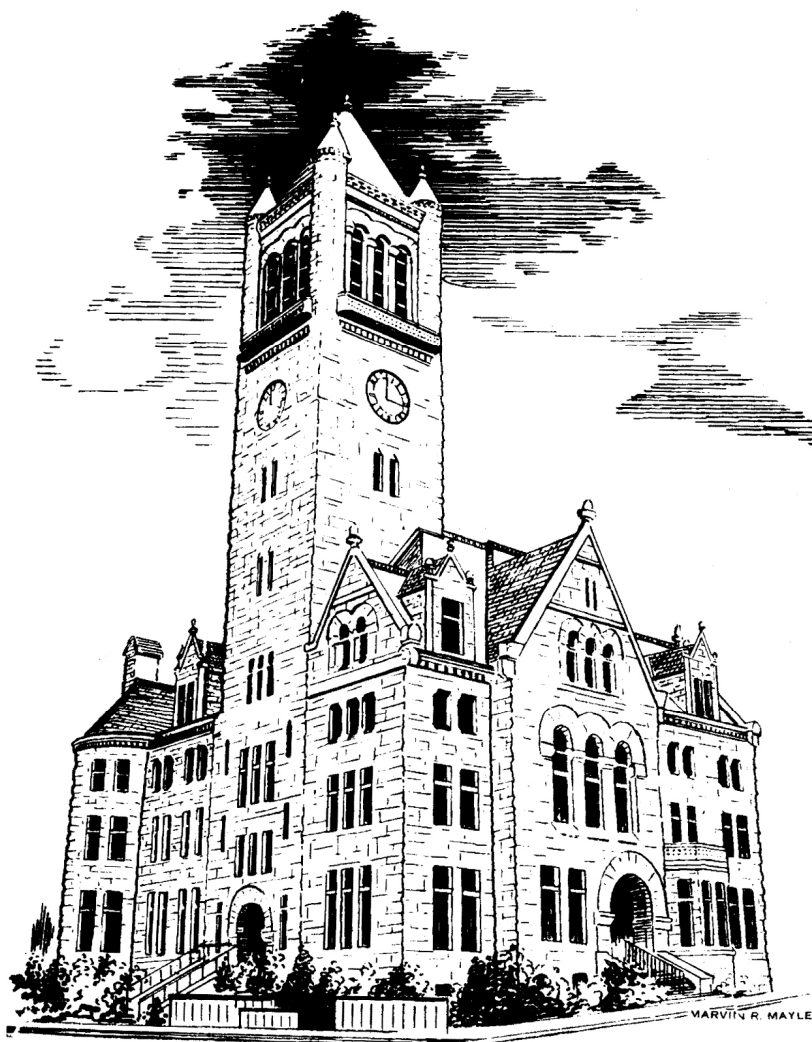


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Third Publication

FRANK M. ANGELILLI, late of Brownsville Township, Fayette County, PA (3)

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Second Publication

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First Publication

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Attorney: Michael Hummel, Jr.

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LEGAL NOTICES

Notice

Pursuant to Purdon's PA Statutes, Title 53, Chapter 88, Section 8841(d) of the Consolidated County Assessment Law, notice is hereby given that the assessment roll from which real estate taxes are levied for the 2026 tax year is open for inspection in the Fayette County Department of Assessment. Any person(s) who may be aggrieved by said valuation(s) may file a formal statement of appeal in writing on or before August 1, 2025 with the Department for consideration to have effect for the 2026 calendar year. No appeal can be considered during the current year if not properly filed by this legal deadline. Appeals must be properly signed by the owner of record, not an attorney, tax representative or third party agent. Processing fee for residential appeals is \$ 25.00 per parcel. Processing fee for commercial/ industrial appeals is \$ 100.00 per parcel. No appeals can be accepted without the proper filing fee attached at time of filing. Only one parcel number is permitted per form.

