

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Dean Bohartz	:	
	:	
v.	:	C-2025-3058844
	:	
UGI Utilities Inc. – Gas Division	:	

**INITIAL DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the Formal Complaint of Dean Bohartz against UGI Utilities Inc. – Gas Division because it is barred by the statutes of limitations at 66 Pa.C.S. §§ 1312(a), 3314(a).

**HISTORY OF THE PROCEEDING**

On November 25, 2025, Dean Bohartz (Complainant or Mr. Bohartz) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against UGI Utilities Inc. – Gas Division (UGI or Respondent). In the Complaint, Complainant stated that in 2018, he paid \$3,177.24 for gas service to be installed at his home by UGI. Complainant further stated that in 2020, his neighbor received the same installation service for free. Complainant alleges UGI engaged in deceptive practices and is seeking a refund of the installation fee.

On December 15, 2025, UGI filed an Answer with New Matter (Answer) along with a Notice to Plead. In its Answer, UGI admitted in part, and denied in part, various material allegations of the Complaint. Specifically, UGI admitted that Complainant made a payment of \$3,177.24 on August 25, 2018, to establish natural gas service in the name of Complainant at 511 Park Road, Winfield, PA 17889 (Service Address).

In its New Matter, UGI averred that any requests for refunds for amounts that were billed to Complainant before November 25, 2021 (*i.e.*, four years before the Complaint was filed on November 25, 2025) are barred by Section 1312(a) of the Public Utility Code (Code) and should be dismissed. *See* 66 Pa.C.S. § 1312(a). UGI further averred that any claims based on alleged violations occurring before November 25, 2022 (*i.e.*, three years before the Complaint was filed on November 25, 2025) are barred by Section 3314(a) of the Code and likewise should be dismissed. *See* 66 Pa.C.S. § 3314(a).

Complainant's Answer to UGI's New Matter was due within twenty days of the date of service of the Answer with New Matter. 52 Pa. Code § 5.63(a). Complainant did not file an Answer to UGI's New Matter.

Also on December 15, 2025, UGI filed a Preliminary Objection to the Complaint along with a Notice to Plead. In its Preliminary Objection, UGI reiterated its argument that the statutes of limitations at 66 Pa.C.S. §§ 1312, 3314 divest the Commission of jurisdiction in this matter because the alleged liability occurred more than seven years ago. Thus, UGI requested the case be dismissed.

Complainant's Answer to UGI's Preliminary Objection was due within ten days of the date of service of the Preliminary Objection. 52 Pa. Code § 5.101. Complainant did not file an Answer to UGI's Preliminary Objection.

By Motion Judge Assignment Notice dated January 15, 2026, the Parties were informed that I was assigned as the Presiding Officer in this matter and responsible for resolving any issues which may arise during the preliminary phase of this proceeding.

UGI's Preliminary Objection is now ready to be ruled upon. For the reasons discussed below, the Preliminary Objection will be granted, and the case will be dismissed.

### FINDINGS OF FACT

1. Complainant is Dean Bohartz.
2. Respondent is UGI Utilities Inc. – Gas Division.
3. In 2018, Complainant paid \$3,177.24 for gas service to be installed at his home by UGI. Complaint ¶ 4; UGI Answer ¶ 4.
4. On November 25, 2025, Complainant filed a Formal Complaint against UGI.
5. On December 15, 2025, UGI filed an Answer with New Matter along with a Notice to Plead.
6. Complainant did not file an Answer to UGI's New Matter.
7. On December 15, 2025, UGI filed a Preliminary Objection to the Complaint along with a Notice to Plead.
8. Complainant did not file an Answer to UGI's Preliminary Objection.

## DISCUSSION

The Commission's Rules of Practice and Procedure permit parties to file preliminary objections for, *inter alia*, lack of Commission jurisdiction. 52 Pa. Code § 5.101(a). Commission preliminary objection practice is similar to Pennsylvania civil practice. *Equitable Small Transp. Intervenor v. Equitable Gas Co.*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994). A complaint is properly dismissed when no relief or recovery is possible. *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa. Cmwlth. 1996). When considering preliminary objections, 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. *County of Allegheny v. Commonwealth*, 490 A.2d 402 (Pa. 1985); *Commonwealth v. Bell Telephone Co. of Pa.*, 551 A.2d 602 (Pa. Cmwlth. 1988).

