

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

John Barons	:	
	:	
v.	:	C-2026-3060287
	:	
Columbia Gas of Pennsylvania, Inc.	:	

INTERIM ORDER
GRANTING IN PART AND DENYING IN PART
RESPONDENT’S PRELIMINARY OBJECTIONS

On January 16, 2026, John Barons (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Columbia Gas of Pennsylvania, Inc. (Respondent or Columbia) using the Formal Complaint form. Regarding the reason for the Complaint, he checked the “Other” box, writing, in part, as follows:

Columbia gas did work on my property for the Borough of Oakdale. [T]hey damaged the wall on my property. I called the police and the Supervisor from Desoto Pipe on Body Camera of Sgt. Davis stated they would fix wall. [T]hey now say they will not fix problem or any of the damage.

Complaint ¶ 4. As relief, the Complainant indicated he wanted Respondent to be ordered to “[f]ix the damage to the wall and make me whole.” Complaint ¶ 5.

On February 25, 2026, Respondent filed an Answer with New Matter and Affirmative Defenses to the Complaint (Answer). In its Answer, Respondent denied Complainant’s allegations that it caused damage to Complainant’s property, and denied it made any statements to Complainant about responsibility for the alleged damage. Answer ¶ 5, 7. Respondent averred Complainant first complained to Respondent of damage to his property on

or around February 6, 2025, but noted Respondent did not perform any work on or near Complainant's property until August 1, 2025. Answer ¶ 4.

Also on February 25, 2026, Respondent filed Preliminary Objections. In the Preliminary Objections, Respondent stated that Complainant seeks monetary damages, and an award of monetary damages is impermissible under the law. Respondent asked that the request for monetary damages be stricken from the Complaint for lack of subject matter jurisdiction. Respondent further requested that Complainant be prohibited from introducing testimony or exhibits at any evidentiary hearing regarding alleged damages. Respondent's Preliminary Objections included a Notice to Plead pursuant to 52 Pa. Code §5.63.

On March 30, 2026, the Commission issued a Motion Judge Assignment assigning this matter to me for resolution of the Preliminary Objections.

It is now appropriate to rule on the Preliminary Objections.

Discussion

Commission regulations permit the filing of preliminary objections. 52 Pa.Code §§ 5.101(a)(1)-(7). Preliminary objection practice before the Commission is similar to Pennsylvania civil practice respecting preliminary objections. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

Commission regulations provide as follows:

§ 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.

In deciding preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of a complainant, recovery or relief is possible. *Dep't of Auditor General, et al v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa.Cmwlt. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105, 1108 (Pa.Cmwlt. 1996). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705, 707 (Pa.Cmwlt. 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 Bd.*, 690 A.2d 1312, 1314 (Pa.Cmwlt. 1997).

A preliminary objection can be granted only if recovery or relief is not possible after all of Complainant's averments in the Complaint are viewed as true for purposes of deciding the preliminary objection, using only those facts specifically admitted.

In the present case, Respondent asserts that the Commission lacks jurisdiction regarding Complainant's request for damages. Respondent requests that the Preliminary

Objections be granted, that the Commission strike Complainant's request for damages and that any introduction by Complainant of evidence regarding alleged damages is prohibited.

It is well established under Pennsylvania law that the enforcement powers of the Commission do not include the power to award money damages. *Elkin v. Bell Tel. Co. of PA., Co. of Pa. PA.*, 420 A.2d 371, 375 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791, 794 (Pa. 1978) (*Feingold*); see *Nagy v. Bell Tel Co. of PA.*, 436 A.2d 701, 704 (Pa. Super. 1981).

In *Feingold*, the Pennsylvania Supreme Court explained:

...the statutory array of PUC remedial and enforcement powers does not include the power to award damages to a private litigant for breach of contract by a public utility. Nor can we find an express grant of power from which the power to award damages can be fairly implied. Thus, it can be concluded that the Legislature did not intend for the PUC to have such a power.

Feingold, 383 A.2d at 794.

Complainant's requested relief, as set forth in the Complaint, is for the Commission to order Respondent to "[f]ix the damage to the wall and make [him] whole." Complaint ¶ 5.

The undersigned does not have authority to award monetary damages to a complainant regardless of the circumstances. Respondent's Preliminary Objections are therefore granted with regard to any request made by Complainant for monetary damages. Any request for monetary damages is struck from the Complaint.

Although Complainant requested relief in the form of monetary damages, he also made other allegations that could be considered allegations of reliability, safety, or quality issues with his utility service. Therefore, while Respondent's Preliminary Objections regarding any portion of the Complaint that requests damages are granted, the remainder of the Complaint still must be addressed. The remaining claims raised in the Complaint are appropriate to move

forward at this stage of the litigation, and this matter will be referred to the Mediation Unit as requested.

Respondent requested Complainant be prohibited from presenting evidence “regarding alleged damages” at any evidentiary hearing. While the Commission does not have jurisdiction to award monetary damages, a blanket prohibition against certain evidence is premature at this juncture. However, Respondent is not precluded from raising objections in the future in an evidentiary hearing, and any objections will be ruled on by the presiding officer.

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objections filed by Columbia Gas of Pennsylvania, Inc. against the Formal Complaint filed by John Barons at Docket Number C-2026-3060287 are granted, insofar as requests for monetary damages in the Formal Complaint are struck from the Complaint.
2. That Columbia Gas of Pennsylvania, Inc.’s request to exclude evidence “regarding alleged damages” is denied at this juncture.
3. That the matter shall be referred to the Mediation Unit for further action.

Date: April 1, 2026

/s/
Ann Quimby
Administrative Law Judge

C-2026-3060287 - JOHN BARONS v. COLUMBIA GAS OF PENNSYLVANIA INC

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Accepts eService – **Served 4/1/2026**

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