

August 7, 2025

Via Electronic Filing

Mathew Homsher, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket No. C-2025-3056373
Kathleen J. Barnes v. FirstEnergy Pennsylvania Electric Company
Preliminary Objections of FE PA (Met-Ed Rate District)**

Dear Secretary Homsher:

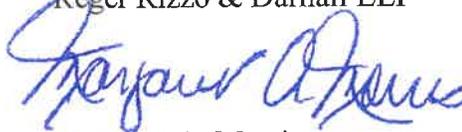
Attached for filing is the Preliminary Objections of FirstEnergy Pennsylvania Electric Company (Met-Ed Rate District) to the Complaint filed by Kathleen J. Barnes (Complainant) in the above-referenced proceeding.

A copy of the Preliminary Objections has been provided to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/co
Enclosures

cc: Tori Giesler, Esquire, FirstEnergy Service Company [w/encls.]
Kathleen J. Barnes [w/encls.]

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KATHLEEN J. BARNES

v.

FIRSTENERGY PENNSYLVANIA
ELECTRIC COMPANY

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Docket No. C-2025-3056373

**PRELIMINARY OBJECTION OF FIRSTENERGY PENNSYLVANIA ELECTRIC
COMPANY TO THE FORMAL COMPLAINT OF KATHLEEN J. BARNES**

FirstEnergy Pennsylvania Electric Company, Met-Ed Rate District, (Respondent or Company), by and through its attorneys, Reger Rizzo & Darnall LLP, pursuant to 52 Pa. Code § 5.101, hereby files its Preliminary Objection to the Formal Complaint of Kathleen J. Barnes (Complainant) filed in the above-captioned proceeding.

The Respondent avers that the subject of the Formal Complaint is beyond the jurisdiction of the Pennsylvania Public Utility Commission (Commission) who is without authorization to grant the Complainant’s request for damages. The Formal Complaint includes an impertinent matter in its requested relief. Therefore, the Respondent requests that this Preliminary Objection be granted and that the Commission: (1) grant its Preliminary Objections and strike the Complainant’s requests for monetary damages; (2) expressly prohibit the Complainant from introducing any testimony or exhibits at any evidentiary hearing regarding alleged damages; and (3) grant the Respondent such other relief as may be just and reasonable under the circumstances.

In support of its preliminary objections, the Respondent states as follows:

I. BACKGROUND AND PROCEDURAL HISTORY

1. The Respondent is an electric distribution company certificated as a public utility permitted to operate within the Commonwealth in Pennsylvania and provides electric service in the Complainant's name to 1831 S Delaware Drive, Mount Bethel, Pennsylvania (Service Location) under Account No. 100058786813 (Account).

2. The Complainant filed a Formal Complaint" alleging that damage to her personal property due to the Company's failure to maintain its facilities.. The Complainant requests that the Company "be compelled to pay to replace my central air conditioning system and well pump as well as reimburse the cost of the electrician and HVAC technician service calls." Complaint at ¶¶ 4 and 5.

3. In its Answer being served contemporaneously with this Preliminary Objection, the Respondent specifically denied responsibility for the alleged damages to Complainant's personal property.

4. Pursuant to 52. Pa. Code § 5.101, the Respondent objects to the Formal Complaint on the grounds that the Commission lacks jurisdiction to award monetary damages. The Complainant seeks compensation for financial losses incurred as a result of the outage.

II. Argument

5. 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.

6. Commission's procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).

7. In the instant Formal Complaint, the Complainant requests unspecified compensation incurred as a result of the power provided to the Service Location. Complaint at ¶ 5.

8. Clearly, that requested relief sought through the Formal Complaint is an award of monetary damages from the Company.

A. Impertinent Matter

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. *See* 52 Pa. Code § 5.102(a)(2).

10. 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); see *Nagy v. Bell Tel. Co. of PA.*, 436 A.2d 701 (Pa. Super. 1981).

11. 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.

Feingold, 383 A.2d at 794.

12. The Court of Common Pleas retains original jurisdiction over suits for monetary damages. *Behrend, supra*.

13. 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. *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)).

14. The Complainant’s requested relief for damages is irrelevant to the instant cause of action and therefore an “impertinent matter.”

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 within the use and meaning of Commission regulation at 52 Pa. Code § 5.101(a)(2).

WHEREFORE, Respondent, FirstEnergy Pennsylvania Electric Company, respectfully requests that the request for monetary damages be stricken from the Formal Complaint filed by Kathleen J. Barnes for lack of subject matter jurisdiction.

Respectfully submitted,



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Company (Met-Ed Rate District)*