

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Office of Small Business Advocate	:	
	:	
v.	:	C-2025-3058757
	:	
Veolia Water Pennsylvania, Inc.	:	

Office of Consumer Advocate	:	
	:	
v.	:	C-2025-3058865
	:	
Veolia Water Pennsylvania, Inc.	:	

**INTERIM ORDER
GRANTING MOTION TO CONSOLIDATE AND
GRANTING PRELIMINARY OBJECTION IN PART**

Procedural History

On or about November 19, 2025, the Office of Small Business Advocate (“OSBA”) filed a Formal Complaint (“OSBA Complaint”) against Veolia Water Pennsylvania Company, Inc. (“Veolia”) asserting that Veolia has or may have violated its obligations to furnish and maintain adequate, efficient, safe and reasonable services and facilities in compliance with Section 1501 of the Public Utility Code (“Code”), 66 Pa.C.S. § 1501. OSBA Complaint ¶ 23.

On November 25, 2025, the Office of Consumer Advocate (“OCA”) filed a Notice of Intervention in this matter.

Also, on or about November 25, 2025, OCA filed a separate Formal Complaint (“OCA Complaint”) against Veolia asserting that Veolia did not adequately maintain its system

to avoid operational issues and/or did not adequately respond to the quality-of-service issues as required by Section 1501 of the Code, 66 Pa.C.S. § 1501. Complaint ¶ K.

On December 11, 2025, Veolia filed its Answer and New Matter to the OSBA Complaint wherein it denied the material averments of the OSBA Complaint. Also, on December 11, 2025, Veolia file a Preliminary Objection (“PO”) asserting that requests to reimburse or award small businesses monetary damages should be dismissed or stricken as legally insufficient because the Commission does not have authority to award damages. PO ¶¶ 13-14. As relief, Veolia requests that the Commission dismiss or strike OSBA’s request for damages as a form of relief and dismiss or strike Paragraphs 8-10 of the OSBA Complaint, which alleged that small businesses suffered damage as a result of the discolored water events discussed in the OSBA Complaint. PO, p. 4.

On December 16, 2025, Veolia filed its Answer and New Matter to the OCA Complaint wherein it denied the material averments of the OCA Complaint.

Also, on December 16, 2025, Veolia filed a Motion for Consolidation, requesting to consolidate the proceedings at both Docket Nos. C-2025-3058757 and C-2025-3058865. The Motion for Consolidation, filed in both matters, was properly endorsed with a Notice to Plead advising OSBA and OCA that each party had 20 days to respond. Neither OSBA nor OCA replied to the Motion for Consolidation.

Additionally, on December 16, 2025, OSBA filed its Answer to the PO of Veolia wherein OSBA conceded that its request for “reimbursement for damages” should be stricken but asserted that the remainder of Veolia’s PO be overruled.

On or about December 23, 2025, Veolia filed letters indicating that Veolia agreed to extend the deadline for OSBA and OCA to file their respective Replies to New Matter to January 21, 2026.

On December 29, 2025, I issued an Order granting the unopposed extension for OSBA to file its Reply to New Matter until January 21, 2026.

On January 6, 2026, I issued an Order granting the unopposed extension for OCA to file its Reply to New Matter until January 21, 2026.

Next, the remaining outstanding preliminary matters filed to date will be addressed.

Motion to Consolidate

The OSBA Complaint and the OCA Complaint set forth similar allegations against Veolia regarding water service issues starting around June 22, 2025. After careful review of both Complaints, I find that both the OSBA and OCA Complaints involve common questions of law and fact. Further, the Motion to Consolidate is unopposed as neither OSBA nor OCA filed a response to this Motion. Therefore, I find that it is appropriate to grant Veolia's Motion to Consolidate pursuant to Section 5.81(a) of the Commission Regulations, 52 Pa. Code § 5.81(a) (providing that the Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated).

Preliminary Objection

Next, Veolia filed a PO requesting that one of OSBA's request for relief be stricken—namely, the relief requesting damages to small business customers. In addition, Veolia requests that the Commission dismiss or strike certain paragraphs in the Complaint alleging facts in support of this relief. For its part, OSBA in its Answer to the PO, requests that the Commission strike the words “reimbursement for damages” in Paragraph VI.d of OSBA's Complaint and overrule the remainder of Veolia's PO and direct the matter to proceed to discovery and evidentiary hearing.

For the reasons discussed below, I agree with OSBA's position. Therefore, Veolia's PO will be granted in part and denied in part.

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). Commission regulations provide:

§ 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 Objection, the Commission must determine whether, based on well-pleaded factual averments of the Complainant, recovery or relief is possible.

