

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Alexander Miklos	:	
	:	
v.	:	C-2025-3058173
	:	
Aqua Pennsylvania, Inc.	:	

INITIAL DECISION

Before
Mark A. Hoyer
Deputy Chief Administrative Law Judge

INTRODUCTION

This decision grants a Preliminary Objection and dismisses the Formal Complaint without hearing because a hearing is not in the public interest.

HISTORY OF THE PROCEEDINGS

On October 27, 2025, Alexander Miklos (Complainant) filed a Formal Complaint (Complaint) against “Aqua/Essential Utilities Company” (“Aqua Pennsylvania” or “Respondent”) at Docket No. C-2025-3058173.¹ Mr. Miklos checked the “Other” box on the Formal Complaint-Fillable Form referencing a complaint filed against “Aqua/Essential Utilities formally on Sept. 15.” Mr. Miklos did not include averments specifying the subject matter of the underlying September 15 complaint but, in this Complaint, he did aver that “Essential Utilities has been operating in bad faith since day one.” Complaint ¶ 4. As relief, Mr. Miklos requested that “Essential” be held accountable

¹ Aqua Pennsylvania, Inc. is the responding utility. *See Answer.*

and that someone with authority at “Essential” provide oversight and address his complaint.
Id.

On November 17, 2025, Respondent filed its answer and new matter with a notice to plead attached. In its answer, Respondent admitted that it is the responding utility. Respondent denied that it provides domestic water service in Complainant’s name to 447 N. Monroe Ave., Bradley, IL and admitted that Complainant is served by Aqua Illinois, Inc. In footnote 1 of its answer, Respondent provided as follows:

The Complaint simply lists “Aqua/Essential Utilities Company” as the utility. Complainant is a customer of Aqua Illinois, Inc. Essential Utilities, Inc. is the parent company and does not provide utility service. Neither are regulated by the Commission. Aqua PA does not provide any service to the Complainant. Attorneys for purposes of this Answer represent all entities but assert that the Commission lacks jurisdiction over Aqua Illinois, Inc. and Essential Utilities, Inc.

Answer at 1, n.1.

Respondent, Aqua Pennsylvania, Inc. denies that it is the proper party in this proceeding.

In new matter, Respondent avers that Mr. Miklos is not a customer of Aqua Pennsylvania or an applicant for service. New Matter ¶ 12. Respondent further avers that Mr. Miklos is a customer of Aqua Illinois, Inc. and the allegations concern the service provided by Aqua Illinois, Inc. *Id.*, ¶ 13.

On November 17, 2025, the Preliminary Objection of Aqua Pennsylvania, Inc., Aqua Illinois, Inc. and Essential Utilities, Inc. was filed by Margaret A. Morris, Esquire. A notice to plead was attached to the filing. The Preliminary Objection provides that Aqua Pennsylvania, Inc. does not provide service in the Complainant’s name to the property located in Bradley, IL. The Preliminary Objection also provides that Essential

Utilities Inc. does not provide service in the Complainant's name to the property located in Bradley, IL and is not regulated by the Commission. And finally, the Preliminary Objection provides that Aqua Illinois, Inc. provides service in the Complainant's name to the property located in Bradley, IL and is not regulated by the Commission. The three companies request that the Commission sustain the Preliminary Objection and dismiss the Complaint with prejudice for lack of jurisdiction.

On December 1, 2025, Mr. Miklos filed a response to the Preliminary Objection and new matter wherein he admitted as follows: "Just really quickly, the Attorney for 'Aqua' presented a total of one exhibit. "It's a water bill meant to show, I presume, where I live. I do not dispute where I live."

On March 16, 2026, an interim order was issued closing the record.

The Preliminary Objection was assigned to me as a Motion Judge Assignment on December 31, 2025, and is now ready for ruling. I am issuing the ruling as an Initial Decision, subject to exceptions, and not as an interim order.

FINDINGS OF FACT

1. Complainant is Alexander Miklos, who resides at 447 N. Monroe Ave., Bradley, IL 60915. Formal Complaint at 1; Response to new matter and Preliminary Objection on December 1, 2025.

2. On the Formal Complaint – Fillable Form, "1. Customer (Complainant) Information," Mr. Miklos provided his contact information including the following address: 447 N. Monroe Ave., Bradley, IL 60915. Formal Complaint at 1.

