

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tara Adams	:	
	:	
v.	:	F-2025-3057966
	:	
Community Utilities of Pennsylvania Inc.	:	

ORDER
DENYING PRELIMINARY OBJECTIONS

HISTORY OF THE PROCEEDING

On September 30, 2025, Tara Adams (“Ms. Adams”) filed a Formal Complaint against Community Utilities of Pennsylvania Inc. (“CUPA”) with the Pennsylvania Public Utility Commission (“Commission”). Ms. Adams alleged that in October 2024 she received a large water bill due to a leak at an outside water bib and shortly afterwards received a large wastewater bill. Ms. Adams stated that she inquired about the size of her wastewater bill and was informed that CUPA began to use water usage to calculate wastewater usage beginning in Fall 2024. Ms. Adams alleged that she was not notified of this change. Ms. Adams claimed that this wastewater billing method is not indicative of actual wastewater usage. Further in the Complaint, Ms. Adams detailed her attempts to receive a courtesy leak adjustment from CUPA through the submission of a courtesy leak adjustment form, which CUPA eventually denied, and the various shut-off notices Ms. Adams has received from CUPA. For relief, Ms. Adams requested that she be rebilled from November 2024 onwards, based on her wastewater charges prior to the billing method change.

On October 15, 2025, the Complaint was served on CUPA.

On November 4, 2025, CUPA filed an Answer with New Matter to the Complaint. In its Answer, CUPA admitted that pursuant to the August 1, 2024, Commission-

approved settlement of CUPA's 2023 base rate case¹, CUPA bills its wastewater customers metered rates based on the customer's actual water usage data from Aqua Pennsylvania, Inc. ("Aqua") CUPA denied that Ms. Adams did not receive notice of this change, asserting that it notified Ms. Adams of the 2023 base rate case and the public input hearings held in the 2023 base rate case. CUPA admitted that it rejected Ms. Adams's courtesy leak adjustment form but stated that it applied a courtesy leak adjustment to Ms. Adams's account. CUPA admitted that it sent Ms. Adams shut-off notices for nonpayment of wastewater services.

In its New Matter, CUPA asserted that the Complaint should be dismissed because it fails to state a claim for which relief can be granted, arguing that it did not violate any law under which the Commission has jurisdiction to administer in rejecting Ms. Adams's courtesy leak adjustment form. Thus, CUPA assert that Ms. Adams in her Complaint did not allege that CUPA violated the Public Utility Code, a Commission regulation, or Commission order. CUPA further asserted that the Complaint should be dismissed because it is legally insufficient, arguing that in its 2023 base rate case the Commission approved CUPA's proposal to transition unmetered, flat rate wastewater customers to metered rates based on the customer's actual water usage data from Aqua, the water provider. Thus, CUPA asserted that it is adhering to its Commission-approved tariff regarding wastewater metered charges.

CUPA concluded its Answer with New Matter by requesting dismissal of the Complaint.

The Answer with New Matter contained a Notice to Plead for Ms. Adamas to file a Reply to CUPA's New Matter within 20 days of its service. Ms. Adams did not file a Reply to CUPA's New Matter.

Also on November 4, 2025, CUPA filed Preliminary Objections against the Complaint. CUPA argued that the Complaint should be dismissed as legally insufficient,

¹ See *Pa. Pub. Util. Comm'n et al. v. Cmty. Utils. of Pa. Inc.*, Docket Nos. R-2023-3042804 (water) and R-2023-3042805 (wastewater) (Opinion and Order entered Aug. 1, 2024) ("2023 base rate case").

pursuant to 52 Pa. Code § 5.101(a)(4). CUPA explained that in its 2021 base rate case², it agreed to propose metered rates for flat rate wastewater customers. As a result, in its 2023 base rate case, CUPA proposed metered rates for previously unmetered, flat rate wastewater customers based on customer’s actual water usage per the data obtained from Aqua. The 2023 base rate case resulted in a Commission-approved Settlement. CUPA therefore argued that the actions complained of in the Complaint are in adherence to Commission orders and CUPA’s Commission-approved tariff and thus do not violate any Commission order, regulation, or the Public Utility Code.

