

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

JOHN DeRAFFELE,	:	NO. 13 - 00,688
Plaintiff	:	
	:	CIVIL ACTION - LAW
vs.	:	
	:	
UGI GAS,	:	
Defendant	:	Preliminary Objections

OPINION AND ORDER

Before the court are preliminary objections filed by Defendant on April 15, 2013. Argument was heard July 2, 2013.

In his Complaint, Plaintiff asserts a claim for damage to a boiler, contending such was caused by a UGI technician having turned off the gas service during a service call. In its preliminary objections, Defendant argues the court lacks subject matter jurisdiction over the claim and that Plaintiff fails to state a claim for which relief can be granted. As the court agrees with the first contention, the second will not be addressed.

It is well settled that where the failure to maintain adequate service is alleged, initial jurisdiction lies with the Public Utility Commission, not the courts of common pleas. DiSanto v. Dauphin Consolidated Water Supply Co., 436 A.2d 197 (Pa. Super. 1981). *See also Hickey v. Philadelphia Electric Company*, 184 A. 553 (Pa. Super. 1936). Further, “service’ includes “any and all acts done, ... by public utilities ... in the performance of their duties ... to their patrons” DiSanto, supra, at 200. In the instant case, where Plaintiff alleges “UGI did not have the authority to keep the boiler off after the chimney and boiler were cleaned”, his claim clearly falls within the jurisdiction of the PUC.

Accordingly, the court enters the following:

ORDER

AND NOW, this 17th day of July 2013, for the foregoing reasons, Defendant's preliminary objection to jurisdiction is sustained and Plaintiff's Complaint is hereby DISMISSED.

BY THE COURT,

Dudley N. Anderson, Judge

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