

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Wilmer Baker

v.

Energy Transfer Company

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C-2026-3060914

INITIAL DECISION

Before
Emily A. Farren
Administrative Law Judge

INTRODUCTION

This decision dismisses the third formal complaint of an individual, because the instant formal complaint: (1) is legally insufficient; (2) raises issues previously adjudicated in prior complaints; (3) is untimely; or (4) is beyond the Commission's jurisdiction.

HISTORY OF THE PROCEEDING

On January 21, 2026, Wilmer Baker (Complainant or Mr. Baker) filed a Formal Complaint against Energy Transfer Company with the Pennsylvania Public Utility Commission (Commission). Sunoco Pipeline, L.P. (SPLP) is a subsidiary of Energy Transfer. Answer ¶ 2.

Mr. Baker averred that he experienced reliability, safety or quality problems with his utility service. Complaint ¶ 4.

For relief, Complainant requested:

1. Install alarm as requested in case no. C-2018-300429 deferred to L-2019-3010267
2. Hazmat training for fire company (in blast zone)
3. Safety manuals handed out to all in blast zone
4. Review safety data on damaged pipes, an [sic] construction methods
- 5A. Judge Barnes, Commission ruled Lower Frankford is rural, an [sic] X65 pipes could be use [sic]
- 5B. Township is allowing homes to be built on top of pipeline, thus disregarding Judge Barnes, Commissions instructions
6. Lower Frankford to take active role about pipeline, instead of reaping benefits without responsibility, stop covering pipelines mistakes, and lies
7. Start protecting citizens of township, county and state
8. More transparency

Complaint ¶ 5.

On March 26, 2026, SPLP filed an Answer with New Matter to the Complaint. In its Answer, SPLP admitted or denied the allegations of the Complaint. Specifically, SPLP denied that it provides utility service to Complainant, as it is a hazardous liquid pipeline utility and does not provide natural gas distribution service in Pennsylvania. Answer ¶¶ 3, 4.

The Answer with New Matter contained a Notice to Plead for Mr. Baker to file a Reply to SPLP's New Matter within 20 days of service.

On March 26, 2026, SPLP filed Preliminary Objections to the Complaint. A Notice to Plead, which advised that any response must be filed within 10 days of service, accompanied the Preliminary Objections.

In its Preliminary Objections, SPLP contended that the Complaint should be dismissed in its entirety for several reasons. First, SPLP contended the Complaint is legally insufficient, as it fails to allege any SPLP action or inaction that violates a Commission order or regulation, or the Public Utility Code (Code). Second, SPLP contended the Complaint is an improper collateral attack on prior orders of the Commission, and the legal doctrines of *res judicata*, collateral estoppel and Section 316 of the Code preclude Mr. Baker from relitigating issues previously considered and adjudicated. Third, SPLP contended that the Commission lacks jurisdiction over certain portions of the Complaint that alleged violations of permits issued by the Department of Environmental Protection (DEP). Fourth, SPLP contended the issues raised in the Complaint are time-barred pursuant to Section 3314 of the Code. 66 Pa.C.S. § 3314.

Mr. Baker did not file a response to Preliminary Objections.

On April 15, 2026, Mr. Baker filed a Reply to SPLP's New Matter.

On April 28, 2026, the Commission issued a Motion Judge Assignment Notice that alerted the parties that I was assigned as the Presiding Officer responsible to resolve any issues during the preliminary phase of this proceeding.

The Preliminary Objections are ripe for disposition. For the reasons discussed herein, the Preliminary Objections are sustained, and the Complaint is dismissed with prejudice.

FINDINGS OF FACT

1. Complainant Wilmer Baker resides at 430 Run Road, Carlisle, Pennsylvania 17015. Complaint ¶ 1.
2. Respondent Sunoco Pipeline, L.P., a subsidiary of Energy Transfer Company, is hazardous liquid pipeline utility. Answer ¶¶ 3, 4.
3. On January 21, 2026, Mr. Baker filed a Formal Complaint against Energy Transfer Company with the Commission and averred that he experienced reliability, safety or quality problems with his utility service. Complaint ¶ 4.
4. On March 26, 2026, SPLP filed an Answer with New Matter to the Complaint.
5. SPLP denied that it provides utility service to Complainant, as it is a hazardous liquid pipeline utility and does not provide natural gas distribution service in Pennsylvania. Answer ¶¶ 3, 4.
6. On March 26, 2026, SPLP filed Preliminary Objections to the Complaint.
7. Mr. Baker did not file a response to Preliminary Objections.

