

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Helena Barnhill	:	
	:	
v.	:	C-2025-3056201
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the Formal Complaint of Helena Barnhill because it is barred by the statute of limitations and she failed to satisfy her burden of proving that Philadelphia Gas Works violated its tariff, the Public Utility Code, or a Commission Regulation, or Order.

**HISTORY OF THE PROCEEDING**

On July 9, 2025, Helena Barnhill (Complainant or Ms. Barnhill) filed a formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, Complainant placed checkmarks in the boxes indicating: “The utility is threatening to shut off my service or has already shut off my service” and “I am having a reliability, safety or quality problem with my utility service.” In an attachment to the Complaint,

Complainant stated she had concerns with a letter received by PGW requesting access to her home and also requested that the gas line to her home be moved.

On July 29, 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. Specifically, PGW denied that there is an active shut off notice for the gas service at 4635 Horrocks Street, Philadelphia, PA (Service Address). In its New Matter, PGW averred that it has not performed any work at the Service Address or on Complainant's service line since February of 2022, thus, the Commission lacks jurisdiction over this matter pursuant to the statute of limitations at 66 Pa.C.S. § 3314, which divests the Commission of jurisdiction over an action brought more than three years from the date the liability arose. PGW requested that the Complaint be dismissed.

Complainant's Answer to PGW's New Matter was due within twenty days of the date of service of the Answer with New Matter. 52 Pa. Code § 5.63(a). Complainant did not file an Answer to PGW's New Matter.

Also on July 29, 2025, PGW filed a Preliminary Objection to the Complaint along with a Notice to Plead. In its Preliminary Objection, PGW reiterated its argument that the statute of limitations at 66 Pa.C.S. § 3314 divests the Commission of jurisdiction in this matter because the alleged liability occurred more than three years ago. Thus, PGW requested the case be dismissed.

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

By Motion Judge Assignment Notice dated September 8, 2025, the parties were informed that I was assigned as the Presiding Officer in this matter.

On October 2, 2025, I issued an Order denying PGW's Preliminary Objection for failure to show that Complainant would not be entitled to relief under any circumstance as a matter of law.

By Hearing Notice dated October 6, 2025, an Initial Call-In Telephonic Hearing was scheduled for December 17, 2025.

A Prehearing Order was issued on October 8, 2025, advising the parties of the date and time of the scheduled hearing, and informing them of the procedures applicable to the proceeding.

On December 17, 2025, the hearing convened as scheduled. Complainant appeared *pro se*, testified on her own behalf, and offered no exhibits for the record. Respondent appeared and was represented by Graciela Christlieb, Esquire, who presented the testimony of Albert Teti, Superintendent of Revenue Protection and Field Operations at PGW. Respondent offered six exhibits, which were entered into the record.

The record closed on January 12, 2026, upon my receipt of the transcript of the hearing.

#### FINDINGS OF FACT

1. Complainant is Helena Barnhill.
2. Respondent is Philadelphia Gas Works.

3. Complainant resides at 4635 Horrocks Street, Philadelphia, PA 19124 (Service Address). Tr. 6.

4. PGW engaged in gas main replacement and installed the curb valve at the Service Address on February 16, 2022. Tr. 10, 17-18; PGW Exh. 3.

5. The City of Philadelphia has designated a 12-foot right-of-way from the curb on each side of Horrocks Street where the Service Address is located. Tr. 21-22; PGW Exh. 6.

6. The curb valve at the Service Address is located 9 feet, 6 inches, from the curb, which is within the right-of-way. Tr. 22.

7. PGW has no safety concerns with the location of the curb valve at the Service Address and would not install the curb valve at that location if there was a safety concern. Tr. 22-23.

8. PGW did not replace the meter at the Service Address (No. 2041348) when it engaged in gas main replacement and curb valve installation at the Service Address on February 16, 2022. Tr. 18-19; PGW Exh. 4.

9. The meter at the Service Address (No. 2041348) remains the same meter that was installed in 2006. Tr. 16-17, 19; PGW Exhs. 2, 4.

10. PGW issued a 10-day shutoff notice to Complainant on May 2, 2023. Tr. 15; PGW Exh. 1.

11. On July 9, 2025, Complainant filed a Complaint against PGW with the Commission. Tr. 14.

## DISCUSSION

As a matter of law, to establish a legally sufficient claim, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990). The offense must also be a violation of the Public Utility Code (Code), a Commission regulation or order or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701.

Section 332(a) of the Code provides that a complainant, as the party seeking affirmative relief from the Commission, has the burden of proof by a preponderance of the evidence. 66 Pa.C.S. § 332(a); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A preponderance of the evidence is evidence that is more convincing, by even the smallest amount, than that presented by the opposing party. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

Additionally, the Commission's decision must be supported by substantial evidence in the record. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts complainant's evidence, the burden of going forward with the evidence shifts back to complainant, who must rebut the utility's evidence with some additional evidence. The burden of going forward with the evidence

may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 461 A.2d 1234 (Pa. 1983).

