

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|   |   |                |
|---|---|----------------|
| Fred M. Vero                              | : |                |
|   | : |                |
| v.  | : | C-2025-3055093 |
|   | : |                |
| FirstEnergy Pennsylvania Electric Company | : |                |

**INTERIM ORDER  
GRANTING PRELIMINARY OBJECTION**

On May 6, 2025, Fred M. Vero (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission or PUC) against FirstEnergy Pennsylvania Electric Company (FirstEnergy, Company or Respondent). In his Complaint, Mr. Vero avers that, on March 24, 2025, a power surge following a service outage damaged his HVAC unit and garage door opener so that both had to be replaced. By way of relief, Mr. Vero requests reimbursement for what he paid for the homeowners claim plus the \$500 deductible. The Complaint was served on FirstEnergy on May 12, 2025.

On June 2, 2025, FirstEnergy timely filed an answer and new matter, and a preliminary objection. A notice to plead was properly attached to the new matter and preliminary objection. Both documents indicate they were served to the Complainant by first-class and electronic mail. In its answer, FirstEnergy admits that the Complainant experienced an outage at his service address on March 24, 2025. Respondent also admits that it denied the Complainant's damage claim. FirstEnergy denies the material allegations in the Complaint. In its new matter, FirstEnergy argues that the Commission does not have jurisdiction to reimburse a customer for property damage and that, under 66 Pa.C.S. § 1501, the Company is required to provide reasonable and adequate service, not perfect service. FirstEnergy requests that the Complaint be dismissed in its entirety and with prejudice.

In its preliminary objection, FirstEnergy avers that the sole relief requested by the Complainant is monetary compensation for damages. FirstEnergy requests that the Complaint be dismissed preliminarily, on the basis that the Commission does not have the authority to order the payment of monetary damages. In the alternative, FirstEnergy asks the Commission to strike the request for damages from the Complaint on the basis that it constitutes impertinent matter within the meaning of 52 Pa. Code §5.101(a)(2).

The Complainant did not file an answer to FirstEnergy's new matter or preliminary objection.

By Motion Judge Assignment Notice dated July 14, 2025, the matter was assigned to me. The preliminary objection is ready for decision.

For the reasons set forth below, the alternative relief requested in FirstEnergy'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 any issues raised by the Complaint that are under the Commission's jurisdiction. This may include whether FirstEnergy is furnishing and maintaining adequate and reasonable 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. Intervenors v. Equitable Gas Co.*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).

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)(1-7).

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 v. SERS*, 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).

Here, the Complainant requests that Respondent reimburse him for his costs related to the alleged damage to his HVAC unit and garage door opener caused by a power surge following an outage at his service address on March 24, 2025. It is well settled, however, that the Commission may not exceed its jurisdiction and must act within it. *City of Pittsburgh v. Pa. Pub. Util. Comm'n.*, 43 A.2d 348 (Pa. Super 1945); *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. *Feingold*; *Loma*; see also *Elkin v. Bell*, 420 A.2d 371 (Pa. 1980); *Poorbaugh v. Pa. Pub. Util. Comm'n.*, 666 A.2d 744 (Pa. Cmwlth. 1995). As a result, even when accepting as true all well pleaded material facts, as well as every reasonable inference from those facts, and viewing the Complaint in the light most favorable to the Complainant, Mr. Vero is not entitled to relief from this Commission in the form of monetary damages as a matter of law.

Accordingly, while such a claim may be appropriate for a Court of Common Pleas, the request for monetary damages will be stricken from Mr. Vero's Complaint in the instant proceeding because it is an impertinent matter. 52 Pa. Code § 5.101(a)(2). Because the Complainant's request for monetary damages has been stricken, to the extent the Complainant intends to introduce at an evidentiary hearing testimony or exhibits for the purpose of recouping alleged monetary damages, such testimony or exhibits will be prohibited.

However, Mr. Vero is not prohibited from introducing testimony or exhibits if introduced only for the purpose of addressing any issues that are under the Commission's jurisdiction. This could include the issue of whether FirstEnergy is furnishing and maintaining adequate, efficient, safe, and reasonable service and facilities. If it is found that FirstEnergy is not meeting such obligations, the Company may be subject to a civil penalty.<sup>1</sup> Therefore, Mr. Vero's Complaint may proceed to a hearing for the adjudication of issues raised in the Complaint over which the Commission does have jurisdiction to hear.

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<sup>1</sup> The Complainant is cautioned that even if he is able to prove inadequate service, any fine or other penalty that the Commission assesses against FirstEnergy will be payable directly to the Commonwealth of Pennsylvania General Fund. 66 Pa.C.S. § 3315. No monetary award or reimbursement will be given to the Complainant.

Mr. Vero is advised that to sustain his burden of proof at hearing, he must demonstrate by a preponderance of the evidence that FirstEnergy has violated the Public Utility Code, a Commission order or regulation or a Commission-approved Company tariff.<sup>2</sup> In addition, all orders of the Commission must be supported by substantial evidence. This is a different standard than that used in addressing FirstEnergy's preliminary objection.

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection filed by FirstEnergy Pennsylvania Electric Company in the case captioned Fred M. Vero v. FirstEnergy Pennsylvania Electric Company at Docket No. C-2025-3055093 is granted.

2. That the claim concerning a request for monetary damages in the Formal Complaint filed by Fred M. Vero at Docket No. C-2025-3055093 is stricken.

3. That, at an evidentiary hearing, introduction of testimony or exhibits for the purpose of recouping alleged monetary damages is prohibited.

4. That the remaining issues raised in the Formal Complaint filed by Fred M. Vero v. FirstEnergy Pennsylvania Electric Company at Docket No. C-2025-3055093 over which the Commission has jurisdiction will proceed to a hearing.

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<sup>2</sup> 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 Company in violation of any law which the Commission has jurisdiction to administer. 66 Pa.C.S. § 701; 52 Pa. Code § 5.21(a).

5. That the scheduling staff of the Office of Administrative Law Judge shall schedule a telephonic hearing and notify the parties in writing.

Dated: July 21, 2025

\_\_\_\_\_/s/  
Erin L. Gannon  
Administrative Law Judge

**C-2025-3055093 - FRED M VERO v. FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY**

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