

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Carol Mannis	:	
	:	
v.	:	C-2026-3060920
	:	
Verizon Pennsylvania, LLC.	:	

**INITIAL DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the Formal Complaint of a telephone service customer because the Pennsylvania Public Utility Commission lacks jurisdiction over Voice over Internet Protocol (VoIP) services.

**HISTORY OF THE PROCEEDING**

On February 19, 2026, Carol Mannis (Complainant) filed a Formal Complaint (Complaint) with the Commission against Verizon Pennsylvania, LLC (Verizon or Respondent) regarding spam calls she is receiving over her VoIP service from Verizon. On March 6, 2026, the Complaint was served on Verizon.

On March 26, 2026, Verizon filed an Answer with New Matter (Answer) along with a Notice to Plead. In its Answer, Verizon admitted in part and denied in part

various material allegations of the Complaint. Verizon admitted that it provides VoIP telephone service to Complainant. In its New Matter, Verizon contended that the Commission lacks jurisdiction over VoIP services and requested that the Complaint be dismissed.

Complainant's Answer to Verizon'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 Verizon's New Matter.

On March 27, 2026, Verizon filed Preliminary Objections to the Complaint along with a Notice to Plead. In its Preliminary Objections, Verizon reiterated their argument that the Commission lacks jurisdiction over VoIP services.

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

By Motion Judge Assignment Notice dated April 28, 2026, the parties were informed that I was assigned as the Presiding Officer in this matter and responsible for resolving any issues which may arise during the preliminary phase of this proceeding.

Verizon's Preliminary Objections are now ready to be ruled upon. For the reasons set forth below, I will treat the Preliminary Objections as a Motion for Judgment on the Pleadings and dismiss the Complaint.

#### FINDINGS OF FACT

1. Complainant is Carol Mannis.

2. Respondent is Verizon Pennsylvania, LLC
3. On February 19, 2026, Complainant filed a Formal Complaint with the Commission against Respondent.
4. The Complaint regards VoIP services that Complainant receives from Verizon. Complaint ¶ 4.
5. On March 26, 2026, Respondent filed an Answer with New Matter to the Complaint.
6. On March 27, 2026, Respondent filed Preliminary Objections to the Complaint.
7. As of the date of this Decision, Complainant has not filed an answer to Respondent's Preliminary Objection or reply to its New Matter.

### DISCUSSION

The Commission's Rules of Practice and Procedure permit parties to file preliminary objections for, *inter alia*, lack of Commission jurisdiction. 52 Pa.Code § 5.101(a). Commission preliminary objection practice is similar to Pennsylvania civil practice. *Equitable Small Transp. Intervenor v. Equitable Gas Co.*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994). A complaint is properly dismissed when no relief or recovery is possible. *P.J.S. v. Pa. State Ethics Commission*, 669 A.2d 1105 (Pa. Cmwlth. 1996). When considering preliminary objections, the Commission may not rely upon the factual assertions of the moving party, but must accept as true, for purposes of disposing of the motion, all well pleaded, material facts of the nonmoving party, as well as every inference from those facts. *County of Allegheny v.*

*Commonwealth of Pennsylvania*, 490 A.2d 402 (Pa. 1985); *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602 (Pa. Cmwlth. 1988).

Here, Complainant has alleged issues regarding VoIP services that Complainant receives from Verizon. In response, Verizon has filed an Answer and New Matter stating Complainant's VoIP service is an unregulated Fios Digital Voice service not provided under tariffs. New Matter ¶ 2. Complainant has not filed a reply to the New Matter denying Verizon's averments. Relevant facts stated in new matter may be deemed to be admitted when a timely reply to new matter is not filed. 52 Pa. Code § 5.63(b).

Since the Respondent is seeking dismissal of the Complaint, based upon assertions in New Matter, the appropriate filing is a motion for judgment on the pleadings rather than preliminary objections. 52 Pa. Code § 5.102. However, the Regulation at 52 Pa. Code § 1.2(a) provides that in order to secure a just, speedy and inexpensive determination of this proceeding, the presiding officer or Commission may disregard an error or defect of procedure which does not affect the substantive rights of the parties. 52 Pa. Code § 1.2(a). Thus, since Verizon timely raised the issue of jurisdiction as an affirmative defense in its New Matter, I shall treat its Preliminary Objections as a Motion for Judgment on the Pleadings filed pursuant to 52 Pa. Code § 5.102, and deem the averments made in the New Matter as admitted. This will not adversely affect the Complainant's due process rights since she had notice of the issue and opportunity to respond. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

The Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.102 govern motions for judgment on the pleadings. The Commission will grant a motion for judgment on the pleadings only if the pleadings show there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(d)(1). Only in a case where the moving party's right to prevail is so clear that a trial would be a fruitless exercise should judgment on the pleadings be

granted. *Williams v. Lewis*, 466 A.2d 682 (Pa. Super. 1983); *Service Employees International Union, Local 69, AFL-CIO v. The Peoples Natural Gas Company, d/b/a Dominion Peoples*, Docket No. C-20028539 (Order entered December 19, 2003). In ruling on a motion for judgment on the pleadings, the tribunal must consider as true all well-pleaded averments of the party against whom the motion is directed and consider against him only those facts he specifically admits. Judgment on the pleadings should be entered only when the case is clear and free from doubt. *Reuben v. O'Brien*, 496 A.2d 913 (Pa. Super 1985).

