be flushed. Tr. 105. Moreover, boil water advisories are issued when a layer of protection in the system fails, typically a water main break. Tr. 108.

Finally, PAWC's other witness, Mr. Kessler, testified that there have only been Boil Water Advisories when there has been a water main break in the Montrose Water System. Tr. 132. There is a standard of criteria to meet to lift a Boil Water Advisory that is dictated by the DEP. Tr. 132. The process requires two days of testing to show that the system has gone back to normal before a Boil Water Advisory can be lifted. Tr. 132.

While the Complainant has indicated that there were issues with the water service in the Montrose Water System, the issues do not rise to the level of a violation of the Public Utility Code. The Company is not required to provide perfect service, and I find that occasional Boil Water Advisories are not in and of themselves a violation of the Public Utility Code. The Complainant could not provide an exact number of how many

Boil Water Advisories had occurred in the last two years. Moreover, there is no evidence that the Company has violated the water testing regulations promulgated by the DEP. It is important to note that the Company has not received any citations from the DEP.

Additionally, PAWC's testing and monitoring plans have been approved by the DEP. PAWC tests for all of the contaminants that it is required to under the DEP regulations and also at the frequency required by the DEP. Further, the information regarding the testing and testing results is all publicly available on the Company's website and also the DEP's website. Lastly, PAWC provided this information directly to the Complainant and provided her with the links and instructions for accessing the information.

Based on all of the above, I cannot conclude that the Complainant has established that PAWC violated the Public Utility Code, Commission regulation or a Commission order. Therefore, the Complainant has not met her burden of demonstrating that PAWC has failed to provide safe, adequate and reasonable service. Accordingly, her Complaint is denied in its entirety.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.
2. The burden of proof in this proceeding is upon the Complainant. 66 Pa.C.S. § 332(a).
3. Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447

A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transp. Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704.

4. 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. 66 Pa.C.S. § 1501.

5. The Complainant did not meet her burden of proving that PAWC is not providing safe, adequate and reasonable service in this matter. 66 Pa.C.S. § 332(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint of Vera Scroggins in *Vera Scroggins v. Pennsylvania-American Water Company* at Docket No. C-2023-3039609 is denied; and

2. That Docket No. C-2023-3039609 be marked closed.

Date: November 12, 2025

/s/
Marta Guhl
Administrative Law Judge