

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tony Barone	:	
	:	
v.	:	C-2025-3059338
	:	
Peoples Natural Gas Company, LLC	:	

**INTERIM ORDER
DISMISSING RESPONDENT’S PRELIMINARY OBJECTIONS**

On December 15, 2025, Tony Barone (Mr. Barone or Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission), using the Formal Complaint form. Regarding the reason for the Complaint, Mr. Barone indicated Peoples Natural Gas Company, LLC (Peoples or Respondent) moved his gas meter to the outside of his garage, and it has “caved in” and water is being funneled into his house and basement from that area. Complaint ¶ 4. Complainant answered the question “How do you want your complaint to be resolved?” by responding “make Peoples fix the damage before it [ruins] my hot water tank and my furnace.” *Id.* ¶ 5. Mr. Barone asserted in his Complaint that he wanted to be served by the Commission via First-Class Mail using the mailing address provided in the Complaint. *Id.* ¶ 9.

On January 8, 2026, Respondent filed Preliminary Objections and an Answer to the Complaint. In its Answer, Respondent denied responsibility for the alleged damages to Complainant’s property. Answer ¶ 4. Respondent further noted the meter was moved on February 14, 2020, and the first claim of water damage was received by Respondent over four years later, in November of 2025. *Id.* Respondent further asserted other problems at the property are the cause of the alleged damage. *Id.* Respondent requested that the Complaint be dismissed.

In its Preliminary Objections, Respondent averred Complainant seeks “unspecified compensatory damages for the alleged losses, including that Peoples pay for repairs to his property.” Preliminary Objections ¶ 3. Respondent asserted the requested relief is “essentially a request for monetary compensation or other consideration being paid to Complainant” and that the Commission does not have jurisdiction to award damages. *Id.* Respondent requested that the Commission sustain the Preliminary Objections and “strike the request for payment of monetary damages as an impertinent matter.” Respondent’s Preliminary Objections included a Notice to Plead. Complainant did not file a response.

On January 16, 2026, the Commission issued a Motion Judge Assignment assigning this matter to me for resolution of the Preliminary Objection.

It is now appropriate to rule on the Preliminary Objection.

Discussion

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 Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

Commission regulations provide 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.

In deciding preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of Complainant, recovery or relief is possible. *Dep't of Auditor General, et al v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa.Cmwlt. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105, 1108 (Pa.Cmwlt. 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, 707 (Pa.Cmwlt. 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 Bd.*, 690 A.2d 1312, 1314 (Pa.Cmwlt. 1997).

Respondent asserts that Complainant requested payment of monetary damages, and the Commission lacks jurisdiction over such a request. It is well established under Pennsylvania law that the enforcement powers of the Commission do not include the power to award money damages. *Elkin v. Bell Tel. Co. of PA., Co. of Pa. PA.*, 420 A.2d 371, 375 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791, 794 (Pa. 1978) (*Feingold*); *see Nagy v. Bell Tel Co. of PA.*, 436 A.2d 701, 704 (Pa. Super. 1981).

In *Feingold*, the Pennsylvania Supreme Court explained:

...the statutory array of PUC remedial and enforcement powers does not include the power to award damages to a private litigant for breach of contract by a public utility. Nor can we find an express grant of power from which the power to award damages can be fairly implied. Thus, it can be concluded that the Legislature did not intend for the PUC to have such a power.

Feingold, 383 A.2d at 794.

Nonetheless, Complainant did not specifically assert in his Complaint that he was seeking compensatory damages. He stated only that he wants the Commission to “make Peoples fix the damage.” If Complainant sought or is seeking a payment of money to fix an issue, Respondent is correct that monetary damages cannot be granted. However, he made no request for payment in his Complaint. Further, the Commission has held that a claim that a public utility damaged a person’s property and failed to repair the damage falls within the issue of whether the utility rendered reasonable service as the Public Utility Code requires. *Prosser v. Columbia Gas of Pennsylvania, Inc.*, Docket C-20066376 (Opinion and Order entered October 30, 2006), pp 3-4; see also *Reffner v. The Peoples Natural Gas Company d/b/a Dominion Peoples*, Docket C-20077841 (Opinion and Order entered June 10, 2008).

Based on the foregoing, the Preliminary Objections will be dismissed. Complainant’s allegations regarding Respondent’s service are within the Commission’s jurisdiction. Therefore, this matter will be set for hearing.

It is noteworthy that Section 3314 (a) of the Public Utility Code indicates complaints must be brought within three years “from the date at which the liability therefor arose” to be heard. 66 Pa. C.S. § 3314 (a). The parties must be prepared to address specifically when the issues in the Complaint arose at the hearing. As the Complainant, Mr. Barone has the burden to establish he is entitled to relief under the Commission’s rules and regulations, which includes the burden to show his Complaint was filed within the statute of limitations set forth in Section 3314(a).

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objections filed by Peoples Natural Gas Company, LLC are dismissed.
2. That the matter shall be set for a hearing.

Date: January 30, 2026

/s/
Ann Quimby
Administrative Law Judge

C-2025-3059338 – TONY W BARONE v. PEOPLES NATURAL GAS COMPANY LLC

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