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Whitney E. Snyder
717.703.0807
wesnyder@hmslegal.com

Erich W. Struble
717.703.0812
ewstruble@hmslegal.com

Kathryn C. Read-Fisher
717.703.0808
kcr@hmslegal.com

501 Corporate Circle, Suite 302, Harrisburg, PA 17110 Phone: 717.236.1300 Fax: 717.236.4841 www.hmslegal.com

March 25, 2026

By Electronic Filing

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

Re: Adam M. Copenhaver v. Columbia Water Company; Docket No. C-2026-3060873;
PRELIMINARY OBJECTIONS TO FORMAL COMPLAINT

Dear Secretary Homsher:

Enclosed for filing with the Pennsylvania Public Utility Commission are Columbia Water Company's Preliminary Objections to the Formal Complaint in the above-referenced proceeding. Copies have been served in accordance with the enclosed certificate of service.

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

Very truly yours,

/s/ Whitney E. Snyder

Whitney E. Snyder
Erich W. Struble
KC Read-Fisher

Counsel for Columbia Water Company

WES/das

Enclosures

cc: Administrative Law Judge F. Joseph Brady (fbrady@pa.gov)
Pamela McNeal, Legal Assistant (pmcneal@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ADAM M. COPENHAVER	:	
Complainant,	:	
	:	
v.	:	
	:	Docket No. C-2026-3060873
COLUMBIA WATER 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 Columbia Water 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
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COLUMBIA WATER COMPANY,	:	
	:	
Respondent.	:	

**COLUMBIA WATER COMPANY’S PRELIMINARY OBJECTIONS
TO FORMAL COMPLAINT OF
ADAM COPENHAVER**

Pursuant to 52 Pa. Code § 5.101, Respondent Columbia Water Company (“CWC” or the “Company”) submits these Preliminary Objections to Adam Copenhaver’s March 5, 2026 Formal Complaint (Complaint) in the above captioned proceeding and requests the Complaint be dismissed. The Complaint should be dismissed because it:

- raises issues beyond the Commission’s jurisdiction
- fails to allege any action or inaction by CWC that violates the Pennsylvania Public Utility Commission (“PUC” or “Commission”) regulations or orders or the Public Utility Code;
- Raises issues beyond the Commission’s statutory authority to address because they are untimely under 66 Pa. C.S. § 3314.

I. INTRODUCTION

1. Pursuant to 52 Pa Code § 5.101(a)(1), the Complaint should be dismissed because the Commission lacks jurisdiction over the gravamen of the Complaint, which alleges that CWC's dealings with PennVEST were not in accordance with PennVEST's loan documentation and regulatory requirements. These are issues within the jurisdiction of PennVEST, not the Commission. Pursuant to 52 Pa. Code § 5.101(a)(4), the Complaint should be dismissed in its entirety because it is legally insufficient in that it fails to state a claim on which relief can be granted. Because Complainant's allegations nor any averment in the requested relief of the Complaint can be interpreted as an allegation of a violation of any law or regulation the Commission administers, or any Commission order, the Complaint is legally insufficient and should be dismissed. Finally, pursuant to 52Pa. Code § 5.101(a)(4), portions of the Complaint making allegations about Loan 80180 should be dismissed as legally insufficient because the issue is time-barred under 66 Pa. C.S. § 3314.

II. ARGUMENT

A. Legal Standard

2. The Commission's regulations allow a respondent to file preliminary objections to a complaint. 52 Pa. Code § 5.101. Preliminary motion practice before the Commission is similar to that utilized in Pennsylvania civil practice. *Equitable Small Transportation Interveners v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, PUC Docket No. C-00935435 (July 18, 1994) (citing Pa. R. Civ. P. 1017). A preliminary objection in civil practice seeking dismissal of a

pleading will be granted where relief is clearly warranted and free from doubt. *Interstate Traveller Services, Inc. v. Pa. Dept. of Environmental Resources*, 406 A.2d 1020 (Pa. 1979).

3. In determining whether to sustain preliminary objections, all well-pleaded material, factual averments and all inferences fairly deducible therefrom are presumed to be true. *Marks v. Nationwide Ins. Co.*, 762 A.2d 1098, 1099 (Pa. Super. Ct. 2000), *appeal denied*, 788 A.2d 381 (Pa. 2001). The pleaders' conclusions of law, unwarranted inferences from facts, argumentative allegations or expressions of opinion should not be considered to be admitted as true. *Id.* The preliminary objections should be sustained if, based on the facts averred by the plaintiff, the law says with certainty that no recovery is possible. *Soto v. Nabisco, Inc.*, 32 A.3d 787, 790 (Pa. Super. Ct. 2011), *appeal denied*, 50 A.3d 126 (Pa. 2012).

4. 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 v. Bell*, 383 A.2d 791 (Pa. 1977).