3. On the Formal Complaint – Fillable Form, “1. Customer (Complainant) Information,” there is an instruction in bold lettering, “If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.” Mr. Miklos did not fill in an address in the space provided. Formal Complaint at 1.

3. Mr. Miklos’s Complaint does not involve utility service provided to a different address or in a different name than Mr. Miklos’s mailing address, which is set forth in the Complaint (447 N. Monroe Ave., Bradley, IL 60915). Formal Complaint at 1; Response to new matter and Preliminary Objection on December 1, 2025.

4. Mr. Miklos filed his Complaint against “Aqua/Essential Utilities Company.” Formal Complaint at 2.

5. On November 17, 2025, Aqua Pennsylvania, Inc. responded to the Complaint by filing an answer and new matter with a notice to plead.

6. On November 17, 2025, Aqua Pennsylvania, Inc., Aqua Illinois, Inc. and Essential Utilities, Inc. filed a Preliminary Objection with a notice to plead.

7. On December 1, 2025, Mr. Miklos filed a response to the new matter and Preliminary Objection wherein he admitted as follows: “Just really quickly, the Attorney for ‘Aqua’ presented a total of one exhibit. “It’s a water bill meant to show, I presume, where I live. I do not dispute where I live.”

DISCUSSION

A. Preliminary Objection

The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections. 52 Pa. Code § 5.101. Commission procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice. *Equitable Small Transp. Interveners v. Equitable Gas Co.*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

A preliminary objection seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt. *Interstate Traveller Servs., Inc. v. Pa. Dept. of Env't Res.*, 406 A.2d 1020 (1979). The moving party may not rely on its own factual assertions but must accept for the purpose of disposition of the motion, all well-pleaded material facts of the other party, as well as every inference fairly deducible from those facts. *Cnty. of Allegheny v. Cmwlth. of Pa.*, 490 A.2d 402 (1985) (*Cnty. of Allegheny*). Therefore, in ruling on a preliminary objection, the Commission must assume, for decisional purposes only, that the factual allegations of the Complaint are true. *Id.* The motion will be granted only if the moving party prevails as a matter of law. *Rok v. Flaherty*, 527 A.2d 211 (Pa. Cmwlth. 1987) (*Rok*). Any doubt must be resolved in favor of the non-moving party. *Dept. of Auditor Gen. v. State Emps.' Ret. Sys.*, 836 A.2d 1053 (Pa. Cmwlth. 2003) (*Dept. of Auditor Gen.*).

The grounds for preliminary objections are limited. Pursuant to Section 5.101(a), those grounds are as follows:

- (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).

Mr. Miklos filed his Complaint against “Aqua/Essential Utilities Company.” Aqua Pennsylvania, Inc. responded to the Complaint by filing an answer and new matter. Aqua Pennsylvania, Inc., Aqua Illinois, Inc. and Essential Utilities, Inc. filed a Preliminary Objection requesting that the Complaint against “Aqua/Essential Utilities Company” be dismissed for lack of Commission jurisdiction pursuant to Section 5.101(a)(1), 52 Pa. Code § 5.101(a)(1).

In ruling on a preliminary objection, the Commission must assume, for decisional purposes only, that the factual allegations of the Complaint are true. *Cnty. of Allegheny*. The motion will be granted only if the moving party prevails as a matter of law. *Rok*. Any doubt must be resolved in favor of the non-moving party. *Dept. of Auditor Gen.*

To decide a controversy the Commission must have subject matter jurisdiction to decide the matter at issue. *Hughes v. Pennsylvania State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992). In its simplest terms, subject matter jurisdiction refers to the authority of a court, or other tribunal such as the Commission, to hear and decide a case or the general class to which a given controversy or cause belongs. *Noxon Chemical*

Products Co. v. Leckie, 39 F.2d 318 (3d Cir. 1930); *Mid-City Bank & Trust Co. v. Myers*, 23 A.2d 420 (1940). As a general proposition, subject matter jurisdiction cannot be conferred by agreement of the parties but can be granted only by the sovereign authority created by the tribunal. *Rosenberry v. Gilian Bros.*, 197 A. 523 (1938); *see also, Amati v. W. Penn Power Co.*, Docket No. C-00945482 (Order entered Oct. 25, 1995); *Lee Ann VanGrootenbruel v. United Tele. Co. of Pa.*, Docket No. C-00992710 (Initial Decision dated Jan. 4, 2000).