Forms for such appeal can be obtained from the Department of Assessment, 61 East Main St Uniontown PA 15401, or found on line at <http://property.co.fayette.pa.us/appeals.aspx>

Should you have any questions concerning this request, please feel free to contact my office at your convenience. I can be reached on (724) 430-1208

Rebecca Cieszynski, CPE
Chief Assessor/Director of Assessments

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW
No. 1116 of 2025, G.D.
The Honorable Judge Nancy D. Vernon

**IN RE: CHANGE OF NAME OF
DIANA L. POUNDSTONE**

NOTICE

Notice is hereby given that on June 16, 2025 the petition of Diana L. Poundstone was filed in the above-named Court, requesting an Order to change the name of Diana Yagle a/k/a Diane L. Poundstone to Diane L. Poundstone.

The Court has fixed July 22, 2025 at 9:00 A.M. in Courtroom Number 4, of the Fayette County Courthouse, 61 East Main Street, Uniontown, Pennsylvania as the time and place for a hearing on the merits of said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

Sheryl R. Heid, Esquire
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JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION

BURHANS-CROUSE FUNERAL :
HOME, CATHY CROUSE, and :
CRYSTAL CROUSE, :
Plaintiffs, :
 :
v. :
 :
COLUMBIA GAS OF :
PENNSYLVANIA, INC., : No. 1203 of 2024
Defendant. : Honorable President Judge Steve P. Leskinen

OPINION AND ORDER

LESKINEN, P.J. June 5, 2025

Before the Court are the Preliminary Objections filed by Defendant, Columbia Gas of Pennsylvania (“Columbia Gas”), and the oral Motion of Plaintiffs, Burhans-Crouse Funeral Home (“Burhans-Crouse”), Cathy Crouse, and Crystal Crouse to amend their Second Amended Complaint to include a claim for property damage incurred when gas service to their property was abandoned by the Defendant. Upon consideration of the Objections and Motion, and after a status conference on April 16th, 2025, the Court issues this Opinion and Order sustaining the Preliminary Objections in part and overruling them in part and granting the oral Motion to Amend.

Procedural History

Plaintiffs filed a Complaint for Injunctive Relief on June 17th, 2024, which derives from an Application for Approval of Abandonment of Natural Gas Service filed by Defendant, Columbia Gas of Pennsylvania, Inc., with the Pennsylvania Public Utility Commission (“PUC”) in October of 2022. The Application sought the approval of the PUC to abandon natural gas service to Burhans-Crouse and the issuance of a certificate of public convenience pursuant to Sections §1102 and §1103 of the Public Utility Code. {1} The PUC granted the Application, which was affirmed by the Commonwealth Court on appeal at Docket No. 500 CD 2024. Burhans-Crouse filed a Petition for Allowance of Appeal to the Pennsylvania Supreme Court on April 4th, 2025, which is currently pending at Docket No. 84 WAL 2025. Plaintiffs filed an Amended Complaint on July 19th, 2024, and a Second Amended Complaint on August 2nd, 2024. The Second Amended Complaint (“Complaint”) raises common law claims of intentional interference with contractual relations and intentional interference with prospective contractual relations based on the impact the termination of service would have on the Plaintiffs.

{1}Public Utility Code, 66 Pa. C.S.A. §101 et seq. A certificate of public convenience represents the preliminary approval of the regulatory or administrative body, upon a finding that the proposed exercise of power is necessary for the convenience, accommodation, or safety of the public. Reed v. PUC, 100 A.2d 399, 401 (Pa. Super. 1953), 66 Pa.C.S.A. §1103.

This Court previously addressed Plaintiffs’ requests for injunctive relief in Opinions and Orders dated July 16th, 2024, and January 17th, 2025. By Order dated November 15th, 2024, this matter was placed on an administrative stay pending the resolution of the Commonwealth Court appeal. At the April 16th, 2025, status conference held in this matter, the parties indicated to the Court that the gas service at issue has now been terminated, and Plaintiffs sought leave to amend the Second Amended Complaint to include a claim for property damage incurred during the shutoff process. Columbia Gas did not object to the request for leave to amend to include this claim.

