

Angelina Umstead, Esq.
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April 8, 2025

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

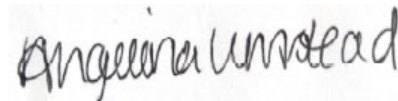
Re: Warren Brown v. FirstEnergy Pennsylvania Electric Company
Docket No. C-2025-3054071

Dear Secretary Chiavetta:

Enclosed please find the Preliminary Objection of FirstEnergy Pennsylvania Electric Company, on behalf of the Met-Ed Rate District in the above-referenced matter. This document has been served on the Complainant as shown in the Certificate of Service.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Angelina Umstead

AU/dml

Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

WARREN BROWN

v.

**FIRSTENERGY PENNSYLVANIA
ELECTRIC COMPANY**

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Docket No. C-2025-3054071

NOTICE TO PLEAD

TO: Warren Brown

Pursuant to 52 Pa. Code § 5.101, you are hereby notified that, if you do not file a reply to the enclosed Preliminary Objections of Pennsylvania Electric Company within ten (10) days from service of this notice, the facts set forth by FirstEnergy Pennsylvania Electric Company in the Preliminary Objections may be deemed to be admitted, thereby requiring no other proof. All pleadings, such as a Reply to Objection, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy service to counsel for FirstEnergy Pennsylvania Electric Company, and where applicable, the Administrative Law Judge presiding over the case.

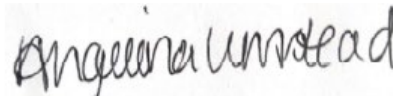
File with:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

With a copy to:

Angelina Umstead
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308

Date: April 8, 2025



Angelina Umstead, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

WARREN BROWN

v.

**FIRSTENERGY PENNSYLVANIA
ELECTRIC COMPANY**

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Docket No. C-2025-3054071

**PRELIMINARY OBJECTION TO
THE COMPLAINT OF WARREN BROWN**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, FirstEnergy Pennsylvania Electric Company (“FE PA” or the “Company”), on behalf of its Met-Ed Rate District,¹ by and through Angelina Umstead, files this Preliminary Objection pursuant to Section 5.101(a) of Pennsylvania Public Utility Commission (“Commission”) regulations, 52 Pa. Code § 5.101(a)(1), and in support thereof, avers as follows:

I. Introduction

1. In his recently filed Formal Complaint, Warren Brown (“Complainant”) alleges she sustained damages to personal property located at 381 Spring Hill Road, Easton PA 18042 (“Service Location”) as a result of alleged misconduct of the Company on July 19, 2024. The Complainant requests that FE PA financially compensate him for alleged damage to his microwave, fish tank filter and led cable box.

2. As explained below, the Commission does not have the power and legal authority to award monetary damages. As a result, the Company requests that this Preliminary Objection

¹ On January 1, 2024, FirstEnergy Corp.’s Pennsylvania operating companies (i.e., Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company) merged into FirstEnergy Pennsylvania Electric Company. Due to the merger transaction, the affected operating companies’ tariffs were consolidated into a single tariff, with each former operating company’s rates becoming its own rate district. As such, the customers of the former Metropolitan Edison Company have their own separate and distinct rate district under FirstEnergy Pennsylvania Electric Company’s tariff.

be granted and that the Commission: (i) grant its Preliminary Objections and strike the Complainant's request for monetary damages; (ii) expressly prohibit the Complainant from introducing any testimony or exhibits at any evidentiary hearing regarding alleged damages; (iii) dismiss the Formal Complaint in its entirety with prejudice; and (iv) grant the Company such other relief as may be just and reasonable under the circumstances.

II. Background

3. The Company is an electric distribution company certificated as a public utility permitted to operate within the Commonwealth in Pennsylvania.

4. The Complainant filed a Formal Complaint with the Commission against the Company at the above-captioned docket requesting that the Commission direct the Company to financially reimburse the Complainant for an "expense" allegedly incurred during as a result of alleged misconduct of the Company.²

5. On March 19, 2025, the Complainant filed a Formal Complaint with the Commission against the Company at the above-captioned docket.

6. The Company is timely filing its Answer and New Matter contemporaneously with this Preliminary Objection, which Answer and New Matter is incorporated into this Preliminary Objection as if fully set forth herein.

