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January 20, 2026

Via Electronic Filing

Matthew L. Homsher, Secretary
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120

Re: Apexus Rosewell Owner LP v. The Pittsburgh Water and Sewer Authority d/b/a Pittsburgh Water, Docket No. C-2025-3059515

Dear Secretary Homsher:

Enclosed for electronic filing please find The Pittsburgh Water and Sewer Authority's ("Pittsburgh Water") Preliminary Objections with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

A handwritten signature in black ink that reads "Lauren M. Burge".

Lauren M. Burge

Enclosure

cc: Cert. of Service w/enc.


CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Pittsburgh Water's Preliminary Objections upon the person listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

Mohammed Burny, Esq.
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Date: January 20, 2026



Lauren M. Burge, Esquire

*Counsel for
The Pittsburgh Water and Sewer Authority
d/b/a Pittsburgh Water*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Apexus Rosewell Owner LP,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2025-3059515
	:	
The Pittsburgh Water and Sewer Authority	:	
d/b/a Pittsburgh Water,	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

TO: Mohammed Burny, Esq.
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You are hereby notified that a reply to the enclosed **Preliminary Objections** of The Pittsburgh Water and Sewer Authority must be filed within 10 days of the date of service. All pleadings, such as a reply to the Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for Pittsburgh Water, and where applicable, the presiding Administrative Law Judge.

File with:

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120
<https://efiling.puc.pa.gov>

With a copy to:

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Lauren M. Burge, Esquire

Date: January 20, 2026

*Counsel for The Pittsburgh Water and Sewer
Authority d/b/a Pittsburgh Water*

**BEFORE THE
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	:	
The Pittsburgh Water and Sewer Authority	:	
d/b/a Pittsburgh Water,	:	
Respondent,	:	

**PRELIMINARY OBJECTIONS
OF THE PITTSBURGH WATER AND SEWER AUTHORITY**

Pursuant to 52 Pa. Code § 5.101, The Pittsburgh Water and Sewer Authority d/b/a Pittsburgh Water (“Pittsburgh Water” or “Respondent”) submits these Preliminary Objections to the Formal Complaint of Apexus Rosewell Owner LP (“Apexus” or “Complainant”), which the Pennsylvania Public Utility Commission (“PUC” or “Commission”) served on Pittsburgh Water on December 30, 2025. In support of these Preliminary Objections, Pittsburgh Water avers as follows:

I. INTRODUCTION

1. Contemporaneously with the filing of these Preliminary Objections, Pittsburgh Water has filed an Answer and New Matter to the Complaint, which is incorporated herein by reference. Pittsburgh Water’s Answer denies the material allegations set forth in the Complaint.

2. In the Formal Complaint, the Complainant is challenging Pittsburgh Water’s charges for stormwater service to its property and is specifically challenging Pittsburgh Water’s denial of its application for a stormwater credit. Additionally, the Formal Complaint is broadly challenging the legality of Pittsburgh Water’s Commission regulated stormwater management service charge. The Formal Complaint makes numerous claims, including: (1) that Pittsburgh Water cannot charge for stormwater runoff that flows from the property into nearby Chartiers

Creek; (2) that Chartiers Creek is a “water of the Commonwealth” that it not within Pittsburgh Water’s “jurisdiction”; (3) that Pittsburgh Water’s stormwater charge is an illegal “tax”; and (4) that Pittsburgh Water’s Commission regulated stormwater management service charge and stormwater credit calculations violate the Uniformity Clause of the Pennsylvania Constitution.¹ As relief, the Complainant requests that Pittsburgh Water refund past charges and provide a credit going forward for all stormwater allegedly discharged into Chartiers Creek from the property, and that Pittsburgh Water’s regulated stormwater charges, as a whole, be stricken.²

3. As explained in Pittsburgh Water’s Answer and New Matter, the stormwater charges imposed on the Complainant are based on the Equivalent Residential Units (“ERUs”) of impervious area on the Complainant’s property. These charges are calculated pursuant to Pittsburgh Water’s Commission-approved stormwater tariff. Additionally, stormwater credits are available to customers who take steps to reduce stormwater runoff, but those credits are only available to customers meeting the requirements outlined in Pittsburgh Water’s Commission-approved stormwater tariff. Here, the Complainant applied for a stormwater credit but did not meet the requirements for a non-residential stormwater credit. Pittsburgh Water is obligated to strictly comply with the terms of its tariff, and therefore properly denied the Complainant’s credit application. As to the Formal Complaint’s various claims attempting to undermine the validity of Pittsburgh Water’s Commission regulated stormwater management service charge, which are outlined in Sections II through IV of the Addendum to the Formal Complaint, these claims are entirely baseless, irrelevant, and outside the Commission’s jurisdiction.

¹ Addendum to Formal Complaint at 1-6.

² Addendum to Formal Complaint at 6.

4. Pittsburgh Water submits, pursuant to 52 Pa. Code § 5.101(a), that Commission lacks jurisdiction to address the claims raised in Sections II through IV of the Addendum to the Formal Complaint, and therefore these claims should be dismissed. Additionally, the Formal Complaint is legally insufficient as it fails to allege a violation by Pittsburgh Water of its PUC-approved stormwater tariff, the Public Utility Code, another statute administered by the Commission, or any other Commission regulation or Order. The Complaint is insufficient to show that the Complainant is entitled to the requested relief, and therefore should be dismissed.

II. PRELIMINARY OBJECTIONS

A. Applicable Legal Standards

5. The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections.³ The Commission's procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice.⁴

6. Under Section 5.101(a) of the Commission's regulations, preliminary objections must specifically state 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;

³ 52 Pa. Code § 5.101(a)(1)-(7). *Equitable Small Transportation Interveners v. Equitable Gas Company*, 1994 Pa. P.U.C. LEXIS 69, Docket No. C-00935435 (July 18, 1994).

