



900 Race Street  
6<sup>th</sup> Floor  
Philadelphia, PA 19107

Suzan DeBusk Paiva  
Associate General Counsel  
Suzan.d.paiva@verizon.com

March 9, 2026

**Via Electronic Filing**

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street – Filing Room (2 North)  
P.O. Box 3265  
Harrisburg, PA 17105 3265

**Re:** Ray Banach v. Verizon Pennsylvania LLC;  
Docket No. C-2026-3060509  
**PRELIMINARY OBJECTIONS OF VERIZON PENNSYLVANIA LLC**

Dear Secretary Homsher:

Enclosed please find Verizon Pennsylvania LLC's Preliminary Objections to the Complaint of Ray Banach in connection with the above-referenced case, which is being filed today.

If you have any questions with regard to this filing, please direct them to me. Thank you for your attention to this matter.

Very truly yours,

Suzan D. Paiva  
Counsel for Verizon Pennsylvania LLC

SDP/sau  
Enclosures

**Via FedEx**  
cc: Office of Administrative Law Judge  
Cynthia Lehman, Mediator  
Ray Banach

WHEREFORE, for the reasons set forth above, and in accordance with the Public Utility Code and the Commission's regulations, Verizon Pennsylvania respectfully requests that the Formal Complaint Docket No. C-2026-3060509 be dismissed or denied in its entirety.



Date: March 9, 2026

---

Suzan DeBusk Paiva, I.D. No. 53853

Verizon

900 Race Street, 6<sup>th</sup> Floor

Philadelphia, PA 19107

Phone: (267) 768-6184

[Suzan.d.paiva@verizon.com](mailto:Suzan.d.paiva@verizon.com)

*Counsel for Respondent*

*Verizon Pennsylvania LLC*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RAY BANACH,	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2026-3060509
	:	
VERIZON PENNSYLVANIA LLC,	:	
	:	
Respondent	:	

---

**NOTICE TO PLEAD**

---

TO: Ray Banach  
PO Box 352  
Matamoras, PA 18336

Pursuant to 52 Pa. Code §§5.101 et seq. you are hereby notified that Verizon Pennsylvania (“Verizon PA”) has filed Preliminary Objections, which you may answer within ten (10) days unless otherwise provided in Chapter 5 of Title 52 of the Pennsylvania Code. Your failure to answer will allow the presiding officer to rule on the Preliminary Objections without a response from you, thereby requiring no other proof. All Pleadings such as a reply to these Preliminary Objections must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on the undersigned counsel for Verizon PA.



Date: March 9, 2026

---

Suzan DeBusk Paiva, I.D. No. 53853  
Verizon  
900 Race Street, 6<sup>th</sup> Floor  
Philadelphia, PA 19107  
Phone: (267) 768-6184  
[Suzan.d.paiva@verizon.com](mailto:Suzan.d.paiva@verizon.com)

*Counsel for Respondent  
Verizon Pennsylvania LLC*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RAY BANACH,	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2026-3060509
	:	
VERIZON PENNSYLVANIA LLC,	:	
	:	
Respondent	:	

**PRELIMINARY OBJECTIONS AND MOTION TO STRIKE  
COMPLAINT OF RAY BANACH**

Pursuant to 52 Pa. Code §5.101(a)(1), Verizon Pennsylvania LLC (“Verizon PA”) submits the following Preliminary Objection to the Complaint filed by Ray Banach on the ground that the Commission has no subject matter jurisdiction to determine the scope and validity of a utility’s right-of-way or easement, to determine if a utility’s facilities are situated within a valid right-of-way, to adjudicate property rights controversies, or to determine the validity of a prescriptive easement.<sup>1</sup> In support thereof, Verizon represents as follows:

**BACKGROUND**

1. Ray Banach filed a Formal Complaint that was served electronically upon Verizon PA on February 17, 2026, relating to utility lines that he alleges are located on his private property without an easement or public right-of-way. As a relief he requests that all of the lines and any other related utility equipment be removed from his property or that a right-of-way (easement) be purchased from him. This claim relates to power and communications facilities located on the same pole line, and Verizon understands from the Commission’s website

---

<sup>1</sup> *In the alternative, Verizon PA moves to strike all claims and requests for relief that are outside this Commission’s authority.*

that Mr. Banach has also filed a formal complaint against Pike County Light & Power Co. at Docket C-2026-3060510, presumably over the same issue.

