

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Melissa Holton	:	
	:	
v.	:	F-2026-3060928
	:	
UGI Utilities, Inc. – Gas Division	:	

INTERIM ORDER ON RESPONDENT’S PRELIMINARY OBJECTIONS

On February 23, 2026, Melissa Holton (Complainant or Ms. Holton) filed a Formal Complaint (Complaint) against UGI Utilities, Inc. - Gas Division (UGI, Respondent or Company) with the Pennsylvania Public Utility Commission (Commission) alleging that there are incorrect charges on her gas bill from the utility. In particular, Ms. Holton alleges that she suspected that foreign load existed at the property that she and her daughter rented at 1513 Myrtle St. Scranton, PA 18510 (Service Address). She adds that UGI was made aware of her suspicion but had been denied access to the property by the landlord and had been unable trace the gas lines and verify the existence of foreign load. Next, Ms. Holton avers that she had refused to pay rent until the issue was resolved. Part of the Complaint is illegible, but it appears that Ms. Holton and her landlord were able to settle an eviction proceeding against her upon the condition that Ms. Holton vacate the Service Address by January 1, 2026, and after the property manage admitted that the foreign load condition that existed at the Service Address was corrected had been corrected.

By way of relief, Ms. Holton states as follows,

I want them to acknowledge I was paying foreign load and the property managers to pay for basically scamming me. Because they knew I was paying for heat on [the third floor] and the (sic) refused to acknowledge it by not letting the UGI company to trace the lines. I’m also still paying on heating bill from that residents (sic) which is over \$3,000 from April 1st, 2025 to January 1st 2025 (sic).

Complaint ¶ 5. (Emphasis added).

This Complaint is a timely appeal of the informal decision issued by the Commission's Bureau of Consumer Services at BCS Case No. 4106205. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

On March 26, 2026¹, the Respondent filed an Answer denying all material allegations of fact and conclusions of law in the Complaint. In particular, the Company denies that the property manager denied the Company access to units to complete the trace fuel line investigation. Instead, UGI explains that it has not had contact with the property manager and had been unable to access all units as the individuals the Complainant instructed UGI to gain access from did not have a key. Further, UGI denies that it suspected that the Complainant had a foreign load on the meter serving her residence. Instead, UGI argues that, while the Company could not access all units and perform a complete investigation, it was able to trace the fuel lines from the Complainant's meter and confirmed that they service her water heater, boiler, and stove and that no foreign load was identified. See Answer ¶ 4.

Next, UGI denies that the Complainant is paying the other unit's heating bill as no foreign load was found. The Company also denies the Complainant's averments regarding the bills from April 1, 2025, to January 1, 2026, explaining that for the period of March 29, 2025, through December 31, 2025, the charges totaled \$1,880.78 plus late payment fees of \$6.56. See Answer ¶ 5.

Also on March 26, 2026, the Respondent filed Preliminary Objections seeking to dismiss the Complaint in its entirety and with prejudice for legal insufficiency pursuant to Sections 5.101(a)(1), 5.101(a)(2) and 5.101(a)(4) of the Commission's regulations, 52 Pa. Code §§ 5.101(a)(1), 5.101(a)(2), 5.101(a)(4).

By Motion Judge Assignment Notice dated April 29, 2026, UGI's Preliminary Objections were assigned to me for disposition.

¹ The Complaint was served on the Respondent by the Commission on March 6, 2026.

As of the date of this Order, the Complainant has not filed a response to the Preliminary Objections.

UGI's Preliminary Objections are ready for disposition.

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:

§ 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.

The moving party may not rely on its own factual assertions but must accept for the purposes of deciding the preliminary objection, all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts. *County of Allegheny v. Cmwlth. of Pa.*, 490 A.2d 402 (Pa. 1985). However, the Commission need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2007).