The Preliminary Objections contained a Notice to Plead for Ms. Adams to file an Answer to CUPA’s Preliminary Objections within 10 days of its service. Ms. Adams did not file an Answer to CUPA’s Preliminary Objections.

On December 8, 2025, the Commission issued a Motion Judge Assignment Notice, assigning this matter to me as Administrative Law Judge (“ALJ”).

CUPA’s Preliminary Objections are ready to be ruled upon and will be denied in the Ordering paragraphs below.

DISCUSSION

Legal Standards

CUPA in this matter filed Preliminary Objections to the Formal Complaint. The Commission’s regulations provide that preliminary objections are available to parties and may be filed in response to a pleading. 52 Pa. Code § 5.101(a). The grounds for preliminary objections are limited to those set forth as follows:

² See *Pa. Pub. Util. Comm’n et al. v. Cmty. Utils. of Pa. Inc.*, Docket Nos. R-2021-3025206 (water) and R-2021-3025207 (wastewater) (Opinion and Order entered Jan. 13, 2022) (“2021 base rate case”).

- (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).

Commission procedure regarding the disposition of preliminary objections is similar to the procedure utilized in Pennsylvania civil practice. A preliminary objection in civil practice seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt. *Pa. State Lodge, Fraternal Order of Police v. Dept. of Conservation & Nat. Res.*, 909 A.2d 413 (Pa. Cmwlth. 2006), *aff'd*, 924 A.2d 1203 (Pa. 2007).

The Commission may not rely upon the factual assertions of the moving party but must accept as true for purposes of disposing of the motion all well pleaded, material facts of the nonmoving party, as well as every 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 the Complainant and should dismiss the complaint only if it appears that the 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).

In this matter, CUPA filed Preliminary Objections seeking dismissal of the

Complaint pursuant to 52 Pa. Code § 5.101(a)(4). The provision at 52 Pa. Code § 5.101(a)(4) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. *Lehigh Valley Power Committee v. Pa. Pub. Util. Comm'n.*, 563 A.2d 557 (Pa. Cmwlth. 1989); *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 Borough Auth. v. Pa. Pub. Util. Comm'n.*, 103 A.2d 502 (Pa. Super. 1954).

A complaint must set forth “an act or thing done or omitted to be done or about to be done or omitted to be done by the respondent in violation, or claimed violation, of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission.” 66 Pa.C.S. § 701. However, the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. 66 Pa.C.S. § 703(b).

Analysis

Accepting the facts in the Complaint as true for the purpose of disposing of the Preliminary Objections, CUPA has failed to show that Ms. Adams would not be entitled to relief under any circumstance as a matter of law. Ms. Adams’s Complaint concerns a challenge to the reasonableness of CUPA’s tariff, specifically, CUPA’s method of billing its wastewater customers. Tariff provisions previously approved by the Commission are *prima facie* reasonable. *Zucker v. Pa. Pub. Util. Comm'n.*, 401 A.2d 1377 (Pa. Cmwlth. 1979). A complainant seeking to evade the effect of an existing tariff provision carries a very heavy burden to prove that the facts and circumstances have changed so drastically as to render the application of the tariff provision unreasonable. *Id.*; *see also Brockway Glass Co. v. Pa. Pub. Util. Comm'n.*, 437 A.2d 1067 (Pa. Cmwlth. 1981). As such, it is well within this Commission’s jurisdiction and power to review and investigate the reasonableness of the tariff provisions of a utility. Ms. Adams will be provided the opportunity to demonstrate that CUPA’s Commission-approved tariff, as applied to her, is unreasonable. However, it bears repeating that for Ms. Adams to prevail on this issue, she must successfully carry the heavy burden of proving that the facts and circumstances leading to the Commission’s approval of CUPA’s current billing method

**F-2025-3057966 - TARA ADAMS v. COMMUNITY UTILITIES OF PENNSYLVANIA
INC**

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Accepts eService January 9, 2026

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