⁴ *Id.*

(6) Pendency of a prior proceeding or agreement for alternative dispute resolution; and

(7) Standing of a party to participate in the proceeding.

7. The moving party may not rely on its own factual assertions, but must accept for the purposes of disposition of the preliminary objection, all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts.⁵ However, the Commission need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations or expressions of opinion.⁶

8. In deciding the preliminary objections, the Commission must determine whether, based on the well-pleaded factual averments of the party, recovery or relief is possible.⁷

9. Pittsburgh Water submits these preliminary objections pursuant to 52 Pa. Code § 5.101(a)(1) based on the lack of Commission jurisdiction over the specific issues presented, as discussed below. Therefore, such issues and claims must be dismissed.

B. Lack of Commission Jurisdiction

10. As a creation of the General Assembly, the Commission has only the powers and authority granted to it by the General Assembly and contained in the Public Utility Code.⁸ The Commission must act within, and cannot exceed, its jurisdiction.⁹ Jurisdiction may not be

⁵ *County of Allegheny v. Cmwlt. of Pa.*, 490 A.2d 402 (Pa. 1985).

⁶ *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlt. 2007).

⁷ *Department of Auditor General, et al. v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlt. 2003); *P.J.S. v. Pa. State Ethics Commission*, 669 A.2d 1105 (Pa. Cmwlt. 1996).

⁸ 66 Pa. C.S. §§ 101 *et seq.* See *City of Phila. v. Phila. Elec. Co.*, 473 A.2d 997, 999-1000 (Pa. 1984) ("We begin our inquiry by recognizing that the authority of the Commission must arise from the express words of the pertinent statutes or by strong and necessary implication therefrom...It is axiomatic that the Commission's power is statutory; and the legislative grant of power in any particular case must be clear."); see also *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791, 795 (Pa. 1977); *Tod and Lisa Shedlosky v. Pennsylvania Electric Co.*, Docket No. C-20066937 (Order entered May 28, 2008).

⁹ *City of Pittsburgh v. PUC*, 43 A.2d 348 (Pa. Super. 1945).

conferred by the parties where none exists.¹⁰ Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy.¹¹

11. The Complainant’s claims and requests for relief are outside the Commission’s jurisdiction, as follows:

a. The Commission lacks jurisdiction decide the issues presented in Section II of the Addendum, which would require the Commission to interpret, apply, or adjudicate claims brought under the City of Pittsburgh Code and/or to determine what constitutes a “water of the Commonwealth.”

b. The Commission lacks jurisdiction to decide the issues presented in Section III of the Addendum, which would require the Commission to determine whether Pittsburgh Water’s stormwater charge is a “tax” under applicable Pennsylvania law. Further, while Complainant cites *Borough of W. Chester v. Pennsylvania State System of Higher Educ.*, 292 A.3d 620 (Pa. Cmwlth. 2023) as if it is precedential and binding on this Commission, Complainant willfully neglects to candidly plead to this Commission that that case, even if relevant, remains pending on appeal to the Pennsylvania Supreme Court. *See Borough of W. Chester v. Pennsylvania State System of Higher Educ.*, 9 MAP 2023. Notwithstanding the Pennsylvania Supreme Court’s pending review, the facts of that case are unrelated to utilities regulated under the Public Utility Code, and have no impact on Pittsburgh Water’s stormwater charges.

¹⁰ *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967).

¹¹ *Hughes v. Pennsylvania State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992), appeal denied, 637 A.2d 293 (Pa. 1993).

c. The Commission lacks jurisdiction to decide the issues presented in Section IV of the Addendum, which would require the Commission to determine whether the calculation of Pittsburgh Water's stormwater charge or stormwater credits violates the Uniformity Clause of the Pennsylvania Constitution.

12. The issues stated above are not within the scope of the Public Utility Code or any other statute administered by the Commission. The General Assembly has not granted the Commission the authority to decide these issues, and therefore these claims are outside the Commission's jurisdiction.

13. Even accepting all material facts presented by the Complainant, as well as every inference fairly deducible from those facts, it remains true that the Commission lacks jurisdiction to decide these issues and/or grant the requested relief.

14. Because the Commission lacks subject matter jurisdiction to address these claims, the claims described in Sections II through IV of the Addendum to the Formal Complaint and any related claims must be dismissed.

C. Legal Insufficiency of the Complaint

15. The Complaint is insufficient to show that the Complainant is entitled to the requested relief.

16. The Complaint fails to allege a violation by Pittsburgh Water of its Commission-approved stormwater tariff.

17. The Complaint also fails to allege a violation by Pittsburgh Water of the Public Utility Code, another statute administered by the Commission, the Commission's regulations, and/or any Commission Order.

18. Accordingly, the Complaint must be dismissed as being legally insufficient.

III. CONCLUSION

WHEREFORE, Pittsburgh Water respectfully requests that the Commission (a) grant Pittsburgh Water's Preliminary Objections; (b) dismiss the Complaint; and (c) grant any other relief in favor of Pittsburgh Water that the Commission deems just and proper.

Respectfully submitted,



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Dated: January 20, 2026

*Counsel for The Pittsburgh Water and Sewer
Authority d/b/a Pittsburgh Water*

Verification

I, Julie A. Mechling, am the Director of Customer Service for The Pittsburgh Water and Sewer Authority d/b/a Pittsburgh Water (“Pittsburgh Water”), and I hereby state that the facts set forth in the foregoing **Preliminary Objections** are true and correct to the best of my knowledge, information and belief and that I expect the Authority to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: January 20, 2026

/s/ Julie A. Mechling
Julie A. Mechling
Director of Customer Service
The Pittsburgh Water and Sewer Authority