

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Barbara Weiss	:	
	:	
v.	:	C-2025-3055773
	:	
FirstEnergy Pennsylvania Electric Company	:	

**INTERIM ORDER  
GRANTING RESPONDENT’S PRELIMINARY OBJECTION**

On June 13, 2025, Barbara Weiss (Ms. Weiss or Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission), using the Formal Complaint form. Regarding the reason for her complaint, she indicated she was having a reliability, safety or quality problem with her utility service, specifically FirstEnergy Pennsylvania Electric Company (FirstEnergy or Respondent). Complainant checked the “Other” box on the Complaint form, indicating she experienced power outages multiple times during the first week of January 2025. Complaint ¶ 4. According to the Complaint, Ms. Weiss lost power for 15 hours during one of the outages, which caused pipes to burst and resulted in damage to her property. *Id.* As relief, Complainant indicated she wanted a “refund for all damages” and payment for “all bills incurred.” *Id.* ¶ 5. Ms. Weiss asserted in her Complaint that she wanted to be served by the Commission via First-Class Mail using the mailing address provided in the Complaint. *Id.* ¶ 9.

On July 7, 2025, Respondent filed an Answer to the Complaint. In its Answer, Respondent averred that FirstEnergy’s actions have been reasonable and performed in accordance with all applicable laws, Respondent’s Commission-approved tariff, the Pennsylvania Public Utility Code, and Commission regulations and orders at all times relevant to this proceeding. Answer ¶ 4. Respondent requested that the Complaint be dismissed with prejudice or denied in its entirety; or alternatively, be referred to the Office of Administrative Law Judge’s Mediation Unit.

Also on July 7, 2025, Respondent filed a Preliminary Objection. In the Preliminary Objection, Respondent averred Complainant seeks monetary damages, and that the Commission does not have jurisdiction to award damages. Respondent requested the Commission strike Complainant's request for damages, prohibit Complainant from presenting evidence at any evidentiary hearing regarding alleged damages, and grant any other appropriate relief. Respondent's Preliminary Objection included a Notice to Plead pursuant to 52 Pa. Code §5.101.

On August 6, 2025, the Commission issued a Motion Judge Assignment assigning this matter to me for resolution of the Preliminary Objection.

It is now appropriate to rule on the Preliminary Objection.

### 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 as follows:

#### **§ 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.

In deciding preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of 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, 1108 (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, 707 (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, 1314 (Pa.Cmwlth. 1997).

A preliminary objection can be granted only if recovery or relief is not possible after all of Complainant's averments in the complaint are viewed as true for purposes of deciding the preliminary objection, using only those facts specifically admitted.

In the present case, Respondent asserts that the Commission lacks jurisdiction over Complainant's request for monetary damages. 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., Co. of Pa. PA.*, 420 A.2d 371, 375 (Pa. 1980); *Feingold*

*v. Bell of Pa.*, 383 A.2d 791, 794 (Pa. 1978) (*Feingold*); see *Nagy v. Bell Tel Co. of PA.*, 436 A.2d 701, 704 (Pa. Super. 1981).

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 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.

Complainant seeks monetary compensation due to alleged damage to her property after a power outage. Based on the foregoing, Respondent's Preliminary Objection is granted with regard to Complainant's request for monetary damages. Complainant's request for monetary damages is struck from the Complaint.

Although Complainant requested relief in the form of monetary damages, she also indicated she was experiencing a reliability, safety, or quality problem with her utility service. Therefore, while Respondent's Preliminary Objection regarding the portion of the Complaint that requests damages is granted, the remaining issues raised still must be addressed. The remaining claims raised in the Complaint are appropriate to move forward at this stage of the litigation, and this matter will be referred to the Mediation Unit as requested.

Respondent requested Complainant be prohibited from presenting any evidence "regarding alleged damages" at any evidentiary hearing. While the Commission does not have jurisdiction to award monetary damages, a blanket prohibition against certain evidence is premature at this juncture. However, Respondent is not precluded from raising objections in the future if an evidentiary hearing is held, and any objections will be ruled on by the presiding officer.

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection filed by FirstEnergy Pennsylvania Electric Company is granted, insofar as the requests for monetary damages and reimbursements in the Formal Complaint filed by Barbara Weiss at Docket Number C-2025-3055773 are struck from the Complaint.
2. That FirstEnergy Pennsylvania Electric Company's request to exclude evidence "regarding alleged damages" is denied at this juncture.
3. That the matter shall be referred to the Mediation Unit for further action.

Date: August 11, 2025

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/s/  
Ann Quimby  
Administrative Law Judge

**C-2025-3055773 - BARBARA WEISS v. FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY – WEST PENN POWER RATE DISTRICT**

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Served via USPS First-Class Mail – August 11, 2025

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