

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

HOWARD GEE

vs.

PENNSYLVANIA-AMERICAN WATER  
COMPANY

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F-2025-3057262

**INTERIM ORDER  
DISMISSING PRELIMINARY OBJECTIONS**

On September 2, 2025, Howard Gee (Complainant) filed a formal complaint against Pennsylvania-American Water Company (PAWC), alleging that there are incorrect charges on his bill. Specifically, he contends that water usage recorded at a property that his tenant vacated is too high because the property was vacant.

PAWC filed an answer and new matter on September 25, 2025, denying the material allegations of the complaint.

PAWC also filed preliminary objections. The Complainant did not respond to the preliminary objections. By notice dated October 29, 2025, the matter was assigned to me.

The basis for PAWC's preliminary objection is that the Complainant lacks standing to pursue the Complaint. Specifically, PAWC avers that the Complainant is not the account-holder and that PAWC is not holding him responsible for the bill.

Preliminary objections are permitted under Commission regulations.<sup>1</sup> Preliminary objection practice before the Commission is similar to Pennsylvania civil practice respecting preliminary objections.<sup>2</sup>

The standard for consideration of preliminary objections has been repeated many times. In deciding the preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the petitioners, recovery or relief is possible.<sup>3</sup> All of the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the preliminary objections, and only those facts specifically admitted may be considered against the non-moving party.<sup>4</sup> Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections.<sup>5</sup>

PAWC's preliminary objections will be dismissed. Unlike a motion for summary judgement or a motion to dismiss, only the facts alleged in the complaint are considered in resolving preliminary objections.<sup>6</sup> Additional facts added by the proponent of the preliminary objection may not be considered.

The facts supporting PAWC's motion are premised solely on PAWC's averments in its answer and new matter. There is nothing in Mr. Gee's formal complaint which indicates that he is not responsible for the bill as the owner of the property. Therefore, preliminary objection is not the appropriate procedural vehicle to seek dismissal of the complaint.

As PAWC is aware, Commission policy encourages settlement.<sup>7</sup> As there may be a simple misunderstanding between PAWC and the Complainant, it would be appropriate for

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<sup>1</sup> 52 Pa.Code § 5.101.

<sup>2</sup> *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

<sup>3</sup> *Dept. of Auditor General, et al v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa. Cmwlth. 1996).

<sup>4</sup> *Ridge v. State Employees' Retirement Board*, 690 A.2d 1312 (Pa. Cmwlth. 1997).

<sup>5</sup> *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002).

<sup>6</sup> *E.g., Stilp v. Commonwealth*, 910 A.2d 775, 791 (Pa. Cmwlth. 2006).

<sup>7</sup> 52 Pa.Code § 5.231.

PAWC counsel to reach out to the Complainant to resolve the dispute. If the parties believe that their discussion would be more productive with the assistance of a mediator, the parties may request transfer of this matter to mediation rather than scheduling a hearing. 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.<sup>8</sup> 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.

THEREFORE,

IT IS ORDERED:

1. That the preliminary objections of Pennsylvania-American Water Company in the above-captioned matter are dismissed.
2. That on or before **December 19, 2025**, counsel for Pennsylvania-American Water Company shall file a status report which sets forth the efforts made by the parties to resolve this dispute. The status report may request the assistance of mediation, a further continuance to continue settlement discussions, or that the matter be set for hearing. In the event the parties request a hearing, the status report shall include at least three alternate dates when the parties and their witnesses are available for a hearing.
3. In the event that a certificate of satisfaction is filed, no status report is required.

Date: November 24, 2025

\_\_\_\_\_/s/  
Mary D. Long  
Administrative Law Judge

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<sup>8</sup> 52 Pa.Code §§ 69.391– 69.397.

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