Commission regulations also provide that the content of a formal complaint must include a clear and concise statement of the act or omission being complained of and a clear and concise statement of the relief sought. 52 Pa. Code §§ 5.22(1), (5), (6). The pleading must be sufficiently specific so that the defending party will know how to prepare its defense. *Jackson v. Duquesne Light Company*, Docket No. C-2018-2644080 (Order entered July 12, 2018, adopting Initial Decision dated May 8, 2018).

In the present Complaint, the Complainant alleges that there are incorrect charges on her gas bill from the utility caused by a suspected foreign load on her service line. She avers that UGI was notified of this situation but has been unable to verify the existence of the foreign load because the landlord and/or property manager has repeatedly refused the Company access to all the areas of the property in question. In addition, Ms. Holton alleges that as part of the settlement process in an eviction case against her, the property manager admitted that the foreign load issue at her residence had been fixed as of November 17, 2025. According to Ms. Holton, the eviction proceeding was closed once Ms. Holton agreed to vacate the Service Address by January 1, 2026. See Complaint ¶ 4.

By way of relief, Ms. Holton states as follows,

I want them to acknowledge I was paying foreign load and the property managers to pay for basically scamming me. Because they knew I was paying for heat on [the third floor] and the (sic) refused to acknowledge it by not letting the UGI company to trace the lines. I'm also still paying on heating bill from that residents (sic) which is over \$3,000 from April 1st, 2025 to January 1st 2025 (sic).

Complaint ¶ 5. (Emphasis added).

In its Preliminary Objections, UGI seeks to dismiss the Complaint in its entirety and with prejudice pursuant to Sections 5.101(a)(1), 5.101(a)(2) and 5.101(a)(4) of the Commission's regulations, 52 Pa. Code §§ 5.101(a)(1), 5.101(a)(2), 5.101(a)(4).

First, UGI's Preliminary Objections seek to dismiss the Complaint because the Commission lacks subject matter jurisdiction to adjudicate private contractual disputes, like those between landlords and their tenants. See 52 Pa. Code §§ 5.101(a)(1).

It is well-established that the Commission lacks subject matter jurisdiction over private contractual disputes. See *Pettko v. Pa. Am. Water Co.*, 39 A.3d 473, 478 n.9 (Pa. Cmwlth. 2012) (“[T]here can be no dispute that the courts of common pleas have subject matter jurisdiction over common law claims such as conversion and breach of contract involving private individuals and businesses.”); *Adams v. Pa. PUC*, 819 A.2d 631, 635 (Pa. Cmwlth. 2003) (“[T]he PUC lacks jurisdiction over private contractual disputes.”). Rather, jurisdiction over such private contractual disputes lies with the Pennsylvania courts of common pleas. See *Pettko*, 39 A.3d at 478 n.9.

Even when viewing the Complaint in this case in the light most favorably to the Complainant, it is clear from the relief requested that Ms. Holton's dispute is with the landlord and/or the property manager(s). She clearly wants the landlord and/or the property manager(s) to admit that foreign load existed at her residence so that UGI can recalculate her outstanding balance. However, as stated above, the Commission is without jurisdiction to adjudicate Ms. Holton's private dispute with her landlord or property manager(s). Any dispute between the

landlord and tenant regarding the financial responsibilities of the parties is a matter to be resolved in the Court of Common Pleas and is outside this Commission's jurisdiction, *citing Corazzini v. UGI Penn Natural Gas, Inc.*, No. F-2009-2101282 (Opinion and Order entered July 15, 2010). Consequently, UGI prevails on its first Preliminary Objection.

Second, UGI's Preliminary Objections seek to dismiss the Complaint in its entirety and with prejudice arguing that the Complaint is legally insufficient as it fails to allege any violations committed by UGI.

