

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kenneth A. Kepple	:	
	:	
v.	:	C-2026-3060344
	:	
Aqua Pennsylvania, Inc.	:	

**INTERIM ORDER
SETTING DEADLINES TO RESPOND TO
AQUA PENNSYLVANIA INC.’S PRELIMINARY OBJECTIONS,
AND TO CAUSE COUNSEL TO ENTER AN APPEARANCE**

On February 6, 2026, Kenneth Kepple (Mr. Kepple or Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission), using the Formal Complaint form. Regarding the reason for the Complaint, Mr. Kepple checked the “other” box, indicating Aqua Pennsylvania, Inc. (Aqua or Respondent) “built a pump house on my property, rerouting the water from their property to mine with a 5-foot diameter pipe completely flooding and ruining my property.” Complaint ¶ 5. Complainant chose to receive documents via eFiling. Complaint ¶ 9.

On March 2, 2026, Respondent filed an Answer and New Matter (Answer). In its Answer, Respondent denied it constructed facilities on Complainant’s property, and denies it is responsible for any damage to Complainant’s property. Answer ¶ 4. Respondent requested that the Complaint be dismissed with prejudice. Respondent’s Answer included a Notice to Plead.

Also on March 2, 2026, Respondent filed Preliminary Objections. In its Preliminary Objections, Respondent averred Complainant seeks impermissible monetary damages. Preliminary Objections ¶ 15. Respondent also argues the Complaint is outside the 3-year period to bring a complaint and is therefore beyond the jurisdiction of the Commission. Respondent requested that the Commission strike the request for monetary damages.

On April 9, 2026, the case was assigned to me, and an initial telephone hearing was scheduled for June 5, 2026 at 1:00 p.m.

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 this case, Respondent's Preliminary Objections were not accompanied by a Notice to Plead as required by 52 Pa.Code § 5.101 (a). Therefore, the instant Order provides for notice to Complainant, such that he may file a written response to the Preliminary Objections no later than May 8, 2026.

Additionally, Complainant reported in the Complaint that he is represented by counsel in this matter. Complaint ¶ 10. No entry of appearance has been filed. Complainant shall cause any counsel who represents him in this matter to file an entry of appearance no later than May 8, 2026.

Any response and/or entry of appearance must be filed with the Secretary of the Pennsylvania Public Utility Commission, with copies sent to counsel for Respondent and the undersigned Administrative Law Judge.

THEREFORE,

IT IS ORDERED:

1. That the Complainant shall file any response to Respondent's Preliminary Objections no later than May 8, 2026.

2. That if Complainant has counsel in this matter, Complainant shall cause counsel to file an entry of appearance in this case no later than May 8, 2026.

Date: April 28, 2026

/s/
Ann Quimby
Administrative Law Judge

C-2026-3060344 - KENNETH KEPPLER v. AQUA PENNSYLVANIA, INC.

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