Preliminary Objections

Columbia Gas raises the following Preliminary Objections:

- 1) Lack of subject matter jurisdiction pursuant to Pa. R.C.P. 1028(a)(1);
- 2) In the alternative, that the matter should be stayed pending the outcome of the appeal under the “primary jurisdiction doctrine;”
- 3) Failure to join a necessary party pursuant to 1028(a)(5) as to the PUC;
- 4) Failure to plead a cause of action on which relief may be granted (demurrer) pursuant to 1028(a)(4); and
- 5) Lack of standing and/or failure to state claims for relief as to Cathy Crouse and Crystal Crouse in their individual capacities pursuant to 1028(a)(4) and (a)(5).

Discussion

The abandonment of an existing utility service to a customer or customers is a matter within the exclusive original jurisdiction of the PUC. *DiSanto v. Dauphin Consol. Water Supply Co.*, 436 A.2d 197, 199 (Pa. Super. 1981). §1102(a)(2) of the Public Utility Code requires a public utility to obtain a certificate of public convenience before dissolving, abandoning, or surrendering service (in whole or part). §1103(a) of the Public Utility Code grants the PUC the ability to place conditions on the abandonment of service, which may include providing for substitute service and contributing towards the cost of changing to an alternate form of service. The proposed abandonment must survive a four-part balancing test which considers the needs of the customers for whom service would be terminated and the public interest. *West Penn Rys. Co. v. Pa. Public Utility Commission*, 15 A.2d 539, 544 (Pa. Super. 1940).

Columbia Gas followed this statutory procedure for abandonment in the separate matter currently on appeal from the decision of the Commonwealth Court (“PUC Matter”). The PUC’s approval of Columbia Gas’s request to abandon service is subject to appellate review through normal channels (an appeal is currently pending) but is not subject to collateral attack and cannot be relitigated in the current proceeding before this Court. *Elkin v. Bell Telephone Co. of Pa.*, 491 Pa. 123, 133 (Pa. 1980). Therefore, the threshold question in considering Columbia Gas’s Preliminary Objections is whether Plaintiffs have pled sufficient facts to sustain causes of action for tortious interference with existing and prospective contractual relations, or whether Plaintiffs’ claims are essentially an attempt to relitigate the abandonment of service. Of note, neither party has produced (nor has this court been able to find) another example of a claim for tortious interference based on the abandonment of a customer’s service by a public utility

pursuant to a certificate of public convenience. {2}

Plaintiffs' requests for injunctive relief, as pled and argued before this Court, relied heavily on many of the same facts and legal theories as the abandonment of service issue before the PUC. This Court found, in Opinions and Orders dated July 16th, 2024, and January 17th, 2025, that Plaintiffs failed to establish a clear right to relief and irreparable harm that could not be compensated by monetary damages, two of the required elements for injunctive relief. The issue of permanent injunctive relief is now moot, as the termination of service was completed while this matter was stayed, and that is pending a final ruling by the Supreme Court. Thus, the only matter remaining before the Court is the litigation of the Plaintiffs' claims for tortious interference on the merits.

Subject Matter Jurisdiction and the Doctrine of Primary Jurisdiction

When a party raises preliminary objections challenging subject matter jurisdiction, the trial court's role is to determine whether the law will bar recovery due to a lack of jurisdiction. *Aronson v. Sprint Spectrum, L.P.*, 767 A.2d 564, 568 (Pa. Super. 2001). For this analysis, all well-pled facts averred in the complaint are accepted as true and jurisdiction lies if the court has the power to consider the inquiry, even if it ultimately decides that it cannot give relief in the particular case. *Id.*

Columbia Gas contends that initial jurisdiction in matters between public utilities and the public lies with the PUC and not with the courts, with the PUC having exclusive jurisdiction over matters of abandonment of service. Plaintiffs contend that the PUC does not have subject matter jurisdiction over common law claims for tortious interference and that there are no administrative remedies available from the PUC for the damages they sustained from the alleged tortious interference.