In this case, Complainant's primary complaint is regarding the placement of the curb valve at the Service Address.<sup>1</sup> As a creature of legislation, the Commission possesses only the authority the state legislature has specifically granted to it in the Public Utility Code. 66 Pa.C.S. §§ 101–3316; *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977). The Commission must act within and cannot exceed its jurisdiction. *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. Matorano*, 235 A.2d 602 (Pa. 1967). Indeed, 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). To this end, Section 3314 of the Code provides:

**§ 3314. Limitation of actions and cumulation of remedies.**

(a) General Rule. 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 therefore arose**, except as otherwise provided in this part.

66 Pa.C.S. § 3314(a)(emphasis added). The Commission has consistently held that Section 3314, “is non-waivable because it terminates the right to bring an action as well as any remedy the Commission may order.” *Kovarikova v. Pa. Am. Water Co.*, Docket No. C-2017-2592131 (Opinion and Order entered Aug. 23, 2018).

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<sup>1</sup> Complainant stated at the outset of the hearing: “The one issue – the main issue is the apparatus in my yard, as they call it, curbside, and I don’t consider curbside inside my yard.” Tr. 6-7.

Here, PGW installed the curb valve at the Service Address on February 16, 2022. Thus, Complainant had until February 16, 2025, to file a complaint. Complainant filed the instant Complaint on July 9, 2025. As a result, Section 3314(a) divests the Commission of jurisdiction to hear the Complainant's action in this regard.

Additionally, PGW established that the curb valve is located 9 feet, 6 inches, from the curb, which is within the 12-foot right-of-way designated by the City of Philadelphia. Further, PGW has no safety concerns with the location of the curb valve at the Service Address and would not install the curb valve at that location if there was a safety concern. Complainant did not present any evidence regarding the safety of the curb valve placement other than her own personal concerns. Tr. 9. Personal opinions or perceptions do not constitute substantial evidence sufficient to permit a complainant to sustain her burden of proof. *Kirby v. PPL Elec. Utils. Corp.*, Docket No. C 20066297 (Final Order entered Nov. 16, 2006). Consequently, even if the Complaint was timely filed, Complainant failed to prove the placement of the curb valve is a violation of PGW's tariff, the Code, or a Commission Regulation or Order.

Also during the hearing, Complainant stated one of the reasons she filed the Complaint was because PGW wanted to perform a meter exchange since her meter was twenty years old, but she believes her meter was already changed in 2022 during the curb valve installation. Tr. 6. This is a non-issue. First, PGW was able to present credible evidence that the meter at the Service Address (No. 2041348) remains the same meter that was installed in 2006 and was not replaced during the 2022 curb valve installation. More importantly, however, PGW is the owner of the meter and has the right to exchange it at any time. PGW Gas Service Tariff – Pa P.U.C. No. 2, Rules 8.4, 9.4. Thus, such an action would not be a violation of PGW's tariff, the Code, or a Commission Regulation or Order.

Finally, although Complaint did not mention it at the hearing, she did place a checkmark in the box indicating: “The utility is threatening to shut off my service or has already shut off my service” in the Complaint. PGW admitted that a 10-day shutoff notice was issued to Complainant on May 2, 2023, but her services were never terminated and no other shutoff notices have been sent. Thus, I find this issue is moot.

Based on the foregoing, the Complaint shall be dismissed.

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. § 701.

2. The burden of proof in this proceeding is on Complainant by a preponderance of the evidence. 66 Pa.C.S. § 332(a); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

3. A preponderance of the evidence is evidence that is more convincing, by even the smallest amount, than that presented by the opposing party. *Se Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

4. The Commission's decision must be supported by substantial evidence in the record. 2 Pa.C.S. § 704.

5. The Commission, as a creature of legislation, possesses only the authority the state legislature has specifically granted to it in the Public Utility Code. 66 Pa.C.S. §§ 101–3316; *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977).

6. The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. Pub. Util. Comm'n.*, 43 A.2d 348 (Pa. Super. 1945).

7. Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967).

8. Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992).

9. No action for the recovery of any penalties or forfeitures or any prosecution shall be maintained unless brought within three years from the date at which the liability arose. 66 Pa.C.S. § 3314(a).

10. Section 3314 of the Public Utility Code “is non-waivable because it terminates the right to bring an action as well as any remedy the Commission may order.” *Kovarikova v. Pa. Am. Water Co.*, Docket No. C-2017-2592131 (Opinion and Order entered Aug. 23, 2018).

11. Any portion of the Complaint regarding the placement of the curb valve at the Service Address is barred by the statutes of limitations. 66 Pa.C.S. § 3314(a).

12. Personal opinions or perceptions do not constitute substantial evidence sufficient to permit a complainant to sustain her burden of proof. *Kirby v. PPL Elec. Utils. Corp.*, Docket No. C-20066297 (Final Order entered Nov. 16, 2006).

