

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tiffany Tenaglia	:	
	:	
v.	:	C-2025-3056241
	:	
PECO Energy Company	:	

**ORDER GRANTING PRELIMINARY OBJECTION OF
PECO ENERGY COMPANY**

This Order grants the Preliminary Objection of PECO Energy Company (“Respondent”) because the Pennsylvania Public Utility Commission (“Commission”) does not have the authority to award monetary damages as a remedy. Therefore, to the extent the Formal Complaint (“complaint”) requests monetary damages that portion of the complaint will be dismissed.

History of the Proceeding

On July 10, 2025, Tiffany Tenaglia (“Complainant”) filed a complaint against Respondent wherein she checked boxes citing to reliability, safety or quality problem issues and “other” as the reasons for the complaint. Complaint ¶ 4. In Complainant’s attachments, Complainant claimed multiple issues with her electric service between September 27th and November 21st that included: (a) power interruptions, (b) arcing and smoldering wires, (c) inaction by Respondent after being notified of issues and (d) an itemized list of monetary damages from Respondent’s action or inaction amounting to \$9,497.00. Complaint Attachment – Incident Overview. As relief, Complainant requests that the Commission review whether Respondent failed to provide

safe, reliable service, whether Respondent mismanaged this matter via excessive delays and whether Respondent fairly applied its tariff or are improperly using their tariff as protection. Complaint ¶ 5; Complaint Attachment.

On July 30, 2025, Respondent filed a timely Answer and Preliminary Objection (“PO”). In its Answer, Respondent admitted to providing electric service to Complainant, but denied violation of the Public Utility Code, Commission regulations or Commission orders. (Answer ¶ 4).

In its PO, Respondent argues that Complainant is requesting \$9,497.00 in total damages incurred as a result of issues with the power. Preliminary Objection ¶¶ 7-8. Respondent argues that the portion of the Complaint pertaining to this request for monetary damages should be stricken as impertinent. Specifically, Respondent avers that under Section 5.101(a)(2) of the Commission’s regulations, a request for damages constitutes impertinent matter which should be dismissed because the Commission does not have the authority to award monetary damages. *See*, 52 Pa. Code § 5.101(a)(2).

On August 1, 2025, Complainant filed a timely response to the PO denying that the complaint seeks monetary damages and asserting that the “damages and costs” list attached to the complaint was included to demonstrate the impact and extent of the incident.

Respondent’s preliminary objection is now ready for disposition.

Legal Standards

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). 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.

52 Pa. Code § 5.101(a).

In deciding the preliminary objection, the Commission must determine whether, based on well-pleaded factual averments of the Complainant, recovery or relief is possible. *Dept. of Auditor Gen. v. State Emp's. Ret. Sys.*, 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 PO.

Boyd v. Ward, 802 A.2d 705 (Pa. Cmwlth. 2002). All the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the PO, and only those facts specifically admitted may be considered against the non-moving party. *Ridge v. State Emp's. Ret. Bd.*, 690 A.2d 1312 (Pa. Cmwlth. 1997). The POs can be granted only if recovery or relief is not possible after all the Complainant's averments in the complaint are viewed as true for purposes of deciding the PO, using only those facts specifically admitted. *Roc v. Flaherty*, 527 A.2d 211 (Pa. Cmwlth. 1985).

Therefore, the primary focus is on whether, based on well-pleaded factual averments of the Complainants, recovery or relief is possible. *Id.*

Disposition

As a matter of law, to establish a legally sufficient claim, a complainant must show that the named utility company is responsible or accountable for the problem described in the complaint to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. P.U.C. 196 (1990). The offense must be a violation of the Pennsylvania Public Utility Code ("Code"), a Commission regulation or order or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701. A finding of a violation of a Commission Order, regulation, or statute, by the public utility may result in the imposition of a civil penalty on the public utility company, consistent with 66 Pa.C.S. § 3301 or other provisions of the Code.

In this case, Complainant lists damages and costs that amount to \$9,497.00 stemming from alleged action or inaction from Respondent in providing electric service. Complainant does not specifically request monetary damages within her request for relief. To the extent Complainant is requesting relief from the Commission for the listed damages and costs, that request should be summarily dismissed as impertinent matter

under 52 Pa. Code § 5.101(a)(2) because the Commission lacks authority to award damages.

It is well-settled that the Commission lacks jurisdiction to award damages. *Elkin v. Bell of Pa.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977). A finding, if any, that Respondent violated a Commission Order, regulation or statute, may result in the imposition of a civil penalty consistent with 66 Pa.C.S. § 3301 or other provision of the Code. Further, it should be noted that a penalty, if any, that is imposed on Respondent is payable to the Commonwealth of Pennsylvania, not the Complainants. To the extent Complainant requests that the Commission award monetary damages, such a claim may be appropriate for a Court of Common Pleas but is not pertinent to Commission proceedings. *Snyder v. West Penn Power Company*, Docket No. C-2024-2451483, 2015 WL 1754585 (Pa.P.U.C.) (April 7, 2015).

Thus, Respondent's Preliminary Objection will be granted, and to the extent applicable, Complainant's request for monetary damages will be stricken/dismissed. Complainant shall be precluded from introducing any evidence related to a monetary or compensatory claim for damages. Complainant shall still be permitted to introduce evidence to establish and/or demonstrate the impact of Respondent's alleged violations.

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection filed by PECO Energy Company at Docket No. C-2025-3056241, which argues that the Complainant's request for monetary

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