The question of jurisdiction in a case involving the PUC requires a fact-specific and often nuanced consideration of the matter before the court. Though the Public Utility Code grants the PUC supervisory and regulatory power over public utilities, this is not a grant of exclusive jurisdiction over all matters involving regulated public utilities. *Virgilli v. Southwestern Pa. Water Authority*, 427 A.2d 1251, 1253 (Pa. Cmwlth. 1981). Unless expressly provided in the Utility Code, the PUC's powers do not "abridge or alter the existing rights of actions or remedies in equity or under common or statutory law of this Commonwealth." 66 Pa.C.S.A. §103(c). Recognizing that both the courts and the PUC may have a role to play in the adjudication of certain utility matters, the courts have reconciled these roles by developing the doctrine of "primary jurisdiction." {3} *Elkin*, at 132. The doctrine creates a workable relationship between the

{2} The closest case appears to be *Salsgiver Com. Inc. v. Consolidated Coms. Holdings, Inc.*, 150 A.3d (Pa. Super. 2016), cited by Plaintiffs in their Brief in Opposition to the Preliminary Objections. *Salsgiver* involved a dispute over a fiber optic cable and the communication service provider's ability to access utility poles under the Federal Telecommunications Act of 1996, 47 U.S.C. §§151 et seq. *Salsgiver* brought claims for trespass and tortious interference against the Defendants, the three utility providers who owned the utility poles in question who had blocked *Salsgiver's* access to the poles. The grounds for appeal concerned the propriety of certain jury instructions in a trial where the jury found the Defendants not liable. It has some relevance to the instant matter for the discussion of the elements of a claim for tortious interference against a public utility but is distinguishable in that it did not concern the abandonment of service, or an action taken by a public utility for which a certificate of public convenience was required.

{3} See *Feingold v. Bell of Pennsylvania*, 477 Pa. 1 (Pa. 1977); *Elkin v. Bell Telephone Co. of Pa.*, 491 Pa. 123 (Pa. 1980); *DeFrancesco v. Western Pa. Water Co.*, 499 Pa. 374 (Pa. 1982)

courts and the PUC, requiring judicial abstention in cases where protection of the regulatory scheme necessitates deference to the PUC, but provides the courts with the benefit of the agency's view on issues within the agency's competence in matters which are otherwise in the domain of the courts. *Id.* The doctrine promotes the need for consistency and uniformity in certain areas of administrative policy while making use of an agency's special experience and expertise in complex areas. *Id.* at 132-33.

If the case involves matters within the normal sphere of the PUC and the available administrative remedies are complete and adequate to make the complainant whole, the PUC will have exclusive jurisdiction over the controversy with no recourse to the courts other than the normal appeal process. *DiSanto*, at 202. If the case involves matters traditionally disposed of by the courts and not peculiarly within the PUC's area of expertise (typically issues such as negligence, contract, or tort), jurisdiction will lie with the courts. *Elkin*, at 134. Where the case involves issues within the PUC's initial or exclusive jurisdiction but the PUC cannot provide complete relief, the doctrine of primary jurisdiction supports a bifurcated process where the civil litigation before the courts is suspended, allowing the PUC to determine the issues within its jurisdiction, after which the process before the courts resumes, guided in scope and direction by the outcome of the agency determination. *Id.*, at 133-34. The form or title of an action and the fact that a public utility is a party to an action do not automatically determine jurisdiction, it is determined by the essence of the underlying claims. *DeFrancesco v. Western Pa. Water Co.*, 499 Pa. 374, n.5 (1982).

This Second Amended Complaint raises claims for tortious interference with existing and prospective contractual relations, on the theory that the termination of natural gas service will prevent Burhans-Crouse from fulfilling their existing contractual obligations for pre-paid funeral expenses and its ability to enter similar contracts in the future. {4} Tortious interference is a common law cause of action. Given that this Court cannot and will not relitigate the matter of abandonment of service, the initial consideration of the tortious interference claims would be within this Court's jurisdiction even if it ultimately finds that jurisdiction under these facts lies entirely with the PUC or that bifurcated jurisdiction is appropriate. Therefore, Columbia Gas's Preliminary Objection based on subject matter jurisdiction (or in the alternative, under the doctrine of primary jurisdiction) must be overruled.

