

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Chris Davies	:	
	:	
v.	:	C-2025-3054881
	:	
FirstEnergy Pennsylvania Electric Company	:	

**ORDER  
GRANTING PRELIMINARY OBJECTIONS IN PART  
AND DENYING PRELIMINARY OBJECTIONS IN PART**

Before  
Steven K. Haas  
Administrative Law Judge

INTRODUCTION

This Order grants in part and denies in part the Preliminary Objections (POs) filed by the Respondent. The request for monetary damages is stricken from the complaint as beyond the Commission’s jurisdiction. The PO on the issue of non-standing due to lack of authorization on the account will be addressed during a Prehearing Conference to be scheduled by the Commission. The allegations in the complaint alleging improper termination/unreasonable service are preserved for hearing.

HISTORY OF THE PROCEEDING

On April 29, 2025, the Complainant, Chris Davies, filed a formal Complaint (Complaint) against FirstEnergy Pennsylvania Electric Company (FirstEnergy or Company) with the Pennsylvania Public Utility Commission (Commission), at Docket Number C-2025-3054881.

The Complainant checked the “Other (explain)” box on the Complaint form, and explained his Complaint as follows:

On November 2, 2024 my mom fell in her home and broke her hip. She was then hospitalized, underwent hip surgery, and then was discharged to a recovery facility until December 21, 2024. From there she was discharged to my sister's house where she was taken care of to recover further. On about January 3, 2025 my mom was notified by her plowman that the office building had no power. She then called Met-Ed and found that they had shut the power off to her office building due to non-payment. She immediately paid her missed payment to get the power back on and then commissioned a plumber to assess the damage done. It was discovered that significant damage to the plumbing had occurred due to the pipes freezing and replacement of much of the plumbing was required to restore it to its previous working condition. My mom has dutifully paid every single one of her electric bills to Met-Ed for 25 years. If Met-Ed had delayed shutting off the power to her office building for the entirety of the winter to ensure significant destruction of property was avoided, it would have amounted to a loan of less than \$300 according to bills from the previous winter. Met-Ed chose to risk, and consequently destroy, \$6,189 of my mom's property to protect a potential \$281 cost from a customer who has dutifully paid every single one of her bills for 25 years.

The Complainant alleged in the Complaint that, due to his mother’s hospitalization and lack of mobility from her injury, she would not have been able to see the paper notice of termination that was posted on the front door of the property. Further, the Complainant avers that the manner in which the termination notice was given was unreasonable, noting the “cheaper and more convenient communication channels (phone and email)” that he believes the Company should have exhausted to notify his mother of her overdue bill. He further averred that the notice lacked “the most basic human decency”, referring to the time of the shut off occurring in the midst of cold weather, which ultimately resulted in the frozen plumbing the Complainant is referring to as the property damage he is seeking relief for.

Further, the Complainant alleges the Company ultimately profited from the damage caused by the utility termination, stating the following:

Met-Ed has directly profited off of destroying their 25-year customer's plumbing. The building was heated by a furnace that was controlled by an electronic thermometer switch before the plumbing was destroyed. In the course of repairing the plumbing, space heaters needed to be run regularly while the new plumbing was installed to ensure further damage didn't result. This occurred over about a two and a half month period. The electricity bills for those 3 months amounted to \$1,116.68 more than the same three billing cycles the previous year (\$281.04 in 2024 and now \$1397.72 this year in 2025).

For relief, the Complainant stated the following:

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 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.

Complaint ¶ 5.

On May 21, 2025, FirstEnergy filed an Answer in response to the Complaint. Also, on May 21, 2025, FirstEnergy filed its POs. On May 30, 2025, Mr. Davies filed an answer to the POs. On June 9, 2025, the POs were assigned to me for disposition.

## 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 Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

Commission regulations provide:

### **§ 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.

In deciding preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the complainant, recovery or relief is possible. *Dep't of Auditor General, et al v. SERS, et al.*, 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, 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.

The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. *Shedlosky v. Pa. Elec. Co.*, Docket No. C-20066937 (Opinion and Order entered May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa. Super. 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992).

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.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1978).

In its first PO pursuant to 52 Pa. Code § 5.101(a)(1) of Commission regulations, FirstEnergy contends that the Commission lacks jurisdiction to award monetary damages, and as such it requests that the Complainant's request for monetary damages as a form of relief be stricken from the Complaint. FirstEnergy's preliminary objection is sustained with respect to the Complainant's claims for any monetary compensation to be awarded by the Commission. The power to order the payment of monetary damages is beyond the Commission's jurisdiction.

In its Second preliminary objection pursuant to 52 Pa. Code § 5.101(a)(7) of Commission regulations, FirstEnergy argues that Mr. Davies lacks standing to prosecute this Complaint on behalf of his mother, the customer named on the FirstEnergy account. The Company avers that the Complainant is neither a customer of record nor an authorized contact on his mother's and, thus, he lacks the capacity to file or prosecute the Complaint. The Complainant stated in his Answer to Preliminary Objections that his mother is a 74-year-old woman suffering from a neurological disease that has lowered her mental and physical faculties and thus requires assistance to navigate these legal processes. The Complainant also indicated that he is acting with his mother's authorization, and that they are both ready and willing to provide any necessary documentation or proof required to formalize the authorization. I will schedule a prehearing conference to address and resolve the issue of standing. Accordingly, FirstEnergy's PO on this issue is denied.

The statute at 66 Pa.C.S. § 1501 requires public utilities to provide safe, reasonable and adequate service. Pursuant to 66 Pa.C.S. § 1501, the Commission has jurisdiction over the reasonableness and adequacy of public utility service and facilities. *Elkin v. Bell Telephone Co.*, 372 A.2d 1203 (Pa. Super. 1977) *aff'd* 420 A.2d 371 (Pa. 1977); *Behrend v. Bell Telephone Co.*, 243 A.2d 346 (Pa. 1968). The Public Utility Code at 66 Pa.C.S. § 1501 does not require perfect service or the best possible service, but it does require public utilities to provide reasonable and adequate service and facilities. *Analytical Laboratory Services, Inc. v. Metropolitan Edison Co.*, Docket No. C-2006608 (Order entered December 21, 2007); *Emerald Art Glass v. Duquesne Light Co.*, Docket No. C-00015494 (Order entered June 14, 2002); *Re: Metropolitan Edison Co.*, 80 Pa. PUC 662 (1993).

The Complainant also alleged in the Complaint that the service termination notice provided to his mother was improper and inadequate, resulting in significant damage to her property. If proven true, these allegations would constitute unreasonable and inadequate service to the Complainant, allegations over which the Commission does have jurisdiction. Therefore, a hearing will be scheduled to allow the Complainant to raise these allegations, assuming the issue of standing is resolved. At the hearing, the Complainant will have the burden of proving that



**C-2025-3054881 - CHRIS DAVIES v. FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY- METROPOLITAN EDISON RATE DISTRICT**

CHRIS DAVIES  
188 LAKE PAUPACK ROAD  
GREENTOWN PA 18426  
**570-828-6544**  
[chris.greentown@gmail.com](mailto:chris.greentown@gmail.com)  
Served via eService June 17, 2025

ANGELINA UMSTEAD ESQUIRE  
FIRSTENERGY  
2800 POTTSVILLE PIKE  
PO BOX 16001  
READING PA 19612-6001  
**610-921-6202**  
[aumstead@firstenergycorp.com](mailto:aumstead@firstenergycorp.com)  
Served via eService June 17, 2025  
*(Counsel for FirstEnergy Pennsylvania  
Electric Company (Met-Ed Rate District))*