

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Deborah Yeagle	:	
	:	
v.	:	C-2025-3052971
	:	
FirstEnergy Pennsylvania Electric Company	:	

**INTERIM ORDER
GRANTING FE PA’S PRELIMINARY OBJECTION**

On January 16, 2025, Deborah Yeagle (Complainant or Ms. Yeagle) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission), against FirstEnergy Pennsylvania Electric Company (FE PA, Company, or Respondent) regarding service at 102 Merchant Road, Warren, PA (service location). Complainant checked the box indicating she was having reliability, safety, or quality problem with her utility service. In the “other” box, she noted an issue occurring December 20, 2024, at approximately 10:00 a.m. and added that this was an “ongoing matter of events.” She also avers there is a telephone pole that is leaning, causing an unsafe situation. She avers that when she called to address her concerns, the Company’s representatives were disrespectful, did not listen, and spoke over her.

As relief, Complainant requests that she be reimbursed \$876.36 for a Maytag washing machine; \$13.92 for a power surge outlet; and \$400.00 for carpet replacement. She further requests that the Commission fine the Company for “overloading the circuit power on 12-20-24, which caused electrical burning of power surge equipment, an electrical burn of a circuit board, and burn marks ... on a carpet.” She further requests the Company replace the unsafe pole as well as all other unsafe practices and facilities at the service location.

On January 30, 2025, Complainant submitted additional documentation intended to supplement her Complaint. Complainant averred she experienced damage to her property on December 30, 2024, when a delivery truck backed into the electrical wires that hang above her

driveway, causing around damage estimated to be between \$4,496.06 and \$5,299.35. She alleges she requested information from FE PA which FE PA failed to provide.

On February 5, 2025, the Company filed an Answer and New Matter, as well as a Preliminary Objection. In its Answer, FE PA admits it provides residential electric service to the service location but denies the material averments in the Complaint. It alleges that at all times relevant to this proceeding, the Company's actions have been reasonable and performed in accordance with all applicable laws, as well as the Company's Commission-approved tariff, the Pennsylvania Public Utility Code (Code), Commission regulations and orders.

FE PA further explains that the service location is served by Circuit 00255-41 which runs from the Warren South Substation. The Company avers that the service location experienced an outage on December 20, 2024, as a result of an off right-of-way (ROW) tree hitting the Company's facilities on Pole 4A895941, breaking the crossarm which permitted the higher voltage line to come into contact with the distribution line. FE PA notes that the outage lasted 246 minutes and impacted 257 customers. Respondent specifically denies that it "overloaded" the Circuit when service was restored. The Company avers that off-ROW limbs/trees are targeted for dead or damaged trees that endanger electrical facilities but the work on off-ROW vegetation falls within the prerogative of the affected property owner. The Company submits that, on December 20, 2024, the Complainant filed a damage claim, and by letter, dated December 31, 2024, the claim was denied consistent with its Commission-approved Tariff Rule 21, since the cause of the outage was outside the Company's control.

Regarding the incident occurring on December 30, 2024, the Company avers its service line is at the proper height and has the proper clearance.

In its Answer and New Matter, the Company argues that the Commission lacks jurisdiction to award monetary damages and Complainant's request for financial reimbursement must be dismissed.

The New Matter included a Notice to Plead, directing Complainant to file a response within 10 days.

In its Preliminary Objection, FE PA again argues the Commission lacks jurisdiction to award monetary damages and these claims must be dismissed.

The Preliminary Objection included a Notice to Plead, directing Complainant to file a response within 10 days.

On February 11, 2025, Complainant filed a response to the New Matter. Claimant reiterated and expounded upon the claims made in her Complaint, but did not directly address the Company's argument that the Commission lacks jurisdiction to award monetary damages.

On February 11, 2025, Complainant also filed a response to the Preliminary Objection. Complainant disagrees with the characterization of her Complaint as "an impertinent matter" and argues that the "formal complaint is filed in wholeness of the complaint." She objects to the Commission failing to address her Complaint in its entirety. She acknowledges that her Complaint mentions "damages" and requests that she be permitted to provide testimony about these property damages.

On February 20, 2025, the Commission issued a Hearing Notice, scheduling a hearing for April 3, 2025.

Also on February 20, 2025, I issued a Prehearing Order.

It is now appropriate to rule on the Preliminary Objection.

Discussion

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).

In deciding the preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the petitioners, recovery or relief is possible. *Dept. of Auditor General v. SERS*, 836 A.2d 1053, 1064 (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. *County of Allegheny v. Commw. of Pa.*, 490 A.2d 402 (Pa. 1985); *Pennsylvania State Lodge, Fraternal Order of Police v. Dept. of Conservation and Natural Resources*, 909 A.2d 413 (Pa.Cmwlth. 2006), *aff'd per curiam*, 924 A.2d 1203 (Pa. 2007). Only those facts specifically admitted may be considered against the non-moving party. *Ridge v. State Employees' Retirement Board*, 690 A.2d 1312 (Pa.Cmwlth. 1997).

It is well established under Pennsylvania law that the enforcement powers of the Commission do not include the power to award money damages. *Elkin v. Bell Tel. Co. of PA., Co. of Pa. PA.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1978) (*Feingold*); see *Nagy v. Bell Tel Co. of PA.*, 436 A.2d 701 (Pa. Super. 1981).

In *Feingold*, the Pennsylvania Supreme Court explained:

...the statutory array of PUC remedial and enforcement powers does not include the power to award damages to a private litigant for breach of contract by a public utility. Nor can we find an express grant of power from which the power to award damages can be fairly implied. Thus, it can be concluded that the Legislature did not intend for the PUC to have such a power.

Feingold, 383 A.2d at 794.

It appears that there may be some confusion over the Company's use of the word "damages" in the New Matter and Preliminary Objection. The word "damages" as used in this context means "monetary compensation" not "physical damage." The Commission unquestionably lacks authority to award damages (i.e. monetary compensation), as detailed by the applicable case law cited above. Therefore, FE PA's Preliminary Objection is granted and Complainant's request for monetary damages, including claims for reimbursement for a washing machine, an outlet, and carpet are struck from the Complaint.

The remaining claims raised in the Complaint, including allegations that the Company violated Section 1501 of the Code, 66 Pa.C.S. § 1501, are appropriate to move forward at this stage of the litigation.

The parties should be advised, however, that at the evidentiary hearing in this matter, Complainant will bear the burden to present substantial evidence the Company violated a statute which the Commission has jurisdiction to administer, a tariff provision, or a regulation or order of the Commission. 52 Pa. Code § 5.12(a). If the Commission finds that FE PA did violate a statute, regulation, order, or tariff provision, per Commission regulations, the Commission may direct remedial action and/or impose a fine, but any fine would be payable to the Commission, not Complainant.

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection filed by FirstEnergy Pennsylvania Electric Company, against the Formal Complaint filed by Deborah Yeagle at Docket Number C-2025-3052971 is granted.

2. That the requests for monetary damages and reimbursements in the Formal Complaint filed by Deborah Yeagle at Docket Number C-2025-3052971 are struck from the Complaint.

3. That the parties shall comply with my Prehearing Order issued February 20, 2025.

February 21, 2025
Date

/s/
Emily I. DeVoe
Administrative Law Judge

C-2025-3052971 - DEBORAH YAEGLE v. FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY

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