The PUC as a Necessary Party

Columbia Gas contends that the PUC is a necessary party to this action, as the injunctive relief sought by Plaintiffs would foreclose implementation of a PUC order, and because the PUC has the exclusive right and duty to determine whether abandonment of service is in the public interest. This Court agrees with Columbia Gas that the injunctive relief sought by Plaintiffs had the potential to conflict with the PUC's Orders. If injunctive relief were still at issue, the PUC would be a necessary party. However, that issue has been rendered moot with the completion of the abandonment of service while

{4} The Second Amended Complaint does not comply with Pa. R.C.P. 1020, as 1020(a) requires that each cause of action be stated in a separate count containing a demand for relief, and 1020(b), requires in matters with multiple plaintiffs that each cause of action and demand for relief be set forth in a separate count preceded by a heading naming the parties to that cause of action. The Complaint also refers to numerous documents filed in the abandonment proceedings before the PUC (and subsequent appeals) without attaching a copy of the writings referenced, even though the documents are not readily available to this Court, as required by Rule 1019(g) and (i).

this matter was stayed. Though the PUC has a tangential interest remaining to the extent that the tort action derives from the abandonment of service, a matter entirely within the purview of the PUC, the PUC's involvement is not necessary for this Court to resolve Plaintiffs' tortious interference claims on the merits. *Virgilli*, at 1254. Therefore, the Court finds that justice can be done on the tortious interference claims in the absence of the PUC and overrules *Columbia Gas*' Preliminary Objection on this issue.

Failure to Plead a Cause of Action on Which Relief May Be Granted

Columbia Gas contends that the allegations in Plaintiffs' Complaint are largely conclusory and bereft of any factual support for claims of tortious interference. Plaintiffs contend that the allegations in the Complaint are sufficient to support the required elements of a tortious interference claim. When considering preliminary objections in the nature of a demurrer, the court must accept as true all well-pled material allegations and any reasonable inferences drawn from them but need not accept as true any conclusions of law, unwarranted inferences, allegations, or expressions of opinion. *Bayada Nurses, Inc. v. Com., Dept. of Labor and Industry*, 607 Pa. 527, 558 (Pa. 2010). Objections should only be sustained where it is clear that the law will not permit recovery. *Id.*

The elements of a cause of action for tortious interference with contractual relations are as follows: {5}

1. A contractual relationship between the plaintiff and a third party;
2. An intent on the part of the defendant to harm the plaintiff by interfering with that contractual relationship;
3. The absence of privilege or justification on the part of the defendant; and
4. The occasioning of actual damage as a result of defendant's conduct.

Foster v. UPMC South Side Hosp., 2 A.3d 655, 665 (Pa. Super. 2010). The contractual relationships identified in the Complaint at paragraph 18 are "arrangements with customers for pre-paid funeral arrangements/services which it would be unable to honor should Columbia Gas terminate service prematurely to the Premises." The only reference to prospective contractual relationships is the averment in paragraph 21 that "Columbia Gas has intentionally interfered with Burhans-Crouse's prospective contractual relations with potential customers."

Pennsylvania is a fact-pleading state. "A complaint must not only give the defendant notice of what the plaintiff's claim is and the grounds upon which it rests, but the complaint must also formulate the issues by summarizing those facts essential to support the claim." *Foster*, at 666. In *Foster*, the Superior Court held that where the sole allegation in a complaint regarding existing or potential contractual relations named certain entities who were parties to the contracts but did not delineate between existing and prospective contractual relations, did not provide any dates or specifics regarding the contracts, and set forth no facts to support an inference of a reasonable probability that the plaintiff would enter a contract with any of the named entities, the paragraph

{5} The elements for intentional interference with prospective contractual relationships are similar, with the first element referencing a prospective contractual relationship and the second element a purpose or intent to harm the plaintiff by preventing the relation from occurring. The remaining two elements are the same for both torts.

was “wholly deficient because it does not provide a scintilla of information regarding the purported contractual relationships.” *Id.* The allegations in this Complaint are even more vague than those in Foster, as the Foster allegations named the entities involved in the contracts, where Plaintiffs’ Complaint does not. A general reference to the existence of pre-paid funeral contracts and the possibility of entering similar contracts in the future is not sufficient to establish existing or potential contractual relations as required for the first element of a tortious interference claim.