2. The Complaint recognizes the existence of a written “ROW given to PCLP [Pike County Light & Power] in 1977,” and Verizon PA provided a copy of this 1977 “Grant of Right of Way” document together with its Answer and New Matter. In addition, given the presence of the facilities at this location since 1977, Verizon PA has a prescriptive easement entitling it to keep the lines in place. “A prescriptive easement is a right to use another’s property,” for example for a utility pole, utility lines, or a road or path, or the like, “which is not inconsistent with the owner’s rights and which is acquired by a use that is open, notorious, and uninterrupted for a period of 21 years.”<sup>2</sup>

### **PRELIMINARY OBJECTIONS**

3. The Commission’s Rules of Administrative Practice and Procedure permit the filing of preliminary objections for lack of jurisdiction. 52 Pa. Code §5.101(a)(1). Commission procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice.<sup>3</sup>

4. A preliminary objection in civil practice seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt.<sup>4</sup> The Commission has adopted this standard.<sup>5</sup>

5. A preliminary objection that challenges the sufficiency of the complaint is in the

---

<sup>2</sup> *McNaughton Props., LP v. Barr*, 2009 PA Super 173, 981 A.2d 222, 225 n.2 (Pa. Super. 2009). See also *Rachel Carson Trails Conservancy, Inc. v. Dep’t of Conservation & Natural Res.*, 201 A.3d 273, 278 (Commw Ct 2018)(“A prescriptive easement arises where the use of an easement ‘has been adverse, open, notorious and uninterrupted for twenty-one years.’”)

<sup>3</sup> See *Equitable Small Transportation Interveners v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

<sup>4</sup> *Interstate Traveller Services, Inc. v. Pa. Dept. of Environmental Resources*, 406 A.2d 1020 (Pa. 1979); *Rivera v. Philadelphia Theological Seminary of St. Charles Borromeo, Inc.*, 595 A.2d 172 (Pa. Super. 1991).

<sup>5</sup> *Montague v. Philadelphia Electric Company*, 66 Pa. PUC 24 (1988).

nature of a demurrer.<sup>6</sup> For testing the legal sufficiency of the challenged pleading, a preliminary objection in the nature of a demurrer admits as true all well-pleaded, material, relevant facts, and every inference deducible from those facts. The pleader's conclusions or averments of law are not considered to be admitted as true by a demurrer.<sup>7</sup>

6. Alternatively, Verizon PA requests that this pleading be treated as a motion to strike pursuant to 52 Pa. Code § 5.103 because the Complainant's requests for the Commission to determine the scope or validity of a right-of-way or easement is outside this Commission's jurisdiction.

7. The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. The Commission must act within, and cannot exceed its jurisdiction.<sup>8</sup>

8. Jurisdiction may not be conferred by the parties where none exists.<sup>9</sup>

9. Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy.<sup>10</sup>

10. It is well established that the Commission does not have subject matter jurisdiction over allegations of trespass and the proper use of right-of-ways.<sup>11</sup>

11. In *Fairview Water Co. v. Pennsylvania Pub. Util. Comm'n.*, 502 A.2d 162 (Pa. 1985), the Pennsylvania Supreme Court held that the Commission does not have jurisdiction to determine the scope and validity of an easement. The Commission has determined that it is not

---

<sup>6</sup> *Jamieson v. Pa. Bd. of Probation and Parole*, 83 Pa. Commonwealth Ct. 546, 547, 478 A.2d, 152 (1984).

<sup>7</sup> *County of Allegheny v. Commonwealth of Pennsylvania*, 507 Pa. 360, 372, 490 A.2d 402 (1985).

<sup>8</sup> *Feingold v. Bell of Pennsylvania*, 383 A.2d 791 (Pa. 1977); *Loma, Inc. v. Pennsylvania Public Utility Commission*, 682 A.2d 424 (Pa. Cmwlth. 1996).

<sup>9</sup> *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967).

<sup>10</sup> *Hughes v. Pennsylvania State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992) alloc. denied 637 A.2d 293 (Pa. 1993).

<sup>11</sup> *Steve Rushkin v. Verizon Pennsylvania Inc*, Docket No. C-2004-2591 (Order entered July 14, 2004); *Fairview Water Co. v. Pa. P.U.C.*, 502 A.2d 162 (Pa. 1985); and *Messina v. Bell Atlantic-Pennsylvania, Inc.*, Docket No. C-00968225 (Order entered September 23, 1998).

the proper forum for resolving property rights controversies. Rather, such controversies are a matter for a court of general jurisdiction.<sup>12</sup>

