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May 21, 2025

**VIA ELECTRONIC FILING**

Matt Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

**Re: Chris Davies v. FirstEnergy Pennsylvania Electric Company**  
**Docket No. C-2025-3054881**

Dear Secretary Homsher:

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**

**CHRIS DAVIES**

v.

**FIRSTENERGY PENNSYLVANIA  
ELECTRIC COMPANY**

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**Docket No. C-2025-3054881**

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**NOTICE TO PLEAD**

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TO: Chris Davies

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.

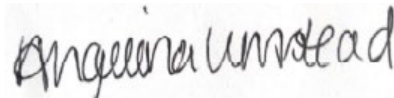
**File with:**

Matt Homsher, 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: May 21, 2025



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Angelina Umstead, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**CHRIS DAVIES**

v.

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**Docket No. C-2025-3054881**

**PRELIMINARY OBJECTIONS TO  
THE COMPLAINT OF CHRIS DAVIES**

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,<sup>1</sup> by and through Angelina Umstead, files these Preliminary Objections pursuant to 52 Pa. Code § 5.101(a)(1) and 52 Pa. Code § 5.101(a)(7) of Pennsylvania Public Utility Commission (“Commission”) regulations, and in support thereof, avers as follows:

**I. Introduction**

1. In his recently filed Formal Complaint, Chris Davies (“Complainant”) alleges his mother sustained damages to personal property located at the mother’s service address (“Service Location”) as a result of a service disconnection. The Complainant requests that FE PA financially compensate her for alleged damage to her property and increased electric usage during the period that repairs were performed at the Service Location.

2. As explained below, the Commission does not have the power and legal authority to award monetary damages. Further, the Complainant lacks standing to participate in this

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<sup>1</sup> 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 Pennsylvania Electric Company have their own separate and distinct rate district under FirstEnergy Pennsylvania Electric Company’s tariff.

proceeding on behalf of his mother. As a result, the Company requests that this Preliminary Objection 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 financially reimburse the Complainant for expenses of plumbing repair and increased electric usage during those repairs as a result of disconnection of service at the Service Location.<sup>2</sup>

5. On May 1, 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.

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<sup>2</sup> Formal Complaint ¶ 5.

### **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) 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.

#### **A. Preliminary Objection due to Lack of Jurisdiction Pursuant to 52 Pa. Code § 5.101(a)(1).**

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

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.<sup>4</sup>

10. In his Formal Complaint, the Complainant states the following as his request for relief: "We are seeking for Met-Ed to reimburse my mom for damages from their unreasonable and inhuman decision to shut off the power to her office building in the middle of winter when she has been a proven dependable customer who always makes her payments for 25 years. If she had

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

<sup>4</sup> See 52 Pa. Code § 5.101(a)(2).

not been hospitalized for a broken hip the payment would have been made as usual. If Met-Ed had made any reasonable attempt to contact their 25-year customer, this would have been completely avoided. Met-Ed was attempting to protect a maximum temporary cost of less than \$300 to themselves (which would have undoubtedly been repaid) to risk their 25-year customer likely, and eventually, losing thousands of dollars in damages to their property. The total amount we are seeking is \$7,305.68. This is \$6,189 for the plumbing repair and \$1,116.68 for the increased electricity bill that directly resulted from the plumbing repair.”<sup>5</sup>

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.<sup>6</sup>

13. 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 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.<sup>7</sup>

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.<sup>8</sup>

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<sup>5</sup> Formal Complaint ¶ 5.

<sup>6</sup> *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).

<sup>7</sup> *Feingold*, 383 A.2d at 794.

<sup>8</sup> *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)).

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.

**B. Preliminary Objection Regarding Standing of a Party Pursuant to 52 Pa. Code § 5.101(a)(7).**

16. In his Formal Complaint, the Complainant is seeking damages on behalf of his mother. The Complainant is neither a customer of record, nor authorized contact on the mother's account.

17. The Commission's procedural regulations allow a party to object to pleadings that are filed by complainants who lack the capacity to sue as well as complainants who lack standing to participate in a proceeding.

18. The Company avers that the Complainant lacks the capacity to sue and standing to file or to prosecute a complaint on behalf of his mother and/or on any account not in his name or in which he is not listed as an authorized contact.

19. The Commission has held that a person or entity has standing when the person or entity has a direct, immediate and substantial interest<sup>9</sup> in the subject matter of a proceeding.

20. Requiring a person or entity to have a direct, immediate and substantial interest in the subject matter of a proceeding helps avoid frivolous, harassing lawsuits whose costs are ultimately borne, at least in part, by utility ratepayers.<sup>10</sup>

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<sup>9</sup> *Joint Application of Pennsylvania-American Water Co. and Evansburg Water Co. for Approval of the transfer, by sale, of the water works property and rights of Evansburg Water Co. to Pennsylvania-American Water Co.*, A-212285F0046/47 and A-210870F01 (Ordered entered July 9, 1998); *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975); *Landlord Service Bureau, Inc. v. Equitable Gas Co.*, 79 Pa. P.U.C. 342 (1993); *Re Equitable Gas Co.*, 76 Pa. P.U.C. 23 (1992); *Manufacturers' Association of Erie v. City of Erie - Bureau of Water*, 50 Pa. P.U.C. 43 (1976); *Waddington v. Pennsylvania Public Utility Commission*, 670 A.2d 199 (Pa. Cmwlth. 1995), *alloc. denied*, 678 A.2d 368 (Pa. 1996).

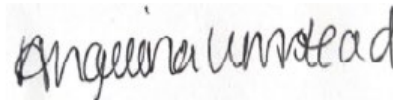
<sup>10</sup> *Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corporation*, 63 Pa. P.U.C. 68, 71 (1987).

21. Complainant cannot assert a claim on behalf of his mother and/or any electric service accounts not in his name or those that do not list him as an authorized contact.<sup>11</sup>

**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.

Respectfully submitted,



Dated: May 21, 2025

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Angelina Umstead  
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[aumstead@firstenergycorp.com](mailto:aumstead@firstenergycorp.com)

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

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<sup>11</sup> *Official Court Reporters of the Court of Common Pleas of Philadelphia County v. Pennsylvania Labor Relations Board*, 467 A.2d 311 (Pa. 1983).



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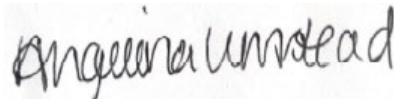
**CERTIFICATE OF SERVICE**

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 as follows:

Chris Davies  
chris.greentown@gmail.com

Dated: May 21, 2025



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Akron, OH 44308  
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