In addition, in paragraphs 9, 10, 11, 12, 13, 14, 15, 16, 19, and 22, of their Complaint Plaintiffs refer to various documents and orders filed in the proceedings before the PUC and the subsequent appeals, testimony offered in that matter, and other documents (the 10 Day Termination Notice referenced in paragraph 16) without attaching the documents, filings, orders, or transcripts referenced. Though a party is permitted to make certain incorporations by reference in pleadings pursuant to Pa. R.C.P 1019(g), the source materials permitted to be incorporated under the rule are limited to those from the same action or records that are held within the county in which the action is pending. This Court does not have access within the Fayette County Courthouse to records from the proceedings before the PUC or the subsequent appeals other than the information available on public docket sheets and published opinions. To the extent that Plaintiffs wish to incorporate orders, pleadings, testimony, documents or other matters from the PUC action and appeal, those documents must be included as exhibits to the Complaint.

In determining the merits of a demurrer, conclusions of law are neither admitted nor deemed true. *Id.* at 665. Many of the allegations in the Complaint addressing the elements of tortious interference are in the form of legal conclusions and fail to set forth any essential facts to support the claims, or from which reasonable conclusions could be drawn. {6} After excluding any allegations that represent mere conclusions of law, Plaintiffs have failed to plead sufficient facts to establish the elements of a tortious interference with contractual relations claim.

Ultimately, the fatal flaw in the Plaintiffs’ claims for tortious interference lies in the interconnected issues of intent and privilege. The absence of privilege is an element of the cause of action that must be pled and proven by the plaintiff, not an affirmative defense. *Salsgiver Communications, Inc. v. Consolidated Communications Holdings, Inc.*, 150 A.3d 957, 963, 966, n.8A (Pa. Super. 2016). As the Pennsylvania Supreme Court stated in *Glenn v. Point Park College*, 441 Pa. 474, (1971) (quoted by the Superior Court in *Salsgiver* at 968):

{6} For example:

20. Columbia Gas has intentionally and improperly interfered and/or such interference is imminent based on its scheduled termination of service.
21. Columbia Gas has intentionally interfered with Burhans-Crouse’s prospective contractual relations with potential customers.
22. Defendant Columbia Gas does not have privilege or justification to terminate natural gas service to Plaintiffs, as Columbia’s Application for Approve to Abandon (sic) such service has been dismissed, based upon the express language of the PUC’s Opinion and Order dated April 4, 2025. In other words, Columbia has no approval from the PUC to abandon service to the Plaintiffs.

Paragraph 22 is a legal conclusion, and it is a legal conclusion drawn from another court’s Order that was not included as an exhibit and is not readily accessible to this Court.

The absence of privilege or justification in the tort under discussion is closely related to the element of intent. As stated by Harper & James, *The Law of Torts*, § 6.11, at 513: “where, as in most cases, the defendant acts at least in part for the purpose of protecting some legitimate interest which conflicts with that of the plaintiff, a line must be drawn and the interests evaluated. This process results in according or denying a privilege which, in turn, determines liability.” What is or is not privileged conduct in a given situation is not susceptible of precise definition. Harper & James refer in general to interferences which “are sanctioned by the ‘rules of the game’ which society has adopted,” and to “the area of socially acceptable conduct which the law regards as privileged.” (Some internal citations and punctuation omitted.)

Plaintiffs argue on p.6 their Brief in Opposition to the Preliminary Objection that the correct standard for the third element of a tortious interference claim is whether the Defendant’s conduct was “improper” rather than the outdated “absence of privilege or justification.” (Referencing *Salsgiver*, at fn. 8.) As Plaintiffs go on to quote from the Restatement (Second) of Torts §767 (quoted in *Empire Trucking Co., Inc. v. Reading Anthracite Coal Co.*, 71 A.3d 923, 934 (Pa. Super. 2013):

The issue in each case is whether the interference is improper or not under the circumstances; whether, upon a consideration of the relative significance of the factors involved, the conduct should be permitted without liability, despite its effect of harm to another. The decision therefore depends upon a judgment and choice of values in each situation. This Section states the important factors to be weighed against each other and balanced in arriving at a judgment; but it does not exhaust the list of possible factors.

