

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Brian Carnahan	:	
	:	
v.	:	C-2025-3058978
	:	
PPL Electric Utilities Corporation	:	

ORDER
GRANTING IN PART AND DENYING IN PART
PPL'S PRELIMINARY OBJECTIONS AND
SCHEDULING AN EVIDENTIARY HEARING

On December 2, 2025, Brian Carnahan (Mr. Carnahan or Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL or Company). In his Complaint, Mr. Carnahan alleges that work related to installation of two new utility poles caused considerable damage to his property. Specifically, Mr. Carnahan alleges that the work caused damage to his trees and sidewalk. As relief, Mr. Carnahan requests that a contractor repair the sidewalk and an arborist assess the damaged trees. Mr. Carnahan requests that PPL cover all contractor costs and guarantee that the old poles will be removed by May 31, 2026. Additionally, Mr. Carnahan wants assurances from PPL that they will put processes in place to alert property owners when significant work is being done that affects their property.

On December 22, 2025, PPL filed an Answer and New Matter to Mr. Carnahan's Complaint. In its Answer, PPL admitted that its contractor installed two utility poles at Complainant's property in September 2025 and performed vegetation management at Complainant's property in September 2025. PPL avers that at no point did PPL's contractor access Complainant's property and operated within its recorded right-of-way to perform vegetation management for the utility line upgrades. PPL denies that it caused Complainant to suffer any damages. In its New Matter, PPL asserts that the Commission does not have

jurisdiction over Complainant's claims; Complainant's claims are legally insufficient; at all relevant times, PPL did not exceed the scope of its right-of-way; the Commission does not have jurisdiction to determine the scope and validity of PPL's right-of-way; the Commission lacks authority to make a determination that PPL was negligent in performing work within its right-of-way; PPL was not negligent in the performance of its work within its right-of-way; any damages alleged to have been suffered by Complainant were not caused by the actions and/or inactions of PPL; and the Commission does not have the authority to award monetary damages to Complainant. PPL's New Matter was not accompanied by a Notice to Plead.

Also on December 22, 2025, PPL filed Preliminary Objections to Mr. Carnahan's Complaint. PPL's Preliminary Objections included a Notice to Plead. PPL requests that the Formal Complaint be dismissed for lack of Commission jurisdiction pursuant to 52 Pa. Code § 5.101(a)(1) and because it is legally insufficient pursuant to 52 Pa. Code § 5.101(a)(4). Specifically, PPL asserts that the Commission does not have the authority to award Complainant monetary damages; to the extent that the Complainant is requesting that the Commission determine that PPL was negligent in performing work on Complainant's property, the Commission lacks the authority to make such a determination; to the extent that the Complainant requests that the Commission determine the scope and validity of PPL's right-of-way, the Commission lacks the authority to do so; and the Commission does not have the authority to direct PPL to guarantee that the old utility poles will be removed on or before May 31, 2026, or to direct PPL how to provide notice to its customers.

No response to PPL's preliminary objections has been filed.

On January 27, 2026, a motion judge assignment notice was issued, assigning me as the presiding officer.

PPL's preliminary objections are ready for disposition.

Section 5.101 of the Commission's Rules of Administrative Practice and Procedure provides for the filing of preliminary objections. 52 Pa. Code § 5.101. Commission

preliminary objection practice is comparable to Pennsylvania civil practice respecting the filing of preliminary objections. *Equitable Small Transp. Intervenor v. Equitable Gas Co.*, 1994 Pa. PUC LEXIS 69 (Pa. P.U.C. 1994) (*Equitable*). Section 5.101(a) provides:

(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 a proceeding.

52 Pa.Code § 5.101(a)(1)-(7).

For purposes of disposing of preliminary objections, the Commission must accept as true all well pleaded, material facts of the nonmoving party, as well as every reasonable 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 Mr. Carnahan and should dismiss the complaint only if it appears that Mr. Carnahan would not be entitled to relief under any circumstances as a matter of law. *Equitable, supra*; see also, *Interstate Traveler Services, Inc. v. Commonwealth, Dep't of Env'tl. Res.*, 406 A.2d 1020 (Pa. 1979).

