

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Debora Houser	:	
	:	
v.	:	C-2024-3052708
	:	
PPL Electric Utilities Corporation	:	

**INTERIM ORDER
GRANTING PRELIMINARY OBJECTION**

On December 26, 2024, the Complainant, Debora M. Houser, filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission or PUC) against PPL Electric Utilities Corporation (PPL, Company or Respondent). In her Complaint, Ms. Houser avers that a power surge in PPL’s equipment caused damage to many electronic items in her home, including a refrigerator, on September 2, 2024. She avers that, in response to a claim submitted to Respondent, PPL issued her a check that covered only 54% of her replacement costs, which did not even cover the cost of the replacement refrigerator. By way of relief, Ms. Houser is asking PPL to pay her the remaining 46% of her replacement costs (\$1,801.54).

On January 15, 2025, PPL timely filed an answer and a preliminary objection.¹ A notice to plead was properly attached to the preliminary objection. In its answer, PPL admits that the Complainant experienced a failed neutral at her service address on September 2, 2024. Respondent also admits that it approved the submission of the Complainant’s damage claim and issued a check to the Complainant on or around November 13, 2024, in the amount of \$2,092.32. PPL denies that its vegetation management practices near the Service Address caused or

¹ While PPL failed to include verifications with its answer and preliminary objections pursuant to 52 Pa. Code § 1.36(a), I deem the procedural defect to be harmless because it was promptly corrected by the next-day filing of both verifications, on January 16, 2025.

contributed to the failed neutral. Further, the Respondent avers that “the failed neutral was caused as a result of vegetation from off of the company’s right-of-way.” Answer ¶ 4. PPL requests that the Complaint be dismissed in its entirety and with prejudice.

In its preliminary objection, PPL requests that the portion of the Complaint requesting damages be dismissed preliminarily, on the basis that the Commission does not have the authority to order the payment of monetary damages. Additionally, PPL argues that the request for damages constitutes impertinent matter within the meaning of 52 Pa. Code §5.101(a)(2) and should be stricken from the Complaint.²

The Complainant did not file an answer to PPL’s preliminary objection.

By Motion Judge Assignment Notice dated February 19, 2025, the matter was assigned to me. The preliminary objection is ready for decision.

For the reasons set forth below, PPL’s preliminary objection will be granted and any portion of the Complaint seeking damages will be stricken from the Complaint as impertinent matter. The Complaint will proceed solely to address whether PPL provided reasonable and adequate service.

DISCUSSION

Commission regulations permit the filing of preliminary objections. 52 Pa. Code §§ 5.101(a)(1)-(7). Preliminary objection practice before the Commission is similar to Pennsylvania civil practice respecting preliminary objections. *Equitable Small Transp. Intervenor v. Equitable Gas Co.*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).

² PPL argues that the request for damages is impertinent matter “in the sense that it is irrelevant to [the] cause of action” because the Commission lacks authority to order a public utility to pay damages. Preliminary Objection ¶ 11 (citing *Stoner v. PPL Elec. Utils. Corp.*, Docket No. C-2013-2385588 (Nov. 14, 2013)).

Preliminary objections are limited to the following grounds:

§ 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.
- (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).

In deciding preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the complainant, recovery or relief is possible. *Department of Auditor General, et al v. SERS, et al.*, 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' Retirement Bd.*, 690 A.2d 1312 (Pa. Cmwlth. 1997).

A preliminary objection can be granted only if recovery or relief is not possible after all of the Complainant's averments in the complaint are viewed as true for purposes of deciding the preliminary objection, using only those facts specifically admitted.

For the Complainant to prevail ultimately, there must be a statute, regulation or order which the Commission is authorized to enforce. The Complaint must set forth anything done or omitted to be done by the Respondent in violation of any law which the Commission has jurisdiction to administer. 66 Pa.C.S. § 701; 52 Pa. Code § 5.21(a).

The Complainant avers that a power surge at her home on September 2, 2024, caused by PPL's facilities and vegetation management practices, resulted in damage to electronic items in her home. She seeks full reimbursement for her claimed replacement costs.