Here, the Court has significant guidance in what constitutes the “rules of the game” and whether Columbia Gas’s conduct should be permitted without liability, as the abandonment of utility service is specifically addressed by statute. As stated by the Commonwealth Court in *Borough of Duncannon v. PUC*, 713 A.2d 737, 740 (Pa. Cmwlth. 1998: (Internal citations omitted.)

The [Public Utility] Code establishes a unique regulatory scheme whereby a utility gains a monopoly to provide a vital service to those people who typically have no other source for that service. In return for the service monopoly and freedom from competition, the utility submits itself to the Code and the jurisdiction of the Commission. A critical tenet of the Code is that a utility must provide continuous service. A utility cannot choose to provide service only when the weather is pleasant or when there is a chance for profit.

The nature of utility service extends beyond mere profit and loss, and the [utility] is not like a “regular business”. A utility cannot expect to provide service only when that service is financially advantageous.

A utility seeking to abandon service to a customer is required under §1102 and §1103 of the Public Utility Code to first obtain a certificate of public convenience, for which the PUC must find, after public hearings, that granting the certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. The

Superior Court has also set forth the four-part balancing test from West Penn to ensure that the customer whose service would be abandoned receives consideration in determining whether to allow abandonment. {7} Duncannon, at 740. This includes consideration of the availability and adequacy of alternate service. §1103 allows the PUC to impose conditions as it deems just and reasonable in granting the certificate, which may include requiring the utility to contribute funds towards the cost of alternate service, as was the case both here and in Duncannon, at 740.

Absent some specific allegation of bad faith, malice, or improper purpose on the part of Columbia Gas, their compliance with the statutory process and the approval of the PUC would clearly fall within the “rules of the game” which society has adopted” envisioned by the Pennsylvania Supreme Court in Glenn and quoted in Salsgiver.

In addition, the pendency of the appeal in the PUC matter will not impact whether Columbia Gas’s inactions were “improper” for the purpose of the elements of tortious interference. Even if the Pennsylvania Supreme Court were to overturn any aspect of the PUC or the Commonwealth Court’s decisions, it would not change the fact that Columbia Gas followed the statutory process for the abandonment of service and terminated the service under an Order from the PUC after the Commonwealth Court repeatedly denied the issuance of a stay. Therefore, Columbia Gas’s Preliminary Objection in demurrer is sustained.

Standing as to the Individual Plaintiffs

Though Cathy Crouse and Crystal Crouse are named as Plaintiffs in their individual capacities, there are no averments of any contracts or prospective contracts other than those of the funeral home. Cathy Crouse is identified as being the sole proprietor of the Funeral Home and would have standing on that basis. However, there are no material facts alleged that would support standing for Crystal Crouse to raise tortious interference with contractual relations claims. Therefore, Columbia Gas’s Preliminary Objection as to standing and the failure to state a claim is sustained as to Crystal Crouse but overruled as to Cathy Crouse.

Leave to Amend

Plaintiffs made an oral motion at the April 16th, 2025, status conference to amend their pleading to include a claim for damage to the property that was incurred when Columbia Gas abandoned the gas service to the property. Columbia Gas did not object to the motion. This motion is granted, and Plaintiffs shall have twenty (20) days from the date of the accompanying Order to amend the Complaint to include this claim.

{7} The West Penn balancing test requires the PUC to consider the following factors when determining the necessity to abandon service: 1) the extent of loss to the utility; 2) the prospect of the system being used in the future; 3) the loss to the utility balanced with the convenience and hardship to the public upon discontinuance of such service, and 4) the availability and adequacy of the service to be substituted. These factors approximate the factors set forth in the Second Restatement §767 for determining whether an actor’s conduct in intentionally interfering with a contract or prospective contract is improper or not: a) the nature of the actor’s conduct; b) the actor’s motive; c) the interests of the other with which the actor’s conduct interferes; d) the interests sought to be advanced by the actor; e) the social interests in protecting the freedom of action of the actor and the contractual interests of the other; f) the proximity or remoteness of the actor’s conduct to the interference; and g) the relations between the parties.

