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June 10, 2026

VIA ELECTRONIC FILING

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

**RE: James M. Rose v. Pennsylvania-American Water Company
Docket No. C-2026-3062660**

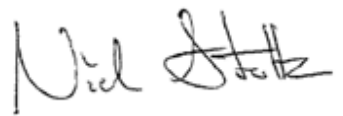
Dear Secretary Homsher:

Enclosed for filing on behalf of Pennsylvania-American Water Company is its Preliminary Objections to the above-referenced Complaint. A copy has been served on the Complainant in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Very truly yours,

STEVENS & LEE



Nicholas A. Stobbe

Enc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

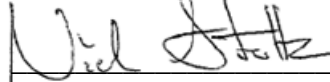
James M. Rose,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2026-3062660
	:	
Pennsylvania-American Water Company,	:	
Respondent	:	

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MUST FILE AN ANSWER TO THE ENCLOSED PRELIMINARY OBJECTIONS WITHIN TEN (10) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE PRELIMINARY OBJECTION MUST BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

Respectfully submitted,

STEVENS & LEE



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DATE: June 10, 2026

*Counsel For Pennsylvania-
American Water Company*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

James M. Rose,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2026-3062660
	:	
Pennsylvania-American Water Company,	:	
Respondent	:	

**PRELIMINARY OBJECTIONS OF PENNSYLVANIA-AMERICAN WATER
COMPANY TO THE COMPLAINT OF JAMES M. ROSE**

AND NOW, comes Pennsylvania-American Water Company (“PAWC” or the “Company”) and hereby files this Preliminary Objections pursuant to the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.101, and respectfully requests that the portion of the Formal Complaint filed by James M. Rose (“Complainant”) requesting damages be summarily dismissed because the Commission has no power to award attorney’s fees or damages.

In support thereof, the Company states as follows:

I. BACKGROUND

1. Contemporaneously with this filing, the Company has filed an Answer & New Matter to the Complaint, which is incorporated herein by reference.

2. The Company is a “public utility” as the term is defined under the Public Utility Code, 66 Pa. C.S. § 102, subject to the regulatory jurisdiction of the Commission.

3. By Secretarial Letter dated May 21, 2026, the Company was served with the above-captioned Complaint. In the Complaint, the Complainant alleges, among other things, that certain

construction activities near the Complainant's property at 11 Williams Lane, Yardley, PA 19067 ("Service Address") have impacted the Complainant's use and enjoyment of the Service Address, have altered road access options, have diminished "our property values," and that the Complainant is prevented from renting or selling the Service Address as a result of "the uncertainty of the ongoing construction." (Complaint ¶ 4, Attachment).

4. As relief, the Complainant requests that the Company remove a temporary construction fence and silt rocks from the construction zone, clean up any debris, and "restore" the area to pre-construction conditions. (Complaint ¶ 4, Attachment).

5. The Company herein files these Preliminary Objections to the Complaint. For the reasons explained below, the Company respectfully requests that the portion of the Complaint pertaining to requested damages be dismissed pursuant to Section 5.101(a)(2) of the Commission's regulations because a request for damages constitutes impertinent matter. 52 Pa. Code § 5.101(a)(2). Similarly, the Company requests that the Commission dismiss the portions of the Complaint levying claims and/or allegations on behalf of the Complainant's neighbor because the Complainant lacks standing to pursue claims on behalf of his neighbor. 52 Pa. Code § 5.101(a)(7).

II. STANDARD OF REVIEW

6. Pursuant to the Commission's regulations, preliminary objections in response to a pleading may be filed on several grounds, including:

- (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(a).

7. In ruling on preliminary objections, the Presiding Officer must accept as true all well-pled allegations of material facts as well as all inferences reasonable deducible therefrom. *Stilp v. Commonwealth*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (“Stilp”) (citing *Dep’t of Gen. Servs. V. Bd. Of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)), *affirmed* 974 A.2d 491 (Pa. 2009). However, the Presiding Officer 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. 2008), *affirmed*, 963 A.2d 670 (Pa. 2009). Notwithstanding, any doubt must be resolved in favor of the non-moving party. *Stilp* at 781.

8. In addition, the Presiding Officer must determine whether, based on the factual pleadings, if recovery is possible. *See Rok v. Flaherty*, 527 A.2d 211, 214 (Pa. Cmwlth. 1987) (citation omitted). Indeed, for preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery. *See Stilp* at 781; *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. 1998) (quoting *Santiago v. Pa. Nat. Mut. Cas. Ins. Co.*, 613 A.2d 1235, 1238 (Pa. Super. 1992)).

III. PRELIMINARY OBJECTIONS

A. PRELIMINARY OBJECTION NO. 1 – THE COMPLAINANT’S REQUEST FOR DAMAGES SHOULD BE DISMISSED BECAUSE THE COMMISSION HAS NO POWER TO AWARD DAMAGES.

9. The Company incorporates by reference Paragraphs 1 through 8, *supra*, as though fully set forth herein.

10. The portion of the Complaint requesting damages should be dismissed because the Commission cannot award attorney's fees or damages.

11. In the Complaint, the Complainant asks the Commission to consider alleged "deterioration of property values" and argues that he cannot "rent or sell" his property as a result of the construction activity. (Complaint ¶ 4, Attachment).

12. It is well established that the Commission does not have authority to order a public utility to pay damages. *See DeFrancesco v. W. Pa. Water Co.*, 453 A.2d 595, 596-97 (Pa. 1982); *Elkin v. Bell of Pa.*, 420 A.2d 371, 375 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791, 794-95 (Pa. 1977).

