

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kristen Flaherty	:	
	:	
v.	:	C-2026-3060306
	:	
Pennsylvania-American Water Company	:	

FIRST INTERIM ORDER

Denying Respondent's
Preliminary Objections

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

This Interim Order denies the Preliminary Objections of Pennsylvania-American Water Company and directs Pennsylvania-American Water Company to present evidence at an initial hearing in support of its New Matter.

HISTORY OF THE PROCEEDING

On February 5, 2026, Kristen Flaherty (Complainant or Ms. Flaherty) filed a Formal Complaint (Complaint) against Pennsylvania-American Water Company (Respondent or PAWC) with the Pennsylvania Public Utility Commission (Commission). Complainant alleged Respondent was threatening to terminate water service, and she wanted a payment arrangement. In the Complaint, Complainant selected the option to receive all communications from the Commission via eService through an eFiling account she registered with the Commission. Complaint ¶ 9.

On March 4, 2026, Respondent filed and served its Answer and New Matter (Answer), endorsed with a Notice to Plead. PAWC admitted it issued termination notices on Ms. Flaherty's

account because the account balance totals \$7,365.13, and Complainant made only five (5) successful payments since opening her account on March 19, 2019. Respondent generally denied Complainant's allegations in all other regards and specifically denied any termination notice was issued in violation of the Public Utility Code, a Commission regulation, a Commission Order or the Company's Commission-approved tariff.

In its New Matter, PAWC requested the Commission dismiss the Complaint with prejudice and bar Ms. Flaherty from filing future formal complaints until she pays in full the current balance of \$7,365.13, because Complainant has abused the administrative process by filing nine (9) formal complaints since the account was opened on March 19, 2019, and has only made five (5) successful payments on her account since March 19, 2019.

Also, on March 4, 2026, Respondent filed and served Preliminary Objections (Preliminary Objections or P.O.'s) which were endorsed with a Notice to Plead, pursuant to 52 Pa. Code § 5.101(4). In its Preliminary Objections, PAWC averred the Complaint was legally insufficient and an abuse of the administrative process. Respondent averred the Complaint is the last of nine formal complaints filed by Ms. Flaherty with the Commission since February 19, 2020. PAWC further averred Complainant always alleges the same disputes and makes the same requests for relief. Respondent noted the Commission has approved, in limited circumstances, the barring formal complainants from filing further complaints (such as a formal complainant's serial filing of the same/similar complaints).

Respondent asserted that, in those circumstances, the Commission directed the Secretary's Bureau to establish internal processes to ensure that customers who were barred previously will be unable to have future complaints accepted by the Commission. Respondent requested that the Commission dismiss the Complaint with prejudice and bar Ms. Flaherty from filing any future complaints until after she pays the off the current balance.

On April 16, 2026, the Office of Administrative Law Judge (OALJ) issued a Call-In Telephone Hearing Notice, which scheduled an initial hearing to be conducted on June 11, 2026, with Administrative Law Judge Katrina L. Dunderdale (presiding officer). On April 16, 2026, the presiding

officer issued a Prehearing Order, which advised the parties how to connect to the Commission’s conference bridge on June 11, 2026, and provided guidance on procedural matters.

The Preliminary Objections are ready for disposition.

DISCUSSION

Respondent filed two pleadings in response to the Formal Complaint: Answer and New Matter; and Preliminary Objections. In both pleadings, PAWC cited an identical reasoning or argument for why the Commission should dismiss the Formal Complaint with prejudice: because the Complaint was legally insufficient and an abuse of the administrative process.

Affirmative defenses, pursuant to 52 Pa. Code § 5.62(b), “shall be pleaded in an answer or other responsive pleading under the heading of ‘New Matter.’ A party may set forth as new matter another material fact which is not merely a denial of the averments of the preceding pleading.” A party that raises the affirmative defense must include additional facts in order to ascertain which affirmative defense applies.¹

In addition, preliminary objections, under the Commission’s regulations, are available to parties and allow for objections to be filed in response to any pleading except a motion or prior preliminary objections. A party filing preliminary objections must include a notice to plead, must state specifically the legal and factual grounds relied upon and limit the objections 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 Chapter 5, Title 52 of the Pennsylvania Code, or include scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.

¹ See PA Rule of Civil Procedure Rule 1030.

- (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).

The party against whom preliminary objections are filed (in this case, Ms. Flaherty) may file an answer to the preliminary objections, which response must be filed within ten days of the date when the preliminary objections are served. 52 Pa. Code § 5.101(f)(1). Then the presiding officer will decide the preliminary objections, within thirty days of the date the preliminary objections are assigned to the presiding officer. 52 Pa. Code § 5.101(g).

The moving party (in this case, PAWC) may not rely on its own factual assertions, but must accept, for the purposes of disposition of the preliminary objections, all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts.² Therefore, in ruling on preliminary objections, the Commission must assume, for decisional purposes only, that the factual allegations of a complaint are true.³ The preliminary objections may be granted only if the moving party prevails as a matter of law.⁴ Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections.⁵

The Commission has the discretion to “dismiss any complaint without hearing if, in its opinion, a hearing is not necessary in the public interest.”⁶ A hearing is necessary only to resolve disputed questions of fact and, when the question presented is solely one of law, the Commission need

² County of Allegheny v. Cmwlth. of Pa., 490 A.2d 402 (Pa. 1985).

³ Id.

⁴ Roc v. Flaherty, 527 A.2d 211 (Pa.Cmwlth. 1985).

⁵ Dept. of Auditor General, et al. v. State Employees’ Retirement System, et al., 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003) (citing, Boyd v. Ward, 802 A.2d 705 (Pa.Cmwlth. 2002)).