In this case, Complainant alleged that she was receiving unwanted “spam” calls over her VoIP telephone line. In response, Respondent contends in its New Matter that Complainant’s VoIP service is an unregulated Fios Digital Voice service not provided under tariffs. Accepting the facts alleged in the Complaint as true for purposes of disposing of the motion for judgment on the pleadings, as well as the facts alleged and deemed admitted in the Respondent’s New Matter, Respondent contends that the Commission does not regulate the service that is the subject of the Complaint. I concur.

The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. *Tod and Lisa Shedlosky v. Pennsylvania Electric Co.*, Docket No. C-20066937 (Opinion and Order entered May 28, 2008); *Feingold v. Bell Tel. Co. 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. Martorano*, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. *Hughes v. Pennsylvania State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992) *alloc. denied* 637 A.2d 293 (Pa. 1993). Here the General Assembly has divested the Commission of jurisdiction over VoIP services.

The Voice Over Internet Protocol Freedom Act of 2008 at 73 P.S. § 2251.4 generally prohibits the Commission, as well as any department, agency, commission or political subdivision of the Commonwealth from regulating the rates, terms and conditions of internet protocol-enabled services. The statute at 73 P.S. § 2251.6 provides that the Commission, as well as any department, agency, commission or political subdivision of the Commonwealth retains the authority to regulate: 1) the provision and administration of 911 service; 2) telecommunications relay service; 3) universal service fund fees; 4) switched network access rates or other intercarrier compensation rates for interexchange services provided by a local exchange telecommunications company and; 5) rates, terms or conditions of protected services provided under tariffs subject to approval by the Commission. 73 P.S. § 2251.6.

The facts alleged in the Complaint do not bring it within any of the exceptions set forth in 73 P.S. § 2251.6. Pursuant to the Voice Over Internet Protocol Freedom Act of 2008, the Commission has no jurisdiction over the subject matter of the Complaint in this case as it relates to VoIP. It has been well established that the Commission lacks jurisdiction to adjudicate disputes involving VoIP services. *Robles v. Service Electric Telephone Company, LLC*, Docket No. C-2010-2187832 (Order entered October 28, 2011); *Silvestri v. Comcast Phone of Pennsylvania, LLC*, Docket No C-2011-2241959 (Order entered October 7, 2011), *Swartz v. Comcast Phone of Pennsylvania LLC*, Docket No. C-2015-2465416 (Final Order entered May 20, 2015), *Fielder v Verizon Pennsylvania, LLC*, Docket No. C-2016-2553231 (Opinion and Order entered February 3, 2017).

As set forth above, the Voice Over Internet Protocol Freedom Act of 2008 prohibits the Commission from regulating the service that is the subject of the Complaint. Accordingly, Respondent's Motion for Judgment on the Pleadings shall be granted and the Complaint shall be dismissed.

## CONCLUSIONS OF LAW

1. The Commission's Rules of Administrative Practice and Procedure provide for the filing of Preliminary Objections. 52 Pa. Code § 5.101.

2. Preliminary objections are available to parties and may be filed in response to a pleading when the Commission lacks jurisdiction. 52 Pa. Code § 5.101(a)(1).

3. Relevant facts stated in new matter may be deemed to be admitted when a timely reply to new matter is not filed. 52 Pa. Code § 5.63(b).

4. In order to secure a just, speedy and inexpensive determination of any action or proceeding, the presiding officer or Commission may disregard an error or defect of procedure which does not affect the substantive rights of the parties. 52 Pa. Code § 1.2(a).

5. The Complainant's due process rights have been preserved since she had notice of the issue and opportunity to respond. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984).

6. The Commission will grant a motion for judgment on the pleadings only if the pleadings show there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(d)(1).

7. The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. *Tod and Lisa Shedlosky v. Pennsylvania Electric Co.*, Docket No. C-

20066937 (Opinion and Order entered May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977).

8. 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).

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

10. Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. *Hughes v. Pennsylvania State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992) *alloc. denied* 637 A.2d 293 (Pa. 1993).

11. The Commission has no jurisdiction to regulate the rates, terms and conditions of the VoIP services that are the basis of the Complaint. 73 P.S. §§ 2251.1-2251.6.

### ORDER

THEREFORE,

IT IS ORDERED:

1. That Respondent's Motion for Judgment on the Pleadings is granted.
2. That the Complaint of Carol Mannis in *Carol Mannis v. Verizon Pennsylvania, LLC*, at Docket No. C-2026-3060920 is dismissed.

