

**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Danielle Day	:	
	:	
v.	:	C-2025-3057638
	:	
Allied Utility Services, Inc.	:	

INTERIM ORDER REGARDING PRELIMINARY OBJECTIONS

On September 18, 2025, Danielle Day (Complainant) filed a Formal Complaint against Allied Utility Services, Inc. (Respondent or Allied or Company) alleging that there were issues with her sewer line connection to the Company’s main which caused its collapse and damage to her property. The Complainant indicated that she had concerns about the integrity of the sewer line and incurred expenses in the repair of the sewer line.

The Commission's Secretary served the Complaint electronically on September 24, 2025.

On October 14, 2025, Allied filed an Answer and New Matter, in which it denied the material allegations of the Complaint.

On the same date, Allied also filed Preliminary Objections in this case. The Respondent alleges that the Complaint is legally insufficient in that it does not have any authority to provide the relief requested. The Respondent also contends that the Commission lacks jurisdiction because the matter is beyond the three-year limitation in the Public Utility Code. Specifically, the Respondent requests that the Commission dismiss the Complainant’s request for damages.

On October 31, 2025, the Complainant filed a response to the Preliminary Objections.

Via Motion Judge Assignment dated November 4, 2025, the matter was assigned to me as the presiding officer. This matter is now ripe for a determination.

DISCUSSION

Commission preliminary objection practice is similar to Pennsylvania civil practice. *Equitable Small Transportation Interveners v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, PUC Docket No. C-000935435 (July 18, 1994). When considering the preliminary objection, the Commission must determine “whether the law says with certainty, based on well-pleaded factual averments . . . that no recovery or relief is possible. *P. J. S. v. Pa. State Ethics Commission*, 669 A.2d 1105 (Pa. Cmwlth. 1996). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002).” *Dept. of Auditor General, et al. v. State Employees’ Retirement System, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003). 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. *Ridge v. State Employees’ Retirement Board*, 690 A.2d 1312 (Pa. Cmwlth. 1997).

The regulation reads as follows:

§ 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).

In deciding the preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the petitioners, recovery or relief is possible. *Dept. of Auditor General v. SERS*, 836 A.2d 1053, 1064 (Pa.Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa.Cmwlth. 1996). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705 (Pa.Cmwlth. 2002). 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. *Ridge v. State Employees' Retirement Board*, 690 A.2d 1312 (Pa.Cmwlth. 1997).

The law in Pennsylvania is quite clear that the Commission does not have the jurisdiction to order a public utility to pay monetary damages. See, *DeFrancesco v. Western Pennsylvania Water Company*, 499 Pa. 374, 453 A.2d 595 (1982); *Elkin v. Bell of Pa.*, 491 Pa. 123, 420 A.2d 371 (1980); *Feingold v. Bell of Pa.*, 477 Pa. 1, 383 A.2d 791 (1977). As such, the Commission does not have the authority to order Allied to repay the Complainant for repairs that she had done at the property.

However, it is clear that the Complainant is also disputing the service provided to her at the residence. The Complainant was clearly unsatisfied the quality of service, and safety based her allegations in the Complaint. Based on the reading of the Complaint, the Complainant

appears to be requesting that civil penalties be assessed against Allied for its alleged actions in this matter.

The Respondent asserts that the matter is time barred by the Public Utility Code.

The Pennsylvania Public Utility Code requires each public utility to comply with the following:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, . . . Such service and facilities shall be in conformity with the regulations and orders of the commission.

66 Pa.C.S. § 1501.

The statutory definition of “service” is to be broadly construed. *Kim Betchy v. West Penn Power Co.*, Docket No. C-2018-3000257 (Opinion and Order entered Oct. 8, 2020) (citing *Country Place Waste Treatment Co., Inc. v. Pa. Pub. Util. Comm’n*, 654 A.2d 72 (Pa. Cmwlth. 1995)). As defined in the Code:

“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.

It is clear that the Complainant is disputing the service that was provided to the residence and indicated that there were issues with the quality of service, as well as safety concerns. There is clearly a dispute between the parties regarding the quality of service and as such the Complaint should move forward. While the Company contends that the matter is time barred, I believe that the Complainant should be allowed to present evidence and testimony as to why the matter should be allowed to proceed. There is an issue as to when the alleged actions

were discovered in this matter and whether the Company can be liable in this case. Therefore, the Preliminary Objections filed by FirstEnergy are denied in part and the remaining issues should be scheduled for hearing.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objections of Allied Utility Services, Inc. filed in the case captioned *Danielle Day vs. Allied Utility Services, Inc.*, Docket No. C-2025-3057638, are denied in part.
2. That the Complainant's request for damages is dismissed.
3. That the remaining issues should be scheduled for hearing.

Date: December 4, 2025

/s/
Marta Guhl
Administrative Law Judge

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