As a creature of legislation, the Commission possesses only the authority the state legislature has specifically granted to it in the Public Utility Code. 66 Pa.C.S. §101–3316; *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977). The Commission must act within and cannot exceed its jurisdiction. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa. Super. 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Matorano*, 235 A.2d 602 (Pa. 1967). Indeed, subject matter jurisdiction is a prerequisite to the exercise of the power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992).

In deciding the preliminary objections, 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. Emps. Ret. Sys.*, 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 (Mr. Bohartz) 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 Emps. Ret. Bd.*, 690 A.2d 1312 (Pa. Cmwlth. 1997). Finally, failure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted. 52 Pa. Code § 5.63(b).

In its Preliminary Objection, UGI argues that the Commission lacks jurisdiction over the claims raised in the Complaint pursuant to the statutes of limitations at 66 Pa.C.S. §§ 1312 and 3314. Section 1312 of the Code, in relevant part, provides:

**§ 1312. Refunds.**

(a) General rule.--If, in any proceeding involving rates, the commission shall determine that any rate received by a public utility was unjust or unreasonable, or was in violation of any regulation or order of the commission, or was in excess of the applicable rate contained in an existing and effective tariff of such public utility, the commission shall have the power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron, in consequence of such unlawful collection, **within four years prior to the date of the filing of the complaint**, together with interest at the legal rate from the date of each such excessive payment.

66 Pa.C.S. § 1312(a) (emphasis added). Section 3314 of the Code provides:

**§ 3314. Limitation of actions and cumulation of remedies.**

(a) General Rule. No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, **shall be maintained unless brought within three years from the date at which the liability therefore arose**, except as otherwise provided in this part.

66 Pa.C.S. § 3314(a) (emphasis added). The Commission has consistently held that Section 3314, “is non-waivable because it terminates the right to bring an action as well as any remedy the Commission may order.” *Kovarikova v. Pa. Am. Water Co.*, Docket No. C-2017-2592131 at 16 (Opinion and Order entered Aug. 23, 2018).

In this case, based on the Complaint, the liability arose in either 2018 when Complainant paid \$3,177.24 to UGI for gas service to be installed at his home, or 2020 when Complainant learned his neighbor received the same service for free. Therefore, Complainant had until 2022 or 2024 to file a Complaint seeking a refund. *See* 66 Pa.C.S. § 1312(a). Furthermore, Complainant only had until 2021 or 2023 to file any claims based on alleged violations occurring during the procurement of gas service to his home. *See* 66 Pa.C.S. § 3314(a).

Here, Complainant did not file the Complaint until 2025, which is seven years after Complainant purchased the installation and five years after Complainant learned his neighbor did not pay for installation. As a result, Sections 1312 and 3314 divest the Commission of jurisdiction to hear Complainant's action. Accordingly, UGI's Preliminary Objection shall be granted, and the Complaint shall be dismissed.

### CONCLUSIONS OF LAW

1. Commission regulations provide for the filing of preliminary objections. 52 Pa. Code § 5.101.

2. Commission Preliminary Objection practice is comparable to Pennsylvania civil practice respecting the filing of preliminary objections. *Equitable Small Transp. Intervenors v. Equitable Gas Co.*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).

3. In deciding the preliminary objections, 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. Emps. Ret. Sys.*, 836 A.2d 1053 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa. Cmwlth. 1996).

4. 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 Emps. Ret. Bd.*, 690 A.2d 1312 (Pa. Cmwlth. 1997).

5. Failure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted. 52 Pa. Code § 5.63(b).

6. The Commission's authority to require a public utility to issue a refund is limited to within four years prior to the date of the filing of the complaint. 66 Pa.C.S. § 1312(a).

7. No action for the recovery of any penalties or forfeitures or any prosecution shall be maintained unless brought within three years from the date at which the liability arose. 66 Pa.C.S. § 3314(a).

8. The Complaint is barred by the statutes of limitations. 66 Pa.C.S. §§ 1312(a), 3314(a).