B. Preliminary Objection 1: The Commission Lack Jurisdiction Over the Complaint

5. The gravamen of the Complaint raises issues related to whether CWC appropriately complied with PennVEST requirements regarding the Company’s loans during the contracting process. These issues include whether the process was appropriately adhered to, whether Columbia Water’s covenants in loan documents were accurate, whether change orders were approved, and whether costs were eligible for loan reimbursement

6. PennVEST is the agency vested with the sole statutory authority to create rules and guidance for its loan process, decide what costs are eligible, decide whether a loan should be issued and on what terms, and determine whether items are reimbursable. 35 P.S. §§ 751.4 (creating PennVEST), 751.5 (authorizing PennVEST to administer loans and granting “exclusive control and management of all moneys of the authority”), 751.6 (providing power to implement procedures for loan process) The PUC’s statutory duty with respect to PennVEST loans is a mandate to ensure utilities have sufficient rates in place to pay PennVEST loan obligations. 35 P.S. § 751.14 (“For the limited and special purpose of ensuring repayment of principal and interest on loans made pursuant to this act, the Pennsylvania Public Utility Commission shall approve such security issues, affiliated interest agreements and rate increase requests by applicants that are regulated utilities as are necessary and appropriate. For this purpose, the Pennsylvania Public Utility Commission shall establish such expedited practices, procedures and policies as necessary to facilitate and accomplish repayment of the loans. Nothing in this act shall be construed as to require approval of rate increases greater than that necessary to accomplish the repayment of loans made pursuant to this act.”).

7. Thus, the Commission lacks jurisdiction over the Complaint and it should be dismissed in full with prejudice.

C. Preliminary Objection 2: The Complaint Is Legally Insufficient Because It Fails to State a Claim

8. In order to be legally sufficient, a complaint must set forth “an act or thing done or omitted to be done or about to be done or omitted to be done by the respondent in violation, or claimed violation, of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission.” 52 Pa. Code § 5.22(a)(4); *see, e.g., James Drake v. Pennsylvania Electric Co.*, Docket No. C-2014-2413771, Initial Decision Sustaining Preliminary Objection and Dismissing Complaint, 2014 WL 2003281, *4 (May 7, 2014).

9. On its face, the Complaint wholly fails to allege any CWC action or inaction that purportedly violates the Commission’s regulations, orders, or the Public Utility Code and therefore it should be dismissed.

10. The Commonwealth Court has made clear that “in order for the PUC to sustain a complaint brought under [66 Pa.C.S. § 1501], the utility must be in violation of its duty under this section. Without such a violation by the utility, the PUC does not have the authority, when acting on a customer’s complaint, to require any action by the utility.” *West Penn Power Co. v. Pa. PUC*, 478 A.2d 947, 949 (Pa. Cmwlth. 1984). *See also Lynde Blymier v. SPLP*, Docket No. C-2023-3040188, Initial Decision at 15-17 (dismissing as legally insufficient complaint that sought investigation and did not allege wrongdoing by utility), adopted (Order entered Dec. 21, 2023).

11. Moreover, it is axiomatic that the Complainant must prove that the respondent is responsible for the issues raised in the complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990).

12. Here, the Complaint raises no allegations that the Company did anything in violation of anything over which the Commission has jurisdiction. All allegations are related to the Company's dealings with PennVEST over which the Commission lacks jurisdiction. Therefore, the Complaint is legally insufficient and should be dismissed pursuant to 52 Pa. Code § 5.101(a)(4).

D. Preliminary Objection 3: Issues Related to Loan 80180 are Time-Barred Pursuant to 66 Pa. C.S. § 3314

13. Complainant raises issues that occurred over 10 years ago which is well beyond the Commission's three year statutory authority to address.

14. "No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained *unless brought within three years from the date at which the liability therefor arose*, except as otherwise provided in this part." 66 Pa. C.S. 3314.

15. On July 30, 2015, the Commission issued an order that adopted a Recommended Decision approving settlement of the initial PennVEST surcharge. *Pa PUC et al v. Columbia Water Company*, R-2014-2445660 (Order entered Jul 30, 2015). The Recommended Decision explains that the Company sought to implement a surcharge for PennVEST Loan 80180 effective January 1, 2015. RD at 9. The Recommended Decision approved the surcharge as modified by the settlement. RD at 15. Thus, the Commission's own orders show that Loan 80180 and the Commission's approval of the related surcharge for repayment of that Loan occurred over 10 years ago. Time has long passed for Complainant to raise the issues in the Complaint related to

Loan 80180 and allegations related thereto should be dismissed to the extent the Complaint is not dismissed in whole.

WHEREFORE, Columbia Water Company respectfully requests the Complaint be dismissed in whole with prejudice.

Respectfully submitted,

/s/ Whitney E. Snyder

Whitney E. Snyder, Attorney ID No. 316625

Erich W. Struble, Attorney ID No. 310768

Kathryn C. Read-Fisher, Attorney ID No. 338505

HMS Legal LLP

501 Corporate Circle, Suite 302

Harrisburg, PA 17110

717.236.1300

wesnyder@hmslegal.com

ewstruble@hmslegal.com

kcr@hmslegal.com

Counsel for Columbia Water Company

Dated: March 25, 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 FIRST CLASS MAIL

Adam M. Copenhaver
339 Cherry Street
Columbia, Pennsylvania 17512
adamcopenhaver22@gmail.com
(570) 452-2344

Pro Se Complainant

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

Dated this 25th day of March, 2026.