I agree with PPL that the Commission lacks jurisdiction to award monetary damages, adjudicate negligence, or determine property rights, including the scope and validity of a right-of-way. *Feingold v. Bell*, 383 A.2d 791 (Pa. 1977) (*Feingold*); *Poorbaugh v. Pa. Pub. Util. Comm'n*, 666 A.2d 744 (Pa. Cmwlth. 1995); *Fairview Water Co. v. Pa. Pub. Util. Comm'n*, 502 A.2d 162 (Pa. 1985). It is well settled that the Commission may not exceed its jurisdiction and must act within it. *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. Martorano*, 235 A.2d 602 (Pa. 1967). 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). As a creation of the legislature, the Commission possesses only the authority that the state legislature has specifically granted to it in the Public Utility Code. 66 Pa. C.S. §§ 101, *et seq.* Its jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. *Feingold*. Therefore, to the extent Mr. Carnahan's Complaint is seeking monetary damages, adjudication of negligence, or determination of property rights, including the scope and validity of a right-of-way, PPL's Preliminary Objections are granted.

However, under the standards of disposing preliminary objections and viewing the Complaint in a light most favorable to Mr. Carnahan, I disagree with PPL that the Complaint should be dismissed. Mr. Carnahan's Formal Complaint raises concerns regarding PPL's service and facilities as they relate to and have impacted Mr. Carnahan and his property. Public utilities must furnish and maintain adequate, efficient, safe, and reasonable service and facilities to customers as well as the public. 66 Pa.C.S. § 1501. This could include issues related to the reasonableness of a public utility's vegetation management. *West Penn Power Company v. Pa. Pub. Util. Comm'n*, 578 A.2d 77 (Pa. Cmwlth. 1990). Additionally, the Commission has held that, in the normal course, a *pro se* complaint should not be dismissed without first providing a hearing during which the *pro se* complainant could further explain his or her position and the factual basis for the complaint. *Carlock v. United Tel. Co. of Pa.*, Docket No. F-00163617 (Order entered July 14, 1993). *Pro se* complainants may find it difficult to navigate through pre-hearing motions and should be given the chance to orally describe their basic issue and supporting facts. There are some cases where a hearing would not enable the complainant to

better explain her position or provide additional facts that would alter the inevitable conclusion that the complaint should be dismissed. *See Vata v. Phila. Gas Works*, Docket No. C-2009-2149960 (Order entered August 24, 2010). This case is not one of those instances. Therefore, PPL's preliminary objections are denied in part.

Mr. Carnahan's Complaint will now be scheduled for an evidentiary hearing on April 7, 2026, starting at 10:00 a.m., and a hearing notice will be issued. Complainant is advised that to sustain his burden of proof at a hearing, he must demonstrate by a preponderance of the evidence that PPL has violated the Public Utility Code, a Commission order or regulation or a Commission-approved Company tariff. In addition, all orders of the Commission must be supported by substantial evidence. This is a different standard than that used in addressing PPL's preliminary objections.

In the interim, the parties are reminded that Commission policy promotes settlements. 52 Pa.Code §5.231(a). The parties are encouraged to commence settlement discussions amongst themselves for this proceeding as early as possible. Even if the parties are unable to settle this case, they may still resolve some of the questions or issues during their discussions. If the parties reach an agreement on all issues, a formal hearing will not be necessary. The parties are also reminded that the presiding officer may participate in settlement discussions upon agreement of all parties. 52 Pa.Code § 5.223(c); *see also*, 52 Pa.Code § 5.231(c).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objections filed by PPL Electric Utilities Corporation at Docket Number C-2025-3058978 on December 22, 2025 are granted in part and denied in part, consistent with the above discussion;

2. That the Formal Complaint filed by Brian Carnahan at Docket Number C-2025-3058978 will proceed to a hearing to be held on Tuesday, April 7, 2026 beginning at 10:00 a.m. To participate in the hearing on April 7, 2026, parties must call 888-456-5124 and enter passcode 9563241 when prompted.

Date: February 24, 2026

/s/
John M. Coogan
Administrative Law Judge

C-2025-3058978 - BRIAN CARNAHAN v. PPL ELECTRIC UTILITIES CORPORATION

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