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March 9, 2026

VIA ELECTRONIC FILING

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
Harrisburg, PA 17120

Re: Ray Banach v. Pike County Light & Power; Docket No. C-2026-3060510; **PIKE COUNTY LIGHT & POWER COMPANY'S PRELIMINARY OBJECTIONS TO FORMAL COMPLAINT**

Dear Secretary Homsher:

Enclosed for filing with the Pennsylvania Public Utility Commission is Community Utilities of Pennsylvania, Inc.'s Preliminary Objections to Formal Complaint of Ray Banach in the above-referenced matter.

If you have any questions regarding this filing, please contact me.

Very truly yours,

/s/ Whitney E. Snyder

Whitney E. Snyder
Erich W. Struble
Kathryn C. Read-Fisher

Counsel for Pike County Light & Power Company

WES/kcrf/das
Enclosures

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RAY BANACH	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2026-3060510
	:	
PIKE COUNTY LIGHT & POWER, COMPANY	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

You are hereby advised that, pursuant to 52 Pa. Code § 5.61, you may file a response within ten (10) days of the attached preliminary objections. Any response must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Pike County Light & Power Company, and where applicable, the Administrative Law Judge presiding over the issue.

File with:
Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RAY BANACH	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2026-3060510
	:	
PIKE COUNTY LIGHT & POWER	:	
COMPANY	:	
	:	
Respondent.	:	

**PIKE COUNTY LIGHT & POWER COMPANY'S
PRELIMINARY OBJECTIONS TO FORMAL COMPLAINT
OF RAY BANACH**

Pursuant to 52 Pa. Code § 5.101, Pike County Light & Power Company (“Pike”) files Preliminary Objections to the Formal Complaint of Ray Banach (“Complainant”) served February 17, 2026.

I. INTRODUCTION

1. Pike requests the Complaint be dismissed in its entirety with prejudice because, assuming everything the Complaint says is true, Complainant is not entitled to relief as a matter of law:

- (a) where, as here, the gravamen of the Complaint concerns the interpretation and scope of easements or rights of way and allegations of trespass, the Commission lacks jurisdiction over such claims. 52 Pa. Code § 5.101(a)(1); *see, e.g., Anne E. Perrige v. Metropolitan Edison Co.*, PUC Docket No. C-00004110 (Order entered July 11, 2003) (Commission had no jurisdiction to interpret the meaning of a written right-of-way agreement); *Lou Amati/Amati Service Station v. West Penn Power Co. and Bell*

Atlantic- Pennsylvania, Inc., PUC Docket No. C-00945842 (Order entered October 25, 1995) (real property issues such as trespass and whether utility facilities are located pursuant to valid easements are within the exclusive jurisdiction of the Courts of Common Pleas); *Tod and Lisa Shedlosky v. Pennsylvania Electric Company*, PUC Docket No. C-20066937 (Order entered May 28, 2008).

(b) where, as here, Complainant fails to allege Respondent is responsible for or has control over the poles at issue which determine the placement of the distribution lines that allegedly trespass on Complainant's property, the Complaint is legally insufficient. 52 Pa. Code § 5.101(a)(4); *see, e.g., Francene Tearpock-Martini v. Frontier Utilities Northeast, LLC*, Docket No. C-2023-3038237 (Initial Decision entered Apr. 26, 2023) (sustaining preliminary objections and dismissing respondent where complaint alleged conduct and sought relief directed at utility which did not own or control facilities at issue).

II. LEGAL STANDARDS FOR PRELIMINARY OBJECTIONS

2. The Commission's regulations permit the filing of preliminary objections to any pleading, except motions and prior preliminary objections. 52 Pa. Code § 5.101(a).

3. For purposes of disposing the preliminary objections, the Commission must accept as true all well-pleaded material facts of the non-moving party, as well as every reasonable inference deducible 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). The Commission must view the pleadings in the light most favorable to the non-moving party and should dismiss a pleading only if it appears that the non-moving party would not be entitled to relief under any circumstances as a matter of law. *Equitable Small Transportation Intervenors v.*

Equitable Gas Company, Docket No. C-00935435, 1994 WL 932315, at *1 (Opinion and Order entered Jul. 18, 1994); *see also Interstate Traveler Services, Inc. v. Pennsylvania Department of Environmental Resources*, 406 A.2d 1020 (Pa. 1979).

4. “For purposes of testing the legal sufficiency of the challenged pleading, a [motion to dismiss] ... admits as true all well-pleaded, material, relevant facts, and every inference deducible from those facts.” *Marinoff v. Bell Telephone Co. of Pennsylvania*, Docket No. C-913511, 1991 WL 474858 (1991). Also, when considering preliminary objections, one need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Andrew Star v. PECO Energy Co.*, Docket No. C-2017-2615628, 2017 WL 4864901, at *2 (Initial Decision entered Oct. 4, 2017) (citing *Commonwealth v. Golden Gate Nat'l Senior Care LLC*, 158 A.3d 203, 213 (Pa. Cmwlth. 2017), *aff'd* (Final Order entered Dec. 5, 2017)).