A review of Mr. Miklos's Complaint, assuming the facts pleaded are true and drawing every inference fairly deducible from those facts, requires that the Preliminary Objection be sustained because the Commission lacks jurisdiction. On the Formal Complaint – Fillable Form, "1. Customer (Complainant) Information," Mr. Miklos provided his contact information including the following address: 447 N. Monroe Ave., Bradley, IL 60915. Importantly, in this section of the form, there is an instruction in bold lettering, "If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below." Mr. Miklos did not provide an alternate address in this section. It is blank. By necessary implication, Mr. Miklos's Complaint concerns utility service provided to 447 N. Monroe Ave., Bradley, IL 60915. The Commission does not have jurisdiction over utility service in Illinois.

Ordinarily, when a preliminary objection is sustained, the Complainant has the right to file an amended pleading within 10 days of receipt of the order. 52 Pa. Code § 5.101(h). However, in this case, the Complaint cannot be amended to provide the Commission with jurisdiction over the provision of utility service in Illinois. An initial decision is required, instead of an order, to dismiss the Complaint outright without a hearing being held.

If reasonable grounds exist for investigating a complaint, the Commission has a duty to fix a time and place for a hearing. 66 Pa.C.S. § 703(a). The Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. 66 Pa.C.S. § 703(b); 52 Pa. Code § 5.21(d). Such is the case here. Reasonable grounds do not exist for investigating Mr. Miklos's Complaint because it concerns utility service provided in Illinois, not Pennsylvania. It is not in the public interest to require a hearing. All expenses incurred by the responding utility for a hearing would be unnecessary and should be avoided. Mr. Miklos provided the following in response to the new matter and Preliminary Objection: "It's a water bill meant to show, I presume, where I live. I do not dispute where I live." This statement cannot be used for purposes of deciding the Preliminary Objection, but it is relevant to a determination whether a hearing is necessary and in the public interest. Based upon Mr. Miklos's Complaint and this statement, a hearing is not necessary or in the public interest.

Where there are no disputed questions of fact and the issue to be decided is purely one of law or policy, a case may be disposed of without resort to an evidentiary hearing. *Dee-Dee Cab, Inc. v. Pa. Pub. Util. Comm'n*, 817 A.2d 593 (Pa. Cmwlth. 2003); *Diamond Energy, Inc. v. Pa. Pub. Util. Comm'n*, 653 A.2d 1360 (Pa. Cmwlth. 1995); *Lehigh Valley Power Comm. v. Pa. Pub. Util. Comm'n*, 563 A.2d 557 (Pa. Cmwlth. 1989). It would serve no public purpose to require the parties to bear the time and expense of a hearing under the circumstances, as the Commission is not authorized to decide this matter. The fact that this Complaint concerns utility service provided to 447 N. Monroe Ave., Bradley, IL 60915 is not in dispute.

Accordingly, the Complaint is dismissed.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to this proceeding. 66 Pa.C.S. §§ 102, 701.
2. The Commission has the general administrative power and authority to supervise and regulate all public utilities doing business within the Commonwealth. 66 Pa.C.S. §§ 102, 501(a).
3. In ruling on a preliminary objection, the Commission must assume, for decisional purposes only, that the factual allegations of the Complaint are true. *Cnty. of Allegheny v. Cmwlth. of Pa.*, 490 A.2d 402 (1985).
4. The Commission does not have jurisdiction to regulate utility service provided outside the Commonwealth in Illinois. 66 Pa.C.S. §§ 102, 501(a).
5. Where there are no disputed questions of fact and the issue to be decided is purely one of law or policy, a case may be disposed of without resort to an evidentiary hearing. *Dee-Dee Cab, Inc. v. Pa. Pub. Util. Comm'n*, 817 A.2d 593 (Pa. Cmwlth. 2003); *Diamond Energy, Inc. v. Pa. Pub. Util. Comm'n*, 653 A.2d 1360 (Pa. Cmwlth. 1995); *Lehigh Valley Power Comm. v. Pa. Pub. Util. Comm'n*, 563 A.2d 557 (Pa. Cmwlth. 1989).
6. The Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. 66 Pa.C.S. § 703(b); 52 Pa. Code § 5.21(d).
7. A hearing on the Complaint is not necessary or in the public interest.