For the purpose of disposing these Preliminary Objections, even accepting as true the material averment of Ms. Holton's Complaint, I fail to discern any claim that UGI violated a Commission statute, regulation, order or UGI's Tariff with its actions or inactions concerning the foreign load. The Complainant does not allege that UGI is responsible or accountable for the foreign load problem described in the Complaint. See *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa PUC 196, 1990 Pa. PUC LEXIS 19, at *8 (Order entered Feb. 8, 1990) (*citing Feinstein v. Phila. Suburban Water Co.*, 50 Pa. PUC 300 (1976)). UGI prevails on this Preliminary Objection.

Lastly, UGI's Preliminary Objections seek to dismiss Ms. Holton's request for damages. In particular, UGI notes that, by way of relief, the Complainant requests that the Commission direct "the property managers to pay for basically scamming [her]." UGI argues that the portion of the Complaint requesting damages should be dismissed because the Commission cannot award damages.

As a creature of legislation, the Commission possesses only the authority the State Legislature has specifically granted to it in the Public Utility Code (the "Code"), 66 Pa. C.S. §§ 101, *et seq.* Its jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. *Feingold v. Bell of Pa.*, 383 A.2d 1191 (Pa. 1977); *Allegheny County Port Authority v. Pa. P.U.C.*, 237 A.2d 602 (Pa. 1967). *Behrend v. Bell of PA*, 390 A.2d 233 (Pa. Super. 1978); *Pa. Department of Highways v. Pa. P.U.C.*, 182 A.2d 267 (Pa. Super. 1962); *City of Erie v. Pa. Electric Co.*, 383 A.2d 575 (Pa.Cmwlth. 1978).

Nothing in the Code confers jurisdiction upon the Commission to award monetary damages. See, *DeFrancesco v. Western Pennsylvania Water Company*, 453 A.2d 595 (Pa. 1982); *Elkin v. Bell of Pa.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977); *Poorbaugh v. Pa. PUC*, 666 A.2d 744 (Pa.Cmwlth. 1995).

Because the Commission lacks authority to award monetary damages, the portion of the Complaint requesting damages should be dismissed as impertinent matter in accordance with the provisions of 52 Pa.Code § 5.101(2).

In summary, UGI prevailed on all three grounds raised in its Preliminary Objections. Under different circumstances, I would grant UGI's Preliminary Objections and order the dismissal of the present Complaint in its entirety. However, as mentioned above, I am unable to decipher part of Ms. Holton's handwritten Complaint. With this in mind, it would be inappropriate to dismiss her Complaint in its entirety without giving her a chance to orally explain whether the Complaint raises any additional issues that have not been addressed in this Order. See *Carlock v. The United Telephone Company of Pennsylvania*, Docket No. F 00163617 (Order entered July 14, 1993), (the Commission held that, in the normal course, the Commission would not dismiss a complaint of a self-represented person without first providing a hearing during which the self-represented complainant could further explain their position and the factual basis for their complaint.).

Consequently, the case will be set for a hearing for the limited purpose of allowing Ms. Holton to explain whether the Complaint raises any additional issues that have not been addressed in this Order.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objections filed by UGI Utilities, Inc. – Gas Division in the matter of Melissa Holton v. UGI Utilities, Inc. – Gas Division at Docket No. F-2026-3060928 are granted, in part, and denied, in part.

2. That the portion of the Complaint concerning the issue of foreign load is dismissed as against UGI Utilities, Inc. – Gas Division because the Complaint fails to claim that UGI Utilities, Inc. – Gas Division violated a Commission statute, regulation, order or tariff.

3. That the portion of the Complaint seeking relief in the form of monetary damages is dismissed as impertinent matter because the Commission lack authority to award such damages.

4. That matter shall be set for a hearing for the limited purpose of allowing Melissa Holton to explain whether the Complaint raises any additional claims against UGI Utilities, Inc. – Gas Division which have not been addressed in this Order.

Date: June 2, 2026

_____/s/
Eranda Vero
Administrative Law Judge

F-2026-3060928 - MELISSA HOLTON v. UGI UTILITIES, INC. – GAS DIVISION

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