DISCUSSION

Preliminary objections

The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections and provides, in relevant part:

§ 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.

* * *

(4) Legal insufficiency of a pleading.

52 Pa. Code § 5.101(a)(1), (4).

In deciding preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the complainant, recovery or relief is possible. *Dep't of Auditor General v. State Employees' Ret. System*, 836 A.2d 1053 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa. Cmwlth. 1996). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002). All of the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the preliminary objections, and only those facts specifically admitted may be considered against the non-moving party. *Ridge v. State Employees' Ret. Bd.*, 690 A.2d 1312 (Pa. Cmwlth. 1997). Therefore, the primary focus is on whether,

based on well-pleaded factual averments of the complainant, recovery or relief is possible. *Id.*

Here, Respondent's Preliminary Objections asserted legal insufficiency of the Complaint, pursuant to Section 5.101(a)(4), in three ways: (1) the Complaint fails to state a claim on which relief can be granted; (2) the Complaint is a collateral attack on prior Commission final orders; and (3) the issues raised in the Complaint are time-barred. 52 Pa. Code § 5.101(a)(4). Respondent also raised lack of Commission jurisdiction, pursuant to Section 5.101(a)(1), over certain claims of the Complaint that involve DEP permitting and international steel commerce. 52 Pa. Code § 5.101(a)(1).

Legal sufficiency

Claims on which relief can be granted

As a matter of law, to establish a legally sufficient claim, a complainant must show that the named utility company is responsible or accountable for the problem described in the complaint to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990). The offense must be a violation of the Code, a Commission regulation or order or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701; 52 Pa. Code § 5.21(a).

Here, Respondent asserted that neither Complainant's allegations nor his averments in the Complaint can be interpreted as an allegation of a violation of any law or regulation that the Commission administers or any Commission order.

Turning to the Complaint itself, Mr. Baker averred that he experienced reliability, safety or quality problems with his utility service. Complaint ¶ 4. Complainant provided no further information or details regarding this averment.

Complainant's requested relief also failed to provide any further information or allegations of how SPLP violated the Code, a Commission order or regulation.

In sum, the Complaint failed to state a claim upon which the Commission may grant relief as the Complaint did not: (1) identify or allege a reliability, safety or quality problem; nor, (2) other than naming Respondent as Respondent, identify or allege an action or inaction Respondent took or failed to take in violation of the Code, Commission regulation or order. The Complaint is legally insufficient in this respect.

Collateral attack

Section 316 of the Code provides, in relevant part, the effect of Commission action:

Whenever the commission shall make any rule, regulation, finding, determination or order, the same shall be prima facie evidence of the facts found and shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review.

66 Pa.C.S. § 316.

Here, Respondent asserted that the instant Complaint is a collateral attack on the Commission's final orders on Complainant's previous formal complaints, at Docket Nos. C-2018-3004294 and C-2020-3022169, respectively. After an exhaustive review of these complaints, I agree.

Complainant's 2018 formal complaint was fully litigated, and the 2020 formal complaint was dismissed for failure to state a claim based on *res judicata*, collateral estoppel and Section 316 of the Code. 66 Pa.C.S. § 316; *see Baker v. Sunoco Pipeline LP*, Docket No. C-2018-3004294 (Order entered Sept. 23, 2020) (*Baker Order*);

Baker v. Sunoco Pipeline LP, Docket No. C-2020-3022169 (Opinion and Order entered Dec. 2, 2021) (2021 Opinion and Order). Like the 2020 formal complaint, the instant Complaint is a prohibited attack on the Commission’s *Baker Order*, which addressed the identical issues raised here, and any issue Complaint had with the Commission’s final decision in the *Baker Order* was “effectively waived by Complainant Baker’s failure to file an appeal from the *Baker Order*.” 2021 Opinion and Order at 12.

The instant Complaint is an impermissible collateral attack on the Commission’s *Baker Order* and should be dismissed on this basis. *See* 66 Pa.C.S. § 316.