⁶ 66 Pa.C.S. § 703(b). See also 52 Pa. Code § 5.21(d).

not hold a hearing.⁷ The public interest does not require a hearing in a case which would be a fruitless exercise and, therefore, not necessary or in the public interest.⁸

Respondent's Position

Respondent averred the Complaint should be dismissed as legally insufficient as a matter of law and as an abuse of the administrative process. Pursuant to 52 Pa. Code § 5.101(a)⁹, PAWC contended the Complaint should be dismissed because Ms. Flaherty abused the administrative process over the last six (6) years. PAWC alleged the Complaint is the latest of nine (9) formal complaints that Ms. Flaherty filed with the Commission since February 19, 2020. Of those nine formal complaints, PAWC asserted the first seven (7) formal complaints were resolved without an evidentiary hearing through the filing of a Certificate of Satisfaction. PAWC also asserted the eighth formal complaint resulted in a dismissal via a Final Order on January 12, 2026, because Ms. Flaherty failed to appear at the evidentiary hearing. Further, PAWC noted the instant Complaint was filed less than one month after the Final Order in the previous (eighth) formal complaint.

PAWC argued, pursuant to the Commission's regulations in 52 Pa. Code §§ 5.61, 5.62 and 5.101(a), the Complaint should be dismissed with prejudice because Complainant repeatedly filed formal complaints concerning water service provided at the same service address and those complaints prevented PAWC from its pursuit of payment for water service provided to Complainant or its pursuit of lawful termination for failure to make payments on the account. PAWC noted Ms. Flaherty made only five (5) successful payments on her account since March 19, 2019, even though Ms. Flaherty has not disputed the charges on her bills. PAWC further noted the allegations in the nine formal complaints raised the same issue (i.e., a pending termination) and requested the same relief from the Commission (i.e., a payment arrangement). PAWC noted the Commission has barred future filings of formal complaints with other complainants in similar circumstances, and PAWC argued this complainant

⁷ Lehigh Valley Power Committee v. Pa. Pub. Util. Comm'n, 128 Pa.Cmwlth. 259, 563 A.2d 548 (1989). Also Edan Transportation Corp. v. Pa. Pub. Util. Comm'n, 154 Pa.Cmwlth. 21, 623 A.2d 6 (1993).

⁸ Musisko v. Pennsylvania American Water Company, Docket No. C-2008-2061663 (Final Order entered May 13, 2009).

⁹ Pursuant to 52 Pa. Code § 5.101(a)(3) and § 5.101(a)(4), preliminary objections are available and may be granted due to "insufficient specificity of a pleading" or "legal insufficiency of a pleading."

should be precluded from filing future formal complaints until such time as she pays off the outstanding debt on her account with PAWC.

Complainant did not file a Response to PAWC's Answer and New Matter, or to its Preliminary Objections.

Requirements when Filing a Complaint

First, the regulations permit PAWC to file preliminary objections to dismiss a pleading for legal insufficiency.¹⁰ The law requires Complainant to specify in the Formal Complaint an "act or thing done or admitted to be done or about to be done or admitted 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."¹¹

Respondent avers the Complaint does not specify any act or thing PAWC did which was in violation, or claimed to be in violation, of a statute or regulation over which the Commission has jurisdiction, even if all well-pleaded facts in the Complaint are presumed to be true. In her Complaint, Ms. Flaherty contends only that a termination of water service has occurred or is threatened to be pending. Ms. Flaherty pled no other facts. Ms. Flaherty requests a payment arrangement but pled no reason for the payment arrangement.

Conclusion

This case – on its face and when taken in the light most favorable to Ms. Flaherty – involves two disputed questions of fact and law: (1) whether PAWC properly seeks to terminate water service and (2) whether Ms. Flaherty is entitled to a payment arrangement. With these preliminary objections, PAWC adds a third question: (3) whether Ms. Flaherty should be precluded from filing any future complaints against PAWC until she pays off the unpaid arrearage totaling \$7,365.13.

¹⁰ See 52 Pa. Code § 5.101(a); 66 Pa.C.S. § 703(a); Mulzet v. PPL Electric Utilities Corp., Docket No. C-2013-2367132 (Initial Decision dated July 22, 2013).

¹¹ See 52 Pa. Code § 5.21(a); 66 Pa.C.S. § 701.

Ms. Flaherty is entitled to have an opportunity to show that PAWC violated the Public Utility Code and/or the Commission's regulations when PAWC threatened to terminate water service. She also is entitled to have an opportunity to show that she is entitled to receive a payment arrangement.

In addition, however, PAWC is entitled to have an opportunity to show that Ms. Flaherty abused the administrative process and should be precluded from filing future complaints until she pays off the unpaid balance, because PAWC included its request to preclude Ms. Flaherty from filing future complaints in its New Matter.

Accordingly, the preliminary objections of PAWC will be denied. An initial hearing is scheduled for June 11, 2026, at 10:00 a.m., at which Complainant will be permitted to present evidence on whether PAWC committed any violation when it sought to terminate service and whether Complainant is entitled to a payment arrangement. In addition, Respondent will be permitted to present evidence on whether the Commission should preclude Ms. Flaherty from filing any future complaints against PAWC until such time as Ms. Flaherty pays off the arrearage on her account in the amount of \$7,365.13.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to this dispute.
2. The Commission has jurisdiction over the subject matter of this dispute to the extent the complaint involves allegations of a failure by Respondent to provide Complainant with reasonable and adequate customer service, pursuant to 66 Pa.C.S. § 1501 and 52 Pa. Code § 56.2, as it relates to whether Complainant is responsible for an unpaid balance.
3. The Formal Complaint raises a claim that, if proven, would show Pennsylvania-American Water Company failed in some way to furnish and maintain adequate, efficient, safe and reasonable service and facilities, pursuant to 66 Pa.C.S. § 1501.

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