13. The Complainant's allegations regarding diminution in property values, and an inability to sell or rent the Service Address, are tantamount to damages in that these claims are undergirded by an express monetary interest.¹

14. Here, the Complainant's request for damages is impertinent matter "in the sense that it is irrelevant to [the] cause of action" because the Commission lacks authority to attorney's fees or damages. *See Stoner v. PPL Elec. Utils. Corp.*, Docket No. C-2013-2385588, p. 3 (Nov. 14, 2013) (order sustaining preliminary objections). Requests for damages are regularly stricken from complaints as being impertinent matter. *See, e.g. id.* at pp. 3, 5; *Powell v. Verizon Pa., Inc.*, Docket

¹ R&A, LLC v. UGI Penn Natural Gas, Inc., Docket No. C-2017-2608443 (Final Order entered February 14, 2018). The Commission also has not been given authority under any other statute to assess damage to private property value caused by the activities of a public utility. *See Letter of Notification of Philadelphia Electric Company*, Docket No. A-110550F055 (Opinion and Order entered Mar. 26, 1993) (determination of damages due to alleged decreases in market value is not within the Commission's jurisdiction to hear and determine).

No C-2011-226876, 2011 Pa. PUC LEXIS 652, at *8-9, 16-17 (Dec. 21, 2011), *adopted by Comm'n*, 2012 PA. PUC LEXIS 374 (Order Entered Mar. 1, 2012); *J.E. Culbertson Co. v. Pa. Elec. Co.*, Docket No. C-2010-2204947, 2011 Pa. PUC LEXIS 781, at *8-9, 12 (Feb. 4, 2011), *adopted by Comm'n*, Docket No. C-2010-2204947 (Order Entered Apr. 8, 2011).

15. Therefore, consistent with longstanding Commission precedent, the Complainant's request(s) for damages is impertinent matter and should be stricken from the Complaint pursuant to 52 Pa. Code § 5.101(a)(2).

B. PRELIMINARY OBJECTION NO. 2 – THE COMPLAINANT LACKS STANDING TO PURSUE CLAIMS ON BEHALF OF HIS NEIGHBOR

16. PAWC incorporates by reference Paragraphs 1 through 15 of its Preliminary Objections, *supra*, as though fully set forth herein.

17. A portion of the Complainant's cause of action is barred because the Complainant does not have standing to pursue claims on behalf of his neighbor unless the Complainant is acting as an attorney on behalf of neighbor. 52 Pa. Code § 1.21(a).

1. Indeed, individuals “may represent themselves” but attorneys “admitted to practice before the Supreme Court of Pennsylvania *shall* represent persons in Commission proceedings.” 52 Pa. Code §§ 1.21(a), 1.22(a).

2. Moreover, to have standing, once must have a direct, immediate and substantial interest in the subject matter of the proceeding. *Joint Application of Pennsylvania-American Water Co. and Evansburg Water Co. for Approval of the transfer, by sale, of the water works property and rights of Evansburg Water Co. to Pennsylvania-American Water Co.*, Docket Nos. A-212285, F0046/47 and A-210870F01 (Order entered July 9, 1998); *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975); *Landlord Service Bureau, Inc. v. Equitable*

Gas Co., 79 Pa. P.U.C. 342 (1993); *Re Equitable Gas Co.*, 76 Pa. P.U.C. 23 (1992); *Manufacturers' Association of Erie v. City of Erie — Bureau of Water*, 50 Pa. P.U.C. 43 (1976); *Waddington v. Pennsylvania Public Utility Commission*, 670 A.2d 199 (Pa. Cmwlth. 1995), *alloc. denied*, 678 A.2d 368 (Pa. 1996).

3. In the instant Complaint, the Complainant alleges that the Company's "temporary construction fence is directly on my top [sic] neighbor's yard." (Complaint ¶ 4, Attachment ¶ 1).

4. The Complainant further alleges that his neighbor's "yard is blocked off and [they] are unable to use [their] yard." (Complaint ¶ 4, Attachment ¶ 1).

5. The Complainant cannot represent the interests of his neighbor unless he is acting as their attorney and appropriately licensed to practice law in the Commonwealth of Pennsylvania.

6. If the Complainant is not representing his neighbor as an attorney, he lacks standing to pursue claims related to the alleged effects of PAWC's construction activity to his neighbor and his neighbor's property because his interest in the matter is not direct, immediate, and substantial because the claims are unrelated to the Company's provision of utility service to the Complainant, or PAWC's construction activities allegedly affecting the Complainant's Service Address.

7. Therefore, claims related to the Company's construction impacts on the Complainant's neighbor should be dismissed because the Complainant lacks standing to pursue those claims.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, Pennsylvania-American Water Company respectfully requests that the portion of the Complaint filed by James M. Rose requesting the damages, and the portion of the Complaint seeking to litigate claims on behalf of the Complainant's neighbor, be struck because the Commission has no authority to award damages and the Complainant lacks standing to pursue claims on behalf of his neighbor.

Respectfully submitted,

STEVENS & LEE



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VERIFICATION

I, Tawana Dean, Regulatory Compliance Manager with Pennsylvania-American Water Company, verify that the factual allegations contained in the foregoing Preliminary Objections to Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsifications to authorities.

June 10, 2026
Date



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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Preliminary Objections upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA First Class U.S. Mail

James M. Rose
15 Marriott Drive
Lumberton, New Jersey, 08408



June 10, 2026

Nicholas A. Stobbe