12. The Commission recently confirmed the scope of its jurisdiction over these types of claims in *Turgeon v. Verizon North LLC*, Docket No. C-2021-3026390 (Opinion and Order Entered May 30, 2024) (“*Turgeon Order*”), holding that “we lack jurisdiction over substantive determinations of property rights and easements” and that “[t]his finding has been reiterated by the Pennsylvania Supreme Court, with the court also finding the Commission lacks jurisdiction to determine the scope and validity of an easement.” (*Turgeon Order* at 13-14).<sup>13</sup>

13. Where the utility has produced a written easement or other right-of-way document, the Commission is without authority to determine the scope or validity of the written easement.<sup>14</sup> Even in the absence of a written document, the Commission in the *Turgeon Order* also made clear that it will not order the removal of utility facilities where the company claims a prescriptive easement. The Commission clarified that it “lacks jurisdiction to determine whether Verizon North has perfected an easement by prescription for the facilities located on the Complainant’s land. Specifically, we find such an issue to be within

---

<sup>12</sup> *Anne E. Perrige v. Metropolitan Edison Co.*, Docket No. C-00004110 (Order entered July 3, 2003); *Fiorillo v. PECO Energy Co.*, Docket No. C-00971088 (Order entered September 15, 1999).

<sup>13</sup> See also *Petition of Librandi Machine Shop, Inc. For Declaratory Order Librandi Machine Shop, Inc. ; v. ; Metropolitan Edison Company and Borough of Middletown*, P-2018-3000047, 2021 PA. PUC LEXIS 49 (“the Courts of Common Pleas and not this Commission have jurisdiction over substantive property disputes, including questions of trespass, the scope and validity of a utility’s right of way, or to determine if a utility’s facilities are situated within a valid right of way.”)

<sup>14</sup> See *Fiorello v. PECO Energy Company*, Docket No. C-00971088 (Order entered September 14, 1999)(interpretation of right-of-way agreement was held to be a substantive property rights issues within the court of common pleas' jurisdiction); *Lou Amati/Amati Service Station v. West Penn Power Co. and Bell Atlantic-Pennsylvania, Inc.*, Docket C-00945872 (Order entered October 25, 1996)(the Commission does not have subject matter jurisdiction over questions of trespass and the scope and validity of a utility's right-of-way); *Edward Boczar v. PPL Electric Utilities Corporation*, Docket No. C-20016332 (Order entered February 10, 2003) (the Commission does not have jurisdiction to determine if utility's facilities are situated within a valid right-of-way; such matters are within the exclusive jurisdiction of the Court of Common Pleas); *Anne E. Perrige v. Metropolitan Edison Co.*, Docket No. C-00004110 (Order entered July 3, 2003) (the Commission does not have jurisdiction to determine the true location of the utility's right-of-way); *Stefanoski v. Pennsylvania-American Water Co.*, Docket No. C-20078219 (Order entered September 22, 2008) (the commission does not have jurisdiction to interpret a right-of-way).

the sole jurisdiction of the Court of Common Pleas. Therefore, we conclude that an order removing the facilities to be premature given the unresolved property rights of the parties. We agree with Verizon North that the Complainant has not established a right to the relief requested.” (Turgeon Order at 17).<sup>15</sup>

14. Accepting as true all the facts alleged in the complaint, the Complainant is not entitled to relief as a matter of law. The dispute alleged in the complaint is whether Verizon PA’s facilities trespass on the Complainant’s property. As set forth above, the Commission lacks subject matter jurisdiction to adjudicate real property disputes or to determine if a utility’s facilities are situated within a valid right of way or the validity of a claim of prescriptive easement.

15. The Commission “may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest.” Accordingly, because the instant complaint involves a dispute over the location of Verizon Pennsylvania’s facilities within an existing right-of-way, the Commission should dismiss the complaint because it has no subject matter jurisdiction over these issues.

WHEREFORE, for the reasons set forth above, and in accordance with the Public Utility Code and the Commission’s regulations, Verizon Pennsylvania respectfully requests that the Formal Complaint Docket No. C-2026-3060509 be dismissed or denied in its entirety.



Date: March 9, 2026

\_\_\_\_\_  
Suzan DeBusk Paiva, I.D. No. 53853  
Verizon

<sup>15</sup> See also *Messina v. Bell Atlantic-Pa.*, Docket No. C-00968225, 1998 Pa. PUC LEXIS 190, \*16 (Order entered September 23, 1998) (“A conclusion that Bell has perfected an easement by prescription is the type of matter over which the courts are better suited to decide”). 6

900 Race Street, 6<sup>th</sup> Floor  
Philadelphia, PA 19107  
Phone: (267) 768-6184  
[Suzan.d.paiva@verizon.com](mailto:Suzan.d.paiva@verizon.com)

*Counsel for Respondent  
Verizon Pennsylvania LLC*