

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Ka’Deidra Buffaloe	:	
	:	
v.	:	C-2025-3059206
	:	
Philadelphia Gas Works	:	

**ORDER GRANTING, IN PART, AND DENYING, IN PART,
PRELIMINARY OBJECTIONS OF PHILADELPHIA GAS WORKS**

HISTORY OF THE PROCEEDING

On December 11, 2025, Ka’Deidra Buffaloe (Complainant or Ms. Buffaloe) filed a formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission). Complainant stated that the Complaint concerns PGW's refusal to accept payment, the mishandling of a tenant's account information, and the execution of building practices that directly harmed Complainant as the property owner in violation of Commission regulated customer service and billing standards.

On December 31, 2025, PGW filed an Answer with New Matter (Answer) along with a Notice to Plead. In its Answer, PGW admitted in part and denied in part various material allegations of the Complaint. In its New Matter, PGW averred that Complainant is requesting that PGW reimburse her for “charges that accumulated solely because PGW refused payment” from an unspecified tenant at the property, which allegedly resulted in “financial harm” to Complainant during the sale of the property. PGW argued that the Commission’s enforcement powers do not include the ability to award complainants with money damages and the Commission does not have jurisdiction over payments made towards liens on a property, no matter how those payments may be characterized. PGW also averred that Complainant also requested the Commission “investigate PGW’s refusal to accept payments from the tenant” and Complainant does not have standing to request an investigation into another person’s account.

PGW requested that the Complaint be dismissed.

Also on December 31, 2025, PGW filed Preliminary Objections to the Complaint along with a Notice to Plead. In its Preliminary Objections, PGW argued that the Commission lacks jurisdiction to award monetary damages and therefore any request for monetary damages should be stricken from the Complaint. PGW also argued that Complainant lacks standing to bring a Complaint on behalf of a tenant. Finally, PGW argued the Complaint is legally insufficient because it fails to allege any legally cognizable violations of PUC regulations with respect to a PGW account or services provided to her.

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

On January 14, 2026, Complainant filed a Reply to PGW's Answer and New Matter.

On January 16, 2026, PGW filed an Amended Answer and New Matter to the Complaint.

On January 28, 2026, Complainant filed a Reply to PGW's Amended Answer and New Matter.

By Motion Judge Assignment Notice dated January 30, 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.

PGW's Preliminary Objections are now ready to be ruled upon. For the reasons discussed below, the Preliminary Objections will be granted, in part, and denied, in part, and the case will be scheduled for a hearing.

DISCUSSION

The Commission's Rules of Administrative Practice and Procedure provide 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 Transportation Intervenors v. Equitable Gas Company*, 1994 Pa PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994). The Commission's Rules provide, in relevant part:

§ 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(a).

In deciding preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the Complainant, recovery or relief is possible. *Dept. of Auditor General, et al v. SERS, et al.*, 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 (Ms. Buffaloe) 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 Employees' Retirement Board*, 690 A.2d 1312 (Pa. Cmwlth. 1997).

In this case, PGW contends that the Commission lacks jurisdiction to award monetary damages and therefore any request for monetary damages should be stricken from the Complaint; Complainant lacks standing to bring a Complaint on behalf of a tenant; and the Complaint is legally insufficient because it fails to allege any legally cognizable violations of PUC regulations with respect to a PGW account or services provided to Complainant.

As a creature of legislation, the Commission possesses only the authority the State Legislature has specifically granted to it in the Public Utility Code (the "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 v. Bell of Pa.*, 383 A.2d 1191 (Pa. 1977); *Allegheny County Port Authority v. Pa. Pub. Util. Comm'n*, 237 A.2d 602 (Pa. 1967). *Behrend v. Bell of PA*, 390 A.2d 233 (Pa. Super. 1978); *Pa. Department of Highways v. Pa. Pub. Util. Comm'n*, 182 A.2d 267 (Pa. Super. 1962); *City of Erie v. Pa. Electric Co.*, 383 A.2d 575 (Pa. Cmwlth. 1978). Nothing in the Code confers jurisdiction upon the Commission to award monetary damages. *See, DeFrancesco v. Western Pennsylvania Water Company*, 453 A.2d 595 (Pa. 1982); *Elkin v. Bell of Pa.*, 420 A.2d 371 (Pa. 1980); *Poorbaugh v. Pa. Pub. Util. Comm'n*, 666 A.2d 744 (Pa. Cmwlth. 1995).

However, while the Commission does not have jurisdiction to award damages, it does not follow that the Commission lacks jurisdiction to hear a complaint that seeks damages. If such a complaint alleges a violation of the Public Utility Code, and if the allegations are established

by the evidence presented at a hearing, an Administrative Law Judge and the Commission might conclude that the utility violated 66 Pa. C.S. § 1501 by failing to provide safe and adequate service. Although the Commission would not be able to award damages, it may decide to impose a fine or other penalty upon the utility. *See Seidel v. Ralph G. Smith, Inc.*, 49 Pa. PUC 557, 1975 Pa. PUC LEXIS 7 (1975); *Robert Attianese and Michele Attianese v. Santoro Enterprises, Inc., t/d/b/a Thomas Gerrity Movers and Storage and Paul Arpin Van Lines, Inc.*, Docket Number A-00113019C0203 (October 14, 2003), Opinion and Order adopted March 4, 2004, entered March 11, 2004, 2004 Pa. PUC LEXIS 19.

Additionally, in a complaint against a public utility that seeks monetary damages arising from a failure to provide safe, adequate, reasonable, or efficient service, the Supreme Court has approved of a bifurcated procedure. In *De Francesco v. Western Pennsylvania Water Co.*, 453 A.2d 595 (Pa. 1982), the Supreme Court stated:

The question of the PUC's jurisdiction was before us recently in *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383, A.2d 791 (1977) and *Elkin v. Bell Telephone Co. of Pennsylvania*, 491 Pa. 123, 420 A.2d 371 (1980). In *Feingold*, we held that the courts of common pleas have original jurisdiction to hear suits against public utilities for damages arising from failure to provide adequate service. 477 Pa. at 10, 383 A.2d at 795. *See also, Elkin*, 491 Pa. at 130, 420 A.2d at 375. In *Elkin* we further defined the parameters of our holding in *Feingold*. *Elkin* involved an action challenging the adequacy of a complainant's telephone service, and this Court there approved of a bifurcated procedure for certain situations, whereby the issue of liability is decided initially by the PUC, after which the court of common pleas considers the issue of damages where appropriate. *Elkin*, 491 Pa. at 134, 420 A.2d at 377.

De Francesco v. Western Pennsylvania Water Co., 453 A.2d 595 (Pa. 1982).

Thus, service issues are first decided by the Commission, and then a court of common pleas may consider the issue of damages. *Id.* Consequently, the Commission retains jurisdiction to determine whether the Respondent rendered reasonable and adequate service to Complainant.

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