Dept. of Auditor Gen. v. State Emp's. Ret. Sys., 836 A.2d 1053 (Pa. Cmwlt. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa. Cmwlt. 1996). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the PO. *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlt. 2002). All the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the Preliminary Objection, and only those facts specifically admitted may be considered against the non-moving party. *Ridge v. State Emp's. Ret. Bd.*, 690 A.2d 1312 (Pa. Cmwlt. 1997). The Preliminary Objection can be granted only if recovery or relief is not possible after all the Complainant's averments in the complaint are viewed as true for purposes of deciding the PO, using only those facts specifically admitted. *Roc v. Flaherty*, 527 A.2d 211 (Pa. Cmwlt. 1985).

Therefore, the primary focus is on whether, based on well-pleaded factual averments of the OSBA Complainant, recovery or relief is possible. *Id.*

As a matter of law, to establish a legally sufficient claim, a complainant must show that the named utility company is responsible or accountable for the problem described in the complaint to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. P.U.C. 196 (1990). The offense must be a violation of the Code, a Commission regulation or order or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701. A finding of a violation of a Commission Order, regulation, or statute, by the public utility may result in the imposition of a civil penalty on the public utility company, consistent with 66 Pa.C.S. § 3301 or other provisions of the Code.

In this case, OSBA alleged that Veolia has or may have violated its obligations to furnish and maintain adequate, efficient, safe and reasonable services and facilities in compliance with Section 1501 of the Code, 66 Pa.C.S. § 1501. This allegation qualifies as a reliability, safety or quality claim under 66 Pa.C.S. § 1501. However, in its requests for relief, OSBA included a request for "reimbursement for damages." Respondent's PO asserts that OSBA's request for reimbursement for damages should be dismissed or stricken because the Commission does not have authority to award damages and that paragraphs eight through ten of the OSBA

Complaint should be dismissed or stricken to the extent they allege the damage that small business suffered as a result of discolored water events.

It is well-settled that the Commission lacks jurisdiction to award damages. *Elkin v. Bell of Pa.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977). A finding, if any, that Veolia violated a Commission Order, regulation or statute, may result in the imposition of a civil penalty consistent with 66 Pa.C.S. § 3301 or other provisions of the Code. Further, it should be noted that a penalty, if any, that is imposed on Veolia is payable to the Commonwealth of Pennsylvania. As such, OSBA's request for reimbursement of damages is not pertinent to Commission proceedings. *Snyder v. West Penn Power Co.*, Docket No. C-2024-2451483, 2015 WL 1754585 (Pa.P.U.C.) (Apr. 7, 2015). However, OSBA's factual allegations of specific damage suffered because of discolored water, may be pertinent because such claims could be a factor in determining a civil penalty if a violation is established.

Thus, Veolia's PO will be granted in part in that OSBA's request for relief to award small business customers reimbursement for damages in Paragraph VI.d will be stricken and/or dismissed. Specifically, OSBA's requested relief for "reimbursement for damages" at Paragraph VI.d of the OSBA Complaint is stricken. The remainder of Veolia's PO will be denied.

Commission Policy on Settlement/Mediation

Finally, I note that it is the policy of the Commission to encourage settlements. 52 Pa. Code § 5.231. It is also 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. The parties are encouraged to explore any available options for settlement or mediation.

THEREFORE,

IT IS ORDERED:

1. That Veolia Water Pennsylvania, Inc.'s Motion to Consolidate the Formal Complaint of the Office of Small Business Advocate at Docket No. C-2025-3058757 and the Formal Complaint of the Office of Consumer Advocate at Docket No. C-2025-3058865, is granted.

2. That the Formal Complaints of the Office of Small Business Advocate at Docket No. C-2025-3058757 and the Office of Consumer Advocate at Docket No. C-2025-3058865, are hereby consolidated for litigation purposes.

3. That Veolia Water Pennsylvania, Inc.'s Preliminary Objection filed at Docket No. C-2025-3058757 is granted in part and denied in part.

4. That Veolia Water Pennsylvania, Inc.'s Preliminary Objection is granted to the extent that the Office of Small Business Advocate's request for reimbursement for damages in Paragraph VI.d. in its Formal Complaint filed in the matter at Office of Small Business Advocate v. Veolia Water Company Inc. at Docket No. C-2025-3058757 is stricken and summarily dismissed pursuant to 52 Pa. Code § 5.101(a).

5. That the remainder of Veolia Water Pennsylvania, Inc.'s Preliminary Objection which is not addressed in Ordering Paragraph Number 4 above is denied, and this matter will proceed to an evidentiary hearing.

**C-2025-3058865 - OFFICE OF CONSUMER ADVOCATE v. VEOLIA WATER
PENNSYLVANIA INC**
Revised 01/13/2026

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