As to any leave to amend the claims for tortious interference, if it is possible that a pleading could be cured by amendment, a court must give the pleader an opportunity to file an amended complaint. *Jones v. City of Philadelphia*, 893 A.2d 837, 846 (Pa. Cmwlth. 2006). Though the Court doubts that Plaintiffs will be able to allege material facts sufficient to overcome the privilege/impropriety issue when they have failed to do so in previous iterations of the Complaint, since the Court is permitting amendment for the purpose of adding the count for damages from the abandonment of service, the Court will also permit a limited opportunity to amend the tortious interference claims in accordance with this Opinion. However, the Court notes that unlike an amended complaint filed as a matter of course pursuant to Rule 1028(c)(1), which renders the original pleading moot, an amended complaint filed after an order of court addressing the validity of preliminary objections does not render the prior complaint and preliminary objections moot. *Hommrich v. Boscola*, 329 A.3d 775, 782 (Pa. Cmwlth. 2025). Thus, if Plaintiffs choose to amend the claims for tortious interference in their third amended complaint, Columbia Gas may renew its Preliminary Objection for legal insufficiency (demurrer) pursuant to 1028(a)(4) as to the third amended complaint by routine motion without the need to file a new objection or brief.

WHEREFORE, the Court issues the following Order:

ORDER

AND NOW, this 5th day of June, 2025, upon consideration the Preliminary Objections filed by Defendant, Columbia Gas, and the oral Motion of Plaintiffs to amend the Complaint, the Court ORDERS and DIRECTS as follows for the reasons set forth in the preceding Opinion:

1. The administrative stay implemented by the Court's prior Order dated November 15th, 2025, is hereby LIFTED;
2. Plaintiffs' oral Motion to Amend the Complaint to include a claim for property damage incurred during the abandonment of gas service is GRANTED;
3. Defendant's Preliminary Objections for lack of subject matter jurisdiction pursuant to Rule 1028(a)(1) and under the primary jurisdiction doctrine are OVERRULED;
4. Defendant's Preliminary Objection for failure to join an indispensable party pursuant to Rule 1028(a)(5) is OVERRULED;
5. Defendant's Preliminary Objection for legal insufficiency of a pleading (demurrer) pursuant to Rule 1028(a)(4) is SUSTAINED;
6. Defendant's Preliminary Objection as to legal insufficiency and standing pursuant to Rule 1028(a)(4) and (a)(5) is SUSTAINED as to Crystal Crouse and OVERRULED as to Cathy Crouse;

Plaintiffs shall have twenty (20) days from the date of this Order to file a Third Amended Complaint in accordance with this Opinion and Order.

BY THE COURT:
STEVE. P. LESKINEN,
PRESIDENT JUDGE

ATTEST:
PROTHONOTARY

LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: **Wednesday, July 23rd from 12:00 p.m. to 2:00 p.m.**
- Location: **Fayette County Courthouse - Courtroom Four**
- Discussion topics: **Avoiding Legal Malpractice Seminar**
- Presenters: **Bethann R. Lloyd, Esquire and James T. Davis, Esquire**

CLE Credit

2.0 hours of Ethics CLE credit for the program. The fees are as follows:

Members of the FCBA

- \$5 fee for attendance without CLE Credit
- \$15 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2020

- \$5 fee for attendance with CLE Credit

Non-members of the FCBA

- \$15 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**** All fees to be paid at the door ****
Lunch will be provided.

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or email to cindy@fcbar.org on or before Monday, July 21st.

Attorneys who are insured through the Pennsylvania Bar Association Insurance Program, advised and administered by USI Affinity, have the ability to earn up to a 7.5% discount on their malpractice insurance based on one's attendance at this CLE. Questions regarding your LPL insurance should be directed to USI Affinity at 610-537-1368.