III. Argument

7. The Commission's Rules of Practice and Procedure permit parties to file preliminary objections. The grounds for preliminary objections are limited to those set forth in 52 Pa. Code § 5.101(a) as follows:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.

² Formal Complaint ¶ 5.

- (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.

8. The Commission's procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice.³

9. The Commission's procedural regulations allow a party to object to pleadings that fail to comply with the rules of administrative practice or that include scandalous or impertinent matters.⁴

10. In his Formal Complaint, the Complainant states the following as his request for relief: "The power supply was not correctly reattached in my home causing extensive damage. I have supplied the receipts for all repairs that greatly exceed the \$500.00 Met Ed is offering to settle my claim. The damage is case number ticket number from Met Ed case #4037024 Ticket II from Met ed 357585537.." ⁵

11. Clearly, the only relief sought through the Formal Complaint is an award of monetary damages from the Company.

12. It is well-established under Pennsylvania law that the enforcement powers of the Commission do not include the power to award money damages.⁶

13. In *Feingold*, the Pennsylvania Supreme Court explained:

³ *Equitable Small Transportation Intervenors v. Equitable Gas Company*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).

⁴ See 52 Pa. Code § 5.101(a)(2).

⁵ Formal Complaint ¶ 5.

⁶ *Elkin v. Bell Tel. Co. of PA.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1978); see *Nagy v. Bell Tel. Co. of PA.*, 436 A.2d 701 (Pa. Super. 1981).

. . . 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 such damages can be fairly implied. Thus, it can be concluded that the Legislature did not intend for the PUC to have such a power.⁷

14. A prayer for damages which are not legally recoverable in the cause of action is “impertinent matter” in the sense that it is irrelevant to that cause of action and is correctly challenged through a motion to strike the requested relief as impertinent matter.⁸

15. Therefore, in accordance with Pennsylvania law, this Commission does not have the power to award monetary damages, and the Complainant’s request for money damages is an impertinent matter that must be stricken.

⁷ *Feingold*, 383 A.2d at 794.

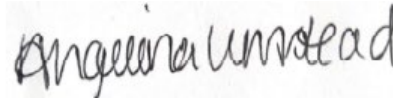
⁸ *Third Avenue Realty Limited Partners v. Pennsylvania-American Water Co.*, Docket No. C-2010-2167286 (Final Order entered September 30, 2010) (citing *Hudock v. Donegal Mut. Ins. Co.*, 264 A.2d 668 (Pa. 1970)).

IV. Conclusion

WHEREFORE, for the foregoing reasons, FirstEnergy Pennsylvania Electric Company respectfully requests that the Commission: (1) grant its Preliminary Objections and strike the Complainant's request for monetary damages; (2) expressly prohibit the Complainant from introducing any testimony or exhibits at any evidentiary hearing regarding alleged damages; (3) dismiss the Formal Complaint in its entirety with prejudice; and (4) grant the Company such other relief as may be just and reasonable under the circumstances.

Dated: April 8, 2025

Respectfully submitted,



Angelina Umstead
Attorney No. 309615
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
(610) 921-6202
aumstead@firstenergycorp.com

Counsel for FirstEnergy Pennsylvania Electric
Company, Met-Ed Rate District

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

WARREN BROWN
Complainant

v.

FIRSTENERGY PENNSYLVANIA
ELECTRIC COMPANY

Respondent(s)

Docket No. C-2025-3054071

VERIFICATION

I, Lisa Panchari, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect FirstEnergy Pennsylvania Electric Company on behalf of its Met-Ed Rate District to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904.

4-3-2025

Date

Lisa Panchari

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WARREN BROWN

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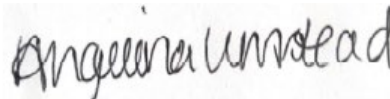
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Preliminary Objection of FirstEnergy Pennsylvania Electric Company, on behalf of the Met-Ed Rate District, upon the individual listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First-Class mail only as follows:

Warren Brown
381 Spring Hill Road
Easton, PA 18042

Dated: April 8, 2025



Angelina Umstead
Attorney No. 309615
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
(610) 921-6202
aumstead@firstenergycorp.com

Counsel for FirstEnergy Pennsylvania Electric
Company, Met-Ed Rate District