III. PRELIMINARY OBJECTIONS

A. THE COMMISSION LACKS JURISDICTION OVER THE SUBJECT MATTER OVER THE COMPLAINT

5. A formal complaint may be dismissed by preliminary objection where the Commission lacks jurisdiction over the claim. 52 Pa. Code § 5.101(a)(1).

6. The Pennsylvania Public Utility Commission is a creature of statute and possesses only the authority expressly conferred upon it by the General Assembly through the Public Utility Code. *Tod and Lisa Shedlosky v. Pennsylvania Electric Co.*, Docket No. C-20066937 (Opinion and Order entered May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The Commission must act within the bounds of that delegated authority and may not exercise jurisdiction beyond it. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa.Super. 1945).

7. It is well established that the Commission lacks jurisdiction to adjudicate private property disputes, including disputes concerning the existence, scope, or interpretation of easements and rights of way. *See Anne E. Perrige v. Metropolitan Edison Co.*, PUC Docket No. C-00004110 (Order entered July 11, 2003) (Commission had no jurisdiction to interpret the meaning of a written right-of-way agreement); *Lou Amati/Amati Service Station v. West Penn Power Co. and Bell Atlantic- Pennsylvania, Inc.*, PUC Docket No. C-00945842 (Order entered October 25, 1995) (real property issues such as trespass and whether utility facilities are located pursuant to valid easements are within the exclusive jurisdiction of the Courts of Common Pleas); *Tod and Lisa Shedlosky v. Pennsylvania Electric Company*, PUC Docket No. C-20066937 (Order entered May 28, 2008).

8. While the Public Utility Code authorizes the Commission to regulate public utilities and ensure safe and reasonable service, it does not authorize the Commission to resolve boundary or easement disputes. Those disputes belong exclusively in a court of general jurisdiction. *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977).

9. Here, Complainant alleges that the right of way granted to Pike in 1977 does not encompass the subject distribution lines. ¶ 4. Accepting this allegation as true for purposes of preliminary objections, resolution of the Complaint would require the Commission to interpret the scope of the right of way to determine whether it authorizes the placement of the lines at issue.

10. Furthermore, the Complaint asks the Commission to order Pike to “move all power & communication lines off/over” Complainant’s private property. ¶ 5. That requested relief likewise depends on a determination of the scope land or property rights authorizing the placement of the lines in their current location.

11. Accordingly, the Complaint requires adjudication of private property rights that fall outside the Commission’s statutory jurisdiction, and the Complaint must be dismissed.

B. THE COMPLAINT IS LEGALLY INSUFFICIENT BECAUSE IT FAILS TO ALLEGE RESPONDENT OWNS OR CONTROLS THE POLES AT ISSUE THAT DETERMINE WHERE THE ALLEGEDLY TRESPASSING LINE IS LOCATED

12. Assuming, *arguendo*, that the Commission has subject matter jurisdiction and that the Complaint could otherwise allege a cognizable violation, the Complaint is nevertheless legally insufficient because it fails to allege facts establishing that Pike is the entity responsible for, or in control of, the facilities from which the requested relief is sought. 52 Pa. Code § 5.101(a)(4).

13. As a matter of general principle, a complaint is legally insufficient where it fails to allege facts establishing that the named utility owns, controls, or is otherwise responsible for the facilities at issue. *See Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990); *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. P.U.C. 300 (1976).

14. The Commission has sustained preliminary objections on this basis where the complaint targets the wrong entity for the relief sought. *See, e.g., Francene Tearpock-Martini v. Frontier Utilities Northeast, LLC*, Docket No. C-2023-3038237 (Initial Decision entered Apr. 26, 2023) (sustaining preliminary objections and dismissing respondent where complaint alleged conduct and sought relief directed at utility which did not own or control facilities at issue).

15. Here, Complainant requests, *inter alia*, that Pike move the subject “power & communication lines.” ¶5. However, Complainant never alleges that Pike owns or controls the poles at issue which determine the placement of the distribution lines that allegedly trespass on Complainant’s property.

16. The Complaint does not allege that Pike owns the poles, nor does the Complaint allege any statute, regulation, or Commission order that imposes a duty on Pike to relocate its attachments on a third party's poles to resolve a private property dispute.

17. Accordingly, even assuming jurisdiction and accepting the allegations as true, the Complaint fails to state a claim upon which relief may be granted and must be dismissed.

IV. REQUESTED RELIEF

WHEREFORE, Pike County Light & Power Company respectfully requests the Commission dismiss the Complaint in its entirety with prejudice.

Respectfully submitted,

/s/ Whitney E. Snyder

Whitney E. Snyder, Esq. (PA ID No. 316625)

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Attorneys for Respondent

Pike County Light & Power Company

Dated: March 9, 2026

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL

Ray Banach
P.O. Box 352
Matamoras, PA 18336
RGBANACH@Outlook.com

/s/ Whitney E. Snyder _____

Whitney E. Snyder
Erich W. Struble
Kathryn C. Read-Fisher

Dated this 9th day of March, 2026