In response, the Respondent admitted that the Complainant experienced a failed neutral at her service address that was caused by vegetation but denied that PPL's vegetation management practices caused or contributed to the failed neutral. PPL's preliminary objection seeks dismissal of the portion of the complaint requesting damages on the basis that the Commission does not have authority to grant the relief sought by Ms. Houser.

The Commission must act within and cannot exceed its jurisdiction. *Feingold v. Bell of PA*, 383 A.2d 791 (Pa. 1977) (*Feingold*); *Loma, Inc. v. Pa. Pub. Util. Comm'n*, 682 A.2d 425 (Pa. Cmwlth. 1996) (*Loma*). One measure of relief that the Commission is not authorized to grant is an award of monetary damages. *Id*; see also *Elkin v. Bell*, 420 A.2d 371 (Pa. 1980) (*Elkin*); *Poorbaugh v. Pa. Pub. Util. Comm'n*, 666 A.2d 744 (Pa. Cmwlth. 1995).

PPL is correct that the Commission may not order the payment of monetary compensation even if the allegations raised by the Complainant are ultimately proven to be true. *Feingold*; *Loma*. Accordingly, I will grant PPL's preliminary objection and dismiss the portion of the Complaint requesting damages as impertinent matter under 52 Pa. Code § 5.101(a)(2).

As noted, PPL's preliminary objection was limited to the portion of the Complaint seeking damages. Ms. Houser's underlying complaint remains – that a failure of PPL's equipment caused a power surge and damage to her personal property. If proven true, her claims may constitute inadequate service of the part of PPL, depending upon the circumstances surrounding the alleged failure. This may be actionable under Section 1501 of the Public Utility Code, which the Commission clearly has jurisdiction to consider. 66 Pa.C.S. § 1501. Therefore, the Complainant will be given the opportunity to prove her claims.

The Complainant is cautioned, however, that even if she is able to prove inadequate service, any fine or other penalty that the Commission assesses against PPL will be payable directly to the Commonwealth of Pennsylvania General Fund. No monetary award or reimbursement will be given to the Complainant.

Having concluded that a portion of the Formal Complaint will go forward, I believe it may be useful for the parties to attempt to resolve this matter informally, rather than through the formal litigation process and, accordingly, I will refer this matter to the Commission's mediation process for further review.

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection filed by PPL Electric Utilities Corporation in the case captioned Debora Houser v. PPL Electric Utilities Corporation at Docket No. C-2024-3052708 is granted.

2. That the claim concerning a request for monetary damages in the Formal Complaint of Debora Houser v. PPL Electric Utilities Corporation at Docket No. C-2024-3052708 is stricken as impertinent matter.

3. That the Formal Complaint of Debora Houser v. PPL Electric Utilities Corporation at Docket No. C-2024-3052708 will proceed concerning the issue whether PPL Electric Utilities Corporation failed in some way to furnish and maintain adequate, efficient, safe and reasonable service and facilities, pursuant to 66 Pa.C.S. § 1501.

4. That the Formal Complaint of Debora Houser v. PPL Electric Utilities Corporation at Docket No. C-2024-3052708 will be referred to the mediation unit in the Office of Administrative Law Judge for further review.

Dated: March 12, 2025

Erin L. Gannon
Administrative Law Judge

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DEBORA M HOUSER
202 EVERGREEN DRIVE
MARYSVILLE PA 17053
717.982.2568
debhouser5@gmail.com
Served via eService March 12, 2025

KIMBERLY A KLOCK ESQUIRE
PPL SERVICES CORP
2 NORTH 9TH ST
ALLENTOWN PA 18101
610.774.5696
kklock@pplweb.com
Service via eService March 12, 2025

NICHOLAS A STOBBE ESQUIRE
POST & SCHELL PC
17 N SECOND ST
12TH FL
HARRISBURG PA 17101-1601
717.612.6033
717.731.1970
nstobbe@postschell.com
Served via eService March 12, 2025

MEGAN E RULLI ESQUIRE
POST & SCHELL
17 NORTH SECOND STREET
12TH FLOOR
HARRISBURG PA 17101
717.612.6012
717.472.0466
mrulli@postschell.com
Served via eService March 12, 2025
(*Counsel for PPL Electric Company*)