Timing of complaint filing

Section 3314 of the Code provides, in relevant part:

§ 3314. Limitation of actions and cumulation of remedies.

(a) General rule.--No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part.

66 Pa.C.S. § 3314.

Here, Respondent asserted that the issues raised in the instant Complaint are time-barred under Section 3314 of the Code, 66 Pa.C.S. § 3314, because the issues raised occurred and were litigated over five years ago. I agree.

As stated above, the Complaint failed to allege any action or inaction SPLP took or failed to take in violation of the Code, or Commission regulations or orders. The

only dates referenced in the instant Complaint are the years “2018” and “2019” insomuch as those years are within the Docket Nos. C-2018-3004294 and L-2019-3010267. Any action or inaction that occurred in 2018 or 2019 are well past three years from the date of the filing of the instant Complaint, January 21, 2026.

The instant Complaint is time-barred by Section 3314 of the Code. 66 Pa.C.S. § 3314.

Commission jurisdiction

The Commission cannot act unless it has jurisdiction over both the parties to a dispute and the subject matter of a dispute. It is fundamental that 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). Whether the Commission has subject matter jurisdiction over a complaint is purely a question of law and does not require the exercise of fact-finding. *Clark v. Peugh*, 257 A.3d 1260, 1266 (Pa. Super. 2021).

Here, Respondent asserted that the Commission lacks jurisdiction over certain claims in the Complaint involving DEP permitting and international steel commerce. I agree.

The Commission previously upheld rulings that it lacks jurisdiction over Mr. Baker’s claims of violation of DEP-issued permits governing construction of a pipeline. 2021 Opinion and Order at 13. The Commission also previously ruled that it “lacks jurisdiction over trade and import laws, which are within the federal jurisdiction of the U.S. Department of Commerce and the U.S. International Trade Commission” Docket No. C-2018-3004294, I.D. at 58.

Lack of Commission jurisdiction prevents the Commission from hearing Complainant's DEP permitting and steel commerce issues.

Conclusion

I find that the instant Complaint: (1) does not set forth an act or omission done by SPLP in violation of any law which the Commission has jurisdiction to administer; (2) is a collateral attack on prior Commission orders; (3) is time-barred; and (4) in part, raises issues that are not within the Commission's subject matter jurisdiction to act upon.

I also find that dismissing the Complaint without a hearing is appropriate under the circumstances. Section 703 of the Public Utility Code provides that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. 66 Pa.C.S. § 703; *see also* 52 Pa. Code § 5.21(d). A hearing cannot overcome the legal insufficiencies of the Complaint nor the Commission's lack of subject matter jurisdiction.

Given the above, Respondent's Preliminary Objections are sustained and the Formal Complaint is dismissed with prejudice.

CONCLUSIONS OF LAW

1. A formal complaint must set forth an act or omission done by the utility company in violation of any law which the Commission has jurisdiction to administer. 66 Pa.C.S. § 701; 52 Pa. Code § 5.21(a).

2. Whenever the Commission shall make any rule, regulation, finding, determination or order, the same shall be *prima facie* evidence of the facts found and

shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review. 66 Pa.C.S. § 316.

3. No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefore arose, except as otherwise provided in this part. 66 Pa.C.S. § 3314.

4. 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).

5. The Commission lacks subject matter jurisdiction over certain claims in this proceeding. 66 Pa.C.S. § 701.

6. Whether the Commission has subject matter jurisdiction over a complaint is purely a question of law and does not require the exercise of fact-finding. *Clark v. Peugh*, 257 A.3d 1260, 1266 (Pa. Super. 2021).

7. The Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. 66 Pa.C.S. § 703; *see also* 52 Pa. Code § 5.21(d).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objections to Formal Complaint filed by Sunoco Pipeline, L.P. in *Wilmer Baker v. Energy Transfer Company*, Docket No. C-2026-3060914, are sustained.
2. That the Formal Complaint filed by Wilmer Baker, *Wilmer Baker v. Energy Transfer Company*, Docket No. C-2026-3060914, is dismissed with prejudice.
3. That the Secretary shall mark Docket No. C-2026-3060914 as closed.

Date: June 23, 2026

/s/
Emily A. Farren
Administrative Law Judge