

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Eric Keiper	:	
	:	
v.	:	C-2025-3057455
	:	
Pennsylvania American Water Company	:	

**INTERIM ORDER DISMISSING PRELIMINARY OBJECTION  
AND REFERRING COMPLAINT TO MEDIATION**

On September 11, 2025, Eric Keiper (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Pennsylvania American Water Company (Respondent, PAWC, or Company), alleging that PAWC did not notify the Complainant about high water usage and a possible leak before the Complainant was billed for 117,000 gallons usage in July 2025 and contacted the Company.<sup>1</sup> Complaint, Att. A at 1-2. The Complainant alleges that normal usage was 4,000 gallons per month and continued increasing to 809,000 gallons in August 2025. As relief, the Complainant requests: “reimbursement or credit from my July bill of \$2250.13 and it be adjusted to my monthly average bill. I am also asking for my current August bill of \$9,187.52 to be adjusted to my normal monthly average.” *Id.* at 2.

On October 6, 2025, PAWC filed an answer with new matter and a preliminary objection to the Complaint, both with notices to plead. In its answer, PAWC admits that the Complainant’s water consumption increased significantly during the disputed periods. Answer ¶ 4. PAWC denies that the Company did not alert the Complainant about his elevated usage before August 2025 and avers that it sent high-bill letters advising him of the possibility of a leak in May and June 2025. *Id.* In its new matter, PAWC avers that its tariff maintains that responsibility for metered usage attributable to a leak in the service line is the customer’s

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<sup>1</sup> The Commission’s records indicate the Complaint was served on Respondent on September 16, 2025.

responsibility and that, consistent with its tariff, PAWC provided a 40% credit (\$6,052.84) for the August 2025 bill. New Matter ¶¶ 7-9. The Company also contends that the Complainant fails to state a claim on which relief can be granted because (1) he alleges no violation of the Public Utility Code, the Commission's regulations, Commission Order, or PAWC's approved tariff and (2) he acknowledges that the Company notified him of the elevated usage 10 days after the first leak-affected billing period closed. *Id.* ¶ 10. PAWC requests that the Complaint be dismissed or, in the alternative, referred to the Commission's mediation program.

In its preliminary objection, the Respondent argues the Complaint is legally insufficient as a matter of law and no relief can be granted because (1) PAWC has already applied an adjustment to the Complainant's account consistent with its tariff, (2) the Complainant failed to plead that PAWC violated any applicable law, regulation, order, or Tariff provision, and (3) the Complainant is responsible for maintenance of his service line and for bills affected by leaks on the service line. Preliminary Objection ¶ 22. PAWC requests that the Complaint be dismissed in its entirety and with prejudice.

On October 17, 2025, Rachel Finnegan, Esquire, filed a Reply to New Matter (Keiper Reply) and an Answer to Preliminary Objection of Pennsylvania American Water Company (Keiper Answer) on behalf of the Complainant.<sup>2</sup> The filing included a request that mediation be scheduled in this matter.

In Keiper Reply and Keiper Answer, the Complainant denied the material averments in the Respondent's new matter and preliminary objection.

On October 31, 2025, a motion judge assignment notice was issued, assigning me as the presiding officer.

PAWC's preliminary objection is ready for disposition.

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<sup>2</sup> In his Complaint, Mr. Keiper elected service by First-Class Mail. Consistent with that election, the Respondent served its answer, new matter and preliminary objection to the Complainant by First-Class Mail. Pursuant to 52 Pa. Code § 1.56(b), three days are added to the prescribed period for responsive pleadings and the Keiper Reply and Keiper Answer were timely filed.

## Discussion

Commission regulations permit the filing of preliminary objections. 52 Pa. Code §§ 5.101(a)(1)-(7). Preliminary objection practice before the Commission is similar to Pennsylvania civil practice respecting preliminary objections. *Equitable Small Transp. Intervenor v. Equitable Gas Co.*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994) (*Equitable*). Section 5.101(a) provides:

### **§ 5.101. Preliminary objections.**

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically the legal and factual grounds relied upon and be limited to the following:

- (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).

For purposes of disposing of preliminary objections, the Commission may not rely upon the factual assertions of the moving party but must accept as true all well pleaded, material facts of the nonmoving party, as well as every reasonable inference from those facts.

*Cnty. of Allegheny v. Commonwealth of Pa.*, 490 A.2d 402 (Pa. 1985); *Commonwealth of Pa. v. Bell Tel. 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*; see also *Interstate Traveler Services, Inc. v. Commonwealth, Dep't of Envtl. Res.*, 406 A.2d 1020 (Pa. 1979).

Preliminary objections in the form of legal insufficiency, also known as a demurrer, will be sustained only in cases which are free and clear of doubt and where dismissal is clearly warranted by the record. *Cnty. Life Support Sys., Inc. v. Commonwealth*, 689 A.2d 1014 (Pa. Cmwlth. 1997). Any doubt must be resolved in favor of overruling a demurrer. *Id.*; see also *Hoffman v. Misericordia Hosp. of Phila.*, 267 A.2d 867 (Pa. 1970) (“the question presented by the demurrer is whether on the facts averred, the law states with certainty that no recovery is possible”).

PAWC argues in its Preliminary Objection that the Company complied with the terms of its Commission-approved tariff and the Complainant does not contend otherwise, and that the Company provided the Complainant with high-bill letters on May 30, 2025, July 1, 2025, July 28, 2025, August 16, 2025, August 18, 2025, and September 15, 2025. Preliminary Objection ¶¶ 19-20. PAWC argues, further, that a hearing is unnecessary if no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. *Id.* ¶ 12 (citing 66 Pa.C.S. § 703(a); *Lehigh Valley Power Comm. v. Pa. Pub. Util. Comm'n*, 563 A.2d 548 (Pa. Cmwlth. 1989); *S.M.E. Bessemer Cement, Inc. v. Pa. Pub. Util. Comm'n*, 540 A.2d 1006 (Pa. Cmwlth. 1988); *White Oak Boro. Auth. v. Pa. Pub. Util. Comm'n*, 103 A.2d 502 (Pa. Super. 1954)).

As discussed above, when disposing of preliminary objections, I look only at the factual assertions contained in the Complaint. The Complainant asks for adjustments to his July and August 2025 bills based on the fact that he received no notification of a leak prior to seeing the withdrawal from his bank account. Complaint, Att. A at 2. The Complainant specifically avers that the first high-bill letter he received from PAWC was dated August 6, 2025. *Id.* Section 1501 of the Code, 66 Pa.C.S. § 1501, requires utilities to provide reasonable and

adequate service. Although not specifically pled, a plain reading of the Complaint includes averments that PAWC failed to provide reasonable and adequate service. Moreover, there is a factual dispute about when and how notice was provided.

Additionally, a utility's Commission-approved tariff is *prima facie* reasonable. However, a complainant may later challenge the tariff by establishing that the facts and circumstances have changed so drastically as to render the application of the tariff provision unreasonable. *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981). Therefore, *even if* PAWC is correct that it did not violate its tariff, the Complainant may argue that the tariff as applied in these circumstances is no longer reasonable due to a change in facts or circumstances.

Therefore, the preliminary objection is denied.

The parties should be advised, however, that at the evidentiary hearing in this matter, Complainant will bear the burden to present substantial evidence that PAWC violated a statute which the Commission has jurisdiction to administer, a tariff provision, or a regulation or order of the Commission. 52 Pa. Code § 5.21(a). This is a different standard than that used in addressing PAWC's preliminary objection.

Having concluded that the Complaint will go forward, I note that both parties requested that the Complaint be referred to mediation. It is the policy of the Commission to encourage settlements. 52 Pa. Code § 5.231. Also, it is Commission policy to encourage mediation during which the parties may attempt to resolve the case with the aid of a mediator. 52 Pa. Code §§ 69.391– 69.397. The mediator, a neutral staff member within the Mediation Unit of the Commission's Office of Administrative Law Judge, does not give advice, represent any party, evaluate, or make a decision. Instead, the mediator assists the parties in their efforts to come to an agreement thereby avoiding the time, expense, and uncertainty of litigation. Mediation is an informal process where the parties can discuss a full range of settlement options beyond those which can be ordered by the Commission in the formal adjudication process. Accordingly, I will refer this matter to the Commission's mediation process for further review.



**C-2025-3057455 - ERIC KEIPER v. PENNSYLVANIA-